

1548/2013

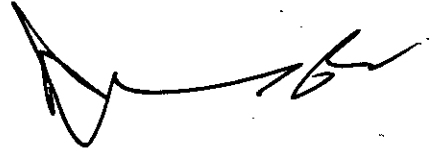
13th Oct., 2022 01. None present on behalf of the appellant. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

02. Called several times, till last hours of the court but nobody turned up on behalf of the appellant. The appeal is, therefore, dismissed in default. Consign.

03. **Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 13th day of October, 2022.**



(Fareeha Paul)
Member (E)




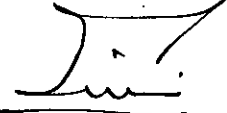
(Kalim Arshad Khan)
Chairman

09.06.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents No. 1 & 2 present. Mr. Shahab Khattak, Legal Consultant for respondent No. 3 present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 02.09.2022 before the D.B.



(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

02.09.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents No. 1 & 2 present.

Learned Member (Judicial) Ms. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up arguments on 13.10.2022 before the D.B.


(Salah-Ud-Din)
Member (Judicial)

Handwritten notes at the bottom of the page, including the date 13.10.2022 and some illegible text.


Niaz Ahmed

14.10.2021

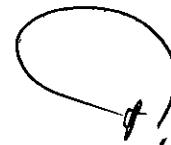
Junior of learned counsel for the appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents No. 1 & 2 present. Mr. Ali Gohar Durrani, Advocate for respondent No. 3 present.

Learned Additional Advocate General requested for time for production of record mentioned in order sheet dated 07.02.2020; Last opportunity is given with strict direction to produce the same on the next date positively. To come up for production of record/arguments on 15.12.2021 before D.B.



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




(Rozina Rehman)
Member (J)

15.12.2021

Appellant alongwith his counsel Mr. Fazal Shah Mohmand, Advocate, present. Mr. Jan Gul, Section Officer (Litigation) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents No. 1 & 2 and Mr. Shahab Khattak, Legal Coordinator for respondent No. 3 present.

Learned Deputy District Attorney requested for further time for production of record mentioned in order sheet dated 07.02.2020; another last opportunity is given with strict direction to produce the same on the next date positively. To come up for production of record/arguments on 18.02.2022 before the D.B.



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



(Salah-ud-Din)
Member (J)

18-2-22

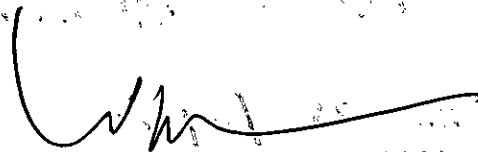
*Due to Retirement of the Hon.ble Chairman
The case is adjourned to come up for the
Same as before on 9-6-22*

*Munir
Reader*

31.08.2021.

Mr. Fazal Shah Mohmand, Advocate, for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney for respondents No. 1 & 2 present. Mr. Shahab Khattak, Advocate, for respondent No. 3 present.

Record mentioned in order sheet dated 07.02.2020 has not been submitted by respondent No. 2 despite directions issued vide order sheet dated 18.03.2020, therefore, the same may be submitted by respondent No. 2 on or before the next date and to come up for arguments before the D.B on 14.10.2021.




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



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

15.01.2021

Junior to counsel for the appellant present. Addl: AG for respondents present. Due to pandemic of Covid-19, the case is adjourned to 31.03.2021 for the same.



Reader

31.03.2021

Due to non-availability of the concerned D.B. The case is adjourned to 03/06/2021 for the same as before



Reader


03.06.2021

Miss. Rabia Muzaffar, junior of learned counsel for the appellant present. Mr. Noor Zaman, District Attorney for the respondents present.

Former requested for adjournment on the ground that learned counsel for the appellant is busy before the august Supreme Court of Pakistan. Adjourned. To come up for arguments before the D.B on 31.08.2021.



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




(SALAH-UD-DIN)
MEMBER (JUDICIAL)

28.09.2020

Appellant is present in person. Mr. Usman Ghani learned District Attorney alongwith Mr. Yar, Assistant Director representative of department are also present.

According to the appellant his counsel is engaged in the Hon'ble Peshawar High Court, Peshawar, therefore, cannot attend the Tribunal today. He requested for adjournment. Adjourned to 16.11.2020 on which to come up for arguments before D.B.


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



(Muhammad Jamal Khan)
Member (J)


16.11.2020

Appellant present through representative.

Zara Tajwar learned Deputy District Attorney for respondents present.

A request for adjournment was made on behalf of appellant; granted. To come up for arguments on 15.01.2021 before D.B.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

5.5 .2020

Due to COVID19, the case is adjourned to

16/7 /2020 for the same as before.

Reader

16.07.2020

Due to COVID-19, the case is adjourned to 14.09.2020
for the same.

Reader

14.09.2020

Appellant present in person .

Mr. Muhammad Jan learned Deputy District Attorney
for respondents present. Junior counsel for respondent
No.3 present.

Appellant requests for adjournment as his counsel is
not available. Adjourned. To come up for arguments on
25.09.2020 before D.B.



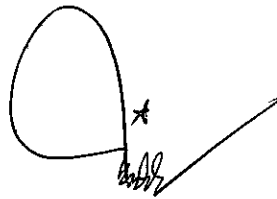
(Atiq ur Rehman)
Member (E)



(Rozina Rehman)
Member (J)

18.03.2020

Counsel for the appellant present. Mr. Ziaullah, DDA
alongwith Legal Advisor for respondent No.3 present. Record of
working paper and relevant seniority list was requisitioned from the
respondent-department but today Legal Advisor of respondent No.3
submitted reply/statements regarding record mentioned in previous
order sheet and stated that the same are not available with
respondent No.3, therefore, respondent No.2 is directed to furnish
the aforesaid record on the next date of hearing. Adjourned. To come
up for arguments on 05.05.2020 before D.B.



(MAIN MUHAMMAD)
MEMBER




(M.AMIN KHAN KUNDI)
MEMBER

10.12.2019

Due to general strike of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Mr. Ziaullah, Deputy District Attorney for respondents No. 1 & 2 present. Adjourned to 07.02.2020 for arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

07.02.2020

Appellant alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney for respondents No. 1 & 2 and counsel for respondent No. 3 present. The case was argued at some length. Learned counsel for the appellant repeatedly stated that a post in Mechanical Technology was vacant due to acting charge promotion/appointment of Mr. Niaz Ali Assistant Professor (BPS-18) vide notification dated 27.02.2008. This claim was rebutted by the learned counsel appearing on behalf of respondent No. 3. In order to examine the case in its true perspective, respondents are directed to provide working paper in which promotion case of the appellant to the post of Lecturer was considered and approved alongwith seniority list in the relevant field. It may also be clarified since how long the post against which the appellant was promoted remained vacant? Case to come up for record and arguments on 18.03.2020 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

Service Appeal No. 1548/2013

28.10.2019 Appellant alongwith his counsel and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Shahab Khattak, Legal Advisor for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 06.11.2019 for arguments before D.B.



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

06.11.2019 Appellant in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Appellant seeks adjournment. Being an old case of the year 2013, adjourned by way of last chance. To come up for arguments on 11.11.2019 before D.B.



Member



Member

11.11.2019 Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for respondents No. 1 & 2 and counsel for respondent No. 3 present. Learned counsel for respondent No. 3 requested for adjournment. Adjourned to 10.12.2019 for arguments before D.B.



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member


20.09.2019

Appellant with counsel present. Asst: AG alongwith Mr. Shahab Khattak, Legal Advisor for respondents present.

The case was argued at some length by both the parties. Learned counsel for the appellant mainly relied on service rules notified by the department on 03.12.2010, whereby 10% quota for promotion on the basis of seniority-cum-fitness from amongst the Junior Instructors having Bachelor Degree in Engineering or four years B. Tech (Hons) in the relevant technology from a recognized university was reserved for promotion to the post of Lecturer (Technical cadre). On the basis of these rules Engineer M. Tugbeer Hashmi and Taimur Shah, ~~BSC/B-Tech (Hons) Electrical~~ were granted promotion vide notification dated 04.05.2011. Plain reading of the above rules revealed that separate seniority list were maintained for various technologies as was evident from the promotion order referred to above. Learned counsel for the appellant was unable to clarify this point that how the issue of joint seniority would be counted in such cases.

Furthermore, the appellant filed this appeal in 2013 and we apprehend that many changes might have been brought in the service rules from time to time in the shape of amendments. However, learned counsel for the appellant was unable to assist this Tribunal on the said issue. Case to come up for further proceedings on 28.10.2019 before D.B.


Member


Member

31.05.2019

Clerk to counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 08.07.2019 before D.B.


Member


Member

08.07.2019

Clerk to counsel for the appellant and Mr. Muhammad Jan, DDA for respondents present. Clerk to counsel for the submitted an application for adjournment wherein he stated that learned counsel for the appellant was busy before the august Supreme Court of Pakistan, Islamabad. Granted. Case to come up for arguments on 26.08.2019 before D.B.


Member


Member

26.08.2019

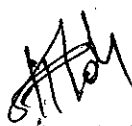
Clerk to counsel for the appellant present. Addl: AG for respondents present. Clerk to counsel for the appellant seeks adjournment due to general strike on the call of Peshawar Bar Association. Adjourn. To come up for arguments on 20.09.2019 before D.B.

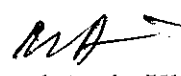

Member


Member

22.01.2019


Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant has filed an application for restoration of appeal, record reveals that the replication of the same has not been submitted so far therefore learned Additional Advocate General is directed to submit the replication of the same on next date positively. Adjourned. To come up replication and arguments on 26.03.2019 before D.B



(Hussain Shah)
Member


(Muhammad Amin Khan Kundi)
Member

26.03.2019

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. The present restoration was fixed replication and arguments. The learned Additional Advocate General stated at the bar that if the restoration application is within time then he has no objection on the acceptance of restoration application. Record reveals that the main appeal was dismissed due to non prosecution on 25.09.2018 and the petitioner has submitted present restoration application on 05.10.2018 meaning thereby that the restoration application is within time, therefore, the restoration application is accepted. Original record be requisitioned. To come up for further proceeding on 31.05.2019 before D.B.


(Hussain Shah)
Member




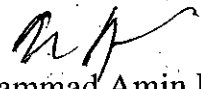

(Muhammad Amin Khan Kundi)
Member

Form-A

FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 332/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.09.2018	<p>The application for restoration of appeal no. 1111/2017 submitted by Syed Rahmat Ali Shah Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	3-10-18	<p>This restoration application is entrusted to D. Bench to be put up there on <u>22-11-18</u></p> <p style="text-align: right;"> MEMBER</p>
22.11.2018		<p>Counsel for the applicant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Requested for adjournment. Adjourned. To come up for arguments on restoration application on 22.01.2019 before D.B. Original record be also requisitioned for the date fixed.</p> <p style="text-align: center;">  (Ahmad Hassan) Member </p> <p style="text-align: center;">  (Muhammad Amin Khan Kundi) Member </p>

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Restoration Application No. 359/2018

Service Appeal No. 1548/13

No. 1159
Date 5-10-18

Niaz Ahmad

..... Appellant

Versus

Govt & others

..... Respondents

**APPLICATION FOR RESTORATION OF THE
ABOVE TITLED CASE**

Respectfully Sheweth:-

1. That the above titled case was fixed for hearing before this Honourable Tribunal for today i.e. 25.09.2018 but has been dismissed in default.
2. That the petitioners pray for restoration of the above titled case and its decision on merit on the following grounds.

Grounds:-

- A. That the counsel for the petitioners came to the court on the date fixed at about 10:30 Am but was told that the case has been dismissed in default.
- B. That the counsel for the appellant was duly present and prepare the whole case but in the meanwhile, the case was dismissed for non prosecution.


- C. That law favors decision on merit and avoiding technicalities moreover the application is quit within time.
- D. That the valuable rights of the applicant / petitioner is involved in the case and the case may kindly be decided on merits.

It is, therefore, most humbly prayed that on acceptance of this application the above tilted case may kindly be restored for its decision on merit.

Dated:- 25-09-18

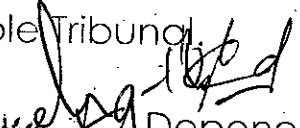

Applicant/Petitioner

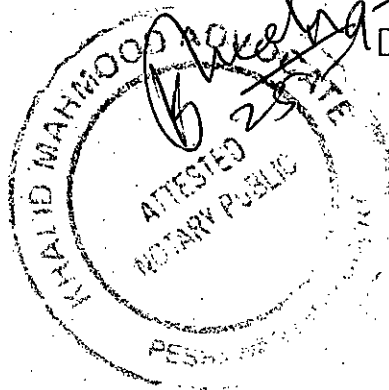
Through:-


Fazal Shah Mohmand
Advocate, Supreme Court
of Pakistan.

AFFIDAVIT:

I, Niaz Ahmad (Appellant), do hereby solemnly affirm and declare on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent



**BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR**



Service Appeal No. 1548/2013

[Handwritten notes and stamps]
 Date: 15/9/13
 Page No. 26/11/13

Niaz Ahmad S/O Zoor Zaman, Lecturer (Mech) (BPS-17), Govt Polytechnic Institute Wari, Dir Upper.

(Appellant)

VERSUS

1. Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar.

2. Secretary, Industries, Commerce & Technical Education Manpower Training, Khyber Pakhtunkhwa Civil Secretariat Peshawar.

3. Director General, Technical Education Manpower Training, Khyber Pakhtunkhwa, Peshawar

(Respondents)

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for allowing ante-dation in promotion to the post of Lecturer (Mech) BPS-17 wef 27.02.2008 with all consequential benefits and arrears, for grant of this benefits the Departmental Appeal dated 29.07.2013 has not been replied so far.

25.09.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Muhammad Jan Learned Deputy District Attorney present. Case called time again but none appeared on behalf of the appellant. On the previous date too no one turned up on behalf of the appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.

(Hussain Shah)
Member

(Muhammad Hamid Mughal)
Member

Certified to be true copy

ANNOUNCED
25.09.2018

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 04-10-18
Number 400 _____
Cost 4.00 _____
Unit 2.00 _____
Total 6.00 _____
Name [Signature] _____
Date of 04-10-18 _____
Date of Delivery 04-10-18 _____

Service Appeal No. 1548/2013

03.07.2018


Appellant with counsel and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments in the light of order sheet dated 26.02.2018 before D.B on 16.08.2018.


(Ahmad Hassan)
Member


(Muhammad Amin Kundi)
Member

16.08.2018


Appellant absent. Learned counsel for the appellant absent. Mr. Usman Ghani learned District Attorney present. Adjourned. To come up for arguments on 25.09.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

25.09.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Muhammad Jan Learned Deputy District Attorney present. Case called time again but none appeared on behalf of the appellant. On the previous date too no one turned up on behalf of the appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED
25.09.2018

26.02.2018

Counsel for the appellant and Mr. Ziaullah, DDA for the respondents present. After arguing the case at some length, the Tribunal directed the learned counsel to study the judgment dated 15.09.2017 of this Tribunal in *Rahmatullah's* case and then to argue the case. To come up for arguments on 30.03.2018 before the D.B.


Member


Chairman

30.03.2018

Appellant in person and Addl. AG for the respondents present. Appellant seeks adjournment. Granted. To come up for arguments on 30.05.2018 before the D.B.


Member


Chairman

30.05.2018

Appellant with counsel Mr. Fazal Shah Advocate present. Mr. Muhammad Jan, Learned Deputy District Attorney for the respondents present. Mr. Fazal Shah Advocate submitted wakalat nama on behalf of appellant which is placed on file and seeks adjournment. Adjourned. To come up for arguments 03.07.2018 before D.B.


(Ahmad Hassan)


(Muhammad Hamid Mughal)

1548/2013

30.05.2017

Clerk of the counsel for appellant present Mr. Ziaullah, Deputy District Attorney for the respondents also present. Due to strike of the bar learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 22.09.2017 before D.B.

(GULZEB KHAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

25/09/2017

Since 07.11.09.2017 has been declared as a public holiday on account of first Muharram. Therefore cases adjourned to 22.12.2017 for the same.

READER

22.12.2017

Mr. Yasir Saleem Advocate for appellant and Mr. Muhammad Riaz Pinda Khel, Asstt. AG for the respondents present. Learned counsel for the appellant seeks time to submit Wakalatnama and also to prepare arguments. Granted. To come up for arguments on 26.02.2018 before the D.B.

Member

Chairman

20.07.2016

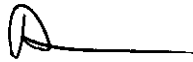
Appellant with counsel and Mr. Muhammad Jan, GP for the respondents present. Due to shortage of time arguments could not be heard. To come up for arguments on ~~13-10-16~~ before D.B.


MEMBER


MEMBER

13.10.2016

Appellant with counsel and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for adjournment. Adjournment granted. To come up for arguments on 17.01.2016.



(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

17.01.2017

Appellant in person and Mr. Muhammad Jan, GP for respondents present. Junior counsel for senior counsel Mr. Ijaz Anwar appeared and informed the Tribunal that senior counsel is busy at apex Supreme Court of Pakistan and requested for adjournment. Adjourned. To come up for arguments on 30.05.2017 before D.B.


(AHMAD/HASSAN)
MEMBER


(ASHFAQUE TAJ)
MEMBER

01.07.2015

Appellant with counsel and Mr. Muhammad Rasool, AD
alongwith Addl: A.G for respondents present. Written reply submitted.
The appeal is assigned to D.B for rejoinder and final hearing for
24.11.2015.


Chairman

24.11.2015

Counsel for the appellant and Mr. Gul Badshah, Assistant,
alongwith Asst: AG for respondents present. Arguments could not
be heard due to learned Member (Judicial) is on official tour to
D.I. Khan. Therefore, the case is adjourned to 30/3/16 for
arguments.


Member

30.03.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents
present. Learned counsel for the appellant requested for adjournment.
Adjourned for final hearing to 20.7.2016 before D.B.


Member
(Executive)


Chairman

24.10.2014

Appellant present in person. Respondents are absent. However, Mr. Muhammad Adeel Butt, AAG is present and stated that the respondents have not contacted him for defending the case on their behalf inspite of letter dated 24.04.2014. The learned AAG requested for further time. A last chance is given to the learned AAG for securing the attendance of the respondents as well as written reply/comments on their behalf on 11.02.2015.


Chairman

11.02.2015

Appellant in person and Mr. Muhammad Rasool, AD for respondents alongwith Addl: A.G present. Requested for adjournment for written reply. Adjourned to 3.4.2015 before S.B.


Chairman

03.04.2015

Appellant with counsel and Mr. Gul Badshah, Assistant alongwith Addl: A.G for respondents present. Informed the Court that due to promulgation of Khyber Pakhtunkhwa Technical Education and Vocational Training Authority Act, 2015 the appellant is to give a second thought to his appeal including impleadment of parties. Requested for adjournment. To come up for further proceedings on 1.7.2015 before S.B.

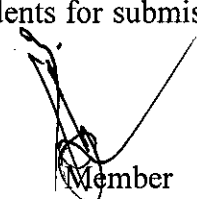

Chairman

Appeal No. 1548/2013
Mr. Niaz Ahmad

3. 30.01.2014

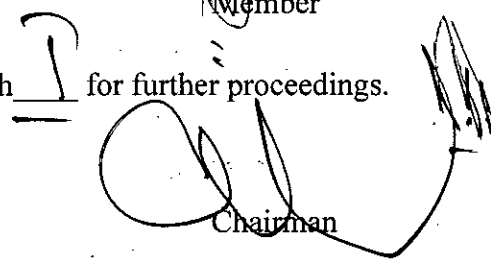
Appellant with counsel present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. The appellant filed departmental appeal on 29.07.2013 for allowing ante-dation in promotion to the post of Lecturer (math) BPS-17 w.e.f. 27.02.2008, which has not been responded within the statutory period of 90 days, hence the present appeal on 26.11.2013. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 23.04.2014.

Appellant Deposited
Security & Process Fee
Rs. 1800/- Bank
Receipt is Attached with File.


Member

4. 30.01.2014

This case be put before the Final Bench I for further proceedings.


Chairman

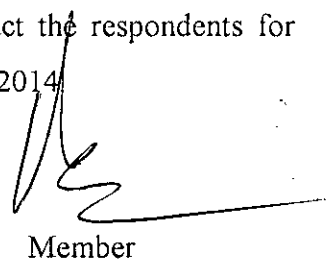
23.4.2014

Appellant in person present. Respondents are not present despite their service through the concerned officials. However, Mr. Ziaullah, G.P is present on behalf of the respondents and would be contacting them for written reply/comments on 4.7.2014.


Member

4.7.2014

Appellant in person and AAG for the respondents present. Neither representative of the respondents is present nor written reply has been received despite letter dated 24.4.2014 addressed to Secretary Industries, KPK, Peshawar and D.G Technical Education, KPK, Peshawar by the learned AAG. However, the learned AAG requested for further time in order to contact the respondents for written reply/comments, positively, on 24.10.2014.




Member

Form-A

FORM OF ORDER SHEET

Court of _____

Case No. 1548/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1		3
1	26/11/2013	The appeal of Mr. Niaz Ahmad presented today by Mr. Ijaz Anwar Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.  REGISTRAR
2	3-12-2013	This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>30-1-2014</u>  CHAIRMAN

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No 1548/2013

Niaz Ahmad S/O Zoor Zaman, Lecturer (Mech) (BPS-17), Govt Polytechnic Institute Wari, Dir Upper.

(Appellant)

VERSUS

Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar and others.

(Respondents)

INDEX

S. No	Description of Documents	Annexure	Page No
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2	Affidavit		6
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4	Rules of Service	B	11-12
5	Statement showing vacant posts of lecturers	C	13-14
6	Promotion notification dated 27.02.2008	D	15-16
7	Seniority list as it stood on 31.12.2011	E	17
8	Promotion notification dated 4.05.2011, 14-12-2012	F	18-18 ^A
9	Seniority list as it stood on 31.12.2009	G	19
10	Degree of B Tech	H	20
11	Departmental appeal	I	21-24
12	Vakalatnama		

Appellant

Through



IJAZ ANWAR
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1548/2013

G.O. J. Services
Lecturer (Mech)
Case No. 1589
Date 26/11/13

Niaz Ahmad S/O Zoor Zaman, Lecturer (Mech) (BPS-17), Govt. Polytechnic Institute Wari, Dir Upper.

(Appellant)

VERSUS

1. Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar.
2. Secretary, Industries, Commerce & Technical Education Manpower Training, Khyber Pakhtunkhwa Civil Secretariat Peshawar.
3. Director General, Technical Education Manpower Training, Khyber Pakhtunkhwa, Peshawar

(Respondents)

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for allowing ante-dation in promotion to the post of Lecturer (Mech) BPS-17 wef 27.02.2008 with all consequential benefits and arrears, for grant of this benefits the Departmental Appeal dated 29.07.2013 has not been replied so far.

Respectfully submitted:

1. That the appellant was initially appointed as Junior Instructor (BPS-14) vide Notification dated 24.07.1997, during the course of his service, the appellant improved his qualification and acquired "B-Tech" (Honours) Degree in 2008.

2. That after the merger of the *Directorate of Technical Education* and *Directorate of Manpower and Training* into *Directorate of Technical Education and Manpower Training* a controversy regarding seniority and promotions of the employees arose.
3. That an *Appeal No 1011 / Neem / 2006* was filed before the Honourable Service Tribunal which was accepted on 23.06.2009 and all promotions made after the merger on the basis of separate seniority list were declared null and void and the Department was directed to finalize the Rules / Regulations draw the seniority list and promote all those from the date when their promotions were due and vacancies were available.
4. That the Department implemented the Judgment of this Honourable Service Tribunal Rules were framed and promotions were made, however the appellant was ignored despite his seniority, eligibility and fitness.
5. That in the meantime the promotion cases of the appellant and other were processed, however one Ishtiaq Ahmad Instructor (Electrical) filed service appeal No. 652/2011 staying the process of promotion.
6. That a *Provincial Seniority list of Junior Instructor (Mech) BPS-14 Degree holder* issued by the Technical Education and Manpower Training Department Khyber Pakhtunkhwa as stood on 31.12.2011 in which the name of incumbent with academic qualification was at S No 1 in BPS-14.

7. That *Mr Muhammad Tauqir Hashmi and Mr Taimur Shah* who were junior to him were promoted on 04.05.2011 while the promotion case of the appellant was sent to Secretariat for *Departmental Promotion Committee (D.P.C)* on 05.05.2011, however due to stay order of the Honourable Service Tribunal In *Appeal No 652 / 2011 titled Mr Ishtiaq Ahmad Vs Govt* his promotion case was stopped. The said appeal was dismissed vide Judgment and Order dated 13.03.2012 by this Honourable Service Tribunal.
8. That thereafter the Appellant was promoted as Lecturer (Mech) BPS-17 vide Order dated 14.12.2012 but with immediate effect. Though the appellant was entitled to the promotion from the date of his eligibilities and when the post of lecturer was vacant.
9. That though the appellant was the senior most, fit and eligible, moreover there were vacancies also available since 2008, however his promotion was delayed firstly due to the Appeal of *one Muhammad Ayaz then due to the Appeal No 612 / 2011 pending before the Honourable Service Tribunal.*
10. That the Service Tribunal in an Appeal No 1011 / Neem / 2006 decided on 23.06.2009 has also directed the Department to draw seniority list and promote all those from the date when their promotion were due and vacancies were available. As such the Appellant was entitled for promotion since 27.02.2008. Thus not allowing him promotion from the date would also amount to contempt of the Judgment of the Honourable Service Tribunal.

11. That Juniors to him were promoted prior to him, however have been denied promotion from his due date for no fault on his behalf.
12. That the appellant submitted his departmental appeal dated 29.07.2013, however neither allowed antedated promotion nor his Departmental Appeal was replied despite the lapse of 90 days hence this appeal inter alia on the following grounds

Grounds of Appeal:


- A. That the appellant has not been treated in accordance with law his rights secured and guaranteed under the law have been violated.
- B. That in the Judgment Reported in 2006 SCMR 1938 it has been held by the August Supreme Court of Pakistan that *“where post was available and the civil servant could be promoted, where such civil servant has qualified to be promoted to such higher post, where he was put on the said higher post on officiating on acting charge basis only because the requisite exercise of the regular promotion to the said post was being declared by the competent authority and where he has subsequently found fit for the said post and was so promoted on regular basis then he was entitled not only to the salary attaching to the said post but also to all consequential benefits from the very date from which he had been put on the said post on officiating or acting charge basis”*. The said judgment has recently relied upon in exactly similar case in Civil Appeal No 860 to 861 of 2010 decided on 24-5-2012.
- C. That the Superior Courts have repeatedly held that where a point of law is decided by the Superior Courts that cover the cases of all those civil servants who have not litigated than the good governance require that the benefit of such judgment should also be given to those who may not be parties to the litigation instead of compelling them to approach the service Tribunal or any other forum. Reference can be made to case reported as SCMR 1996 page 1185, 2009 SCMR page 1.
- D. That the Appellant was fit and eligible for promotion since 27.02.2008, moreover there were vacancies also available thus the Appellant have every right to be promoted from the date when his promotion was due.

- E. That his allowing promotion from due date is illegal under against the law and Rules serving the subject.
- F. That in the view of timely promotion of the officers, most junior to the appellant are enjoying senior positions, while the appellant remained deprived off.
- G. That the appellant seeks the permission of this Honourable Court to rely on additional grounds at the hearing of this appeal.

It is therefore prayed that on acceptance of this appeal the appellant may please be allowed antedated promotion to lecturer BPS-17 wef 27.02.2008 with all arrears and consequential benefits.


Appellant

Through


IJAZ ANWAR
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No _____/2013

Niaz Ahmad S/O Zoor Zaman, Lecturer (Mech) (BPS-17), Govt Polytechnic Institute Wari, Dir Upper.

(Appellant)

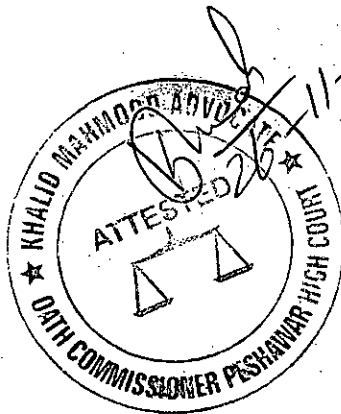
VERSUS

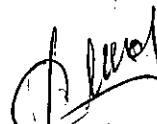
Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar and others.

(Respondents)

Affidavit

I, *Niaz Ahmad S/O Zoor Zaman, Lecturer (Mech) (BPS-17), Govt Polytechnic Institute Wari, Dir Upper,* do hereby solemnly affirm and declare on oath that the contents of the above appeal are true and correct and that nothing has been kept back or concealed from this Honourable Court.




Deponent

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Annex A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 652/2011

Date of institution. .. 13.4.2011
Date of Decision: ... 13.3.2012



Ishtiaq Ahmad Instructor (Electrical)
Government Vocational Training Centre,
Palosa, Charsadda.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through its Chief Secretary, Peshawar.
2. Secretary, Industries, Commerce & Technical Education Manpower Training, Peshawar.
3. Director General, Technical Education & Manpower Training, Khyber Pakhtunkhwa, Peshawar.
4. Mr. Noorul Haq S/O Menhaj-ud-Din, Junior Instructor (BPS-14) (Civil) Government College of Technology, Bannu and 3 others.
5. Abdul Nazer Shah S/O Abdul Ghafoor Shah, Junior Instructor (Mechanical) (BPS-14) Bannu.
6. Asadullah S/O Matiullah, Junior Instructor (Civil) Govt. College of Technology, Kohat.
7. Ijaz Muhammad son of Zoor Zamin Khan, Junior Instructor (Mechanical) (BPS-14) Govt. College of Technology, Bannu.

(Respondents)

EX AMBITER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST TWO NOTIFICATIONS OF EVEN NO.SO III(IND)TE/1-13/2010/TEACHING CADRE DATED 3.12.2010, WHEREBY TWO DIFFERENT TYPES OF SERVICE RULES FOR ONE AND THE SAME CADRE ARE NOTIFIED.

MIR. BILAL AHMAD KAKAIZAI,
Advocate

For appellant

MIR. ARSHAD ALAM,
Addl. Government Pleader

For official respondents.

MIR. IJAZ ANWAR,
Advocate

For private respondents.

MIR. SULTAN MAHMOOD KHATTAK,
MR. KHALID HUSSAIN,

MEMBER
MEMBER

JUDGMENT

SULTAN MAHMOOD KHATTAK, MEMBER:- This appeal has been filed by Ishtiaq Ahmad, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the notifications dated 3.12.2011, whereby two different type of service rules for one and the same cadre have been notified. It has been

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prayed that on acceptance of the appeal, the impugned notifications & categorization of Teaching Cadre staff/Instructors BPS-14 into Instructional Cadre staff Government Advance Technical Training Centre, Government Technical & Vocational Centres and Skilled Development centres and Teaching Cadre staff of Government College of Technology, Government Polytechnic Institutes, Government Technical Institutes and Government Technical Teaching Training Colleges be re-unified and the judgment dated 23.6.2009 in Service Appeal No. 1011/Neem/2006 be implemented in letter & spirit.

2. Brief facts of the case as averred in the memo of appeal are that vide notification dated 9.2.2002, the Directorate of Technical Education, Khyber Pakhtunkhwa and Directorate of Manpower & Training were merged and renamed as Directorate of Technical Education & Manpower Training. Subsequently on 28.5.2002, another notification was issued wherein upon merger/restructuring of the Departments, Attached Departments or Subordinate offices, the inter-se-seniority of the Civil Servants effected by the merger/restructuring shall be determined in accordance with the date of their regular appointment to a cadre or post, was amended. An appeal No. 1011/Neem/2006 was decided by this Tribunal vide judgment dated 23.6.2009. The operating para of the judgment is reproduced here as under:-

"We, therefore, while accepting the present appeals, set aside the orders of promotions on the basis of separate seniority lists ordered after 9.2.2002 and declare that all the Departmental Promotion Committee Meetings and consequent promotions of the employees of the renamed Directorate after 9.2.2002 on the basis of separate seniority lists are ab-initio null and void, being against the rules. The Department/officials should without further delay finalize the rules/regulations, draw the seniority lists and promote all those ~~employees~~ from the date when their promotions were due and vacancies available."

According to the judgment all the promotion orders made on the basis of separate seniority lists, after 9.2.2002 i.e. merger, were declared illegal and ab-initio void. The department was also directed to finalize the Rules/Regulations, draw the joint seniority list cadre-wise and then to issue the promotion orders. Instead of implementing the judgment, the department issued two notifications on 3.10.2010 whereby they again bifurcated the teaching staff/Instructors BPS-14 by naming them (i) Instructional Cadre Staff Government Advance Technical Training Centre, Government Technical & Vocational Centers and Skilled Development Centers (ii) Teaching Cadre Staff of Government College of Technology, Government Polytechnic

EX-113/2006
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Institutes, Government Technical Institutes and Government Technical Teaching Training Colleges. Feeling aggrieved, the appellant filed departmental appeal on 3.1.2011, which elicited no response within the statutory period of ninety days, hence the present appeal.

3. The appeal was admitted to regular hearing on 29.4.2011 and notices were issued to respondents. The respondents filed their written replies and contested the appeal. The appellant also filed rejoinder in rebuttal. Arguments already heard. Record perused.

4. The learned counsel for the appellant argued that the impugned notifications dated 3.12.2010 are illegal, unlawful, void and in-effective, that vide judgment dated 23.6.2009, in Service Appeal No. 1011/Neem/2006, the orders of promotions on the basis of separate seniority lists ordered after 9.2.2002 were set aside and declared that all the Departmental Promotion Committee Meetings and consequent promotions of the employees of the renamed Directorate after 9.2.2002 on the basis of separate seniority lists ab-initio null and void, being against the rules. It was further ordered that the department/officials should without further delay finalize the rules/regulations, draw the seniority lists and promote all those when their promotions were due and vacancies were available. Instead of implementing the judgment in its true spirit, the department issued the impugned notifications and the Teaching Cadre Staff of the Vocational Centres etc. were separated from Polytechnic Institutes. He stated that through the impugned notifications teaching cadre has been bifurcated into two teaching cadres on mala fide intentions. He requested that the appeal may be accepted as prayed.

5. The learned AAG argued that while implementing the judgment of this Tribunal dated 23.6.2009, in Service Appeal No. 1011/Neem/2006, the government new Service Rules have been notified and merged into three categories (i) Technical and Engineering Education, (ii) Commerce and Business Education and (iii) Skill Development and Vocational Trainings. The Instructor Cadre at S.No.i of para-3 of the appeal relates to the Skill Development and Vocational Training, whereas teaching cadre referred to at S.No.ii pertaining to the Technical and Engineering Education. Each cadre has its different nomenclature of posts, scales prescribed qualification and level of education etc. He further argued that the appellant has been appointed on the basis of qualification of certificate, the appellant could not taught to the Technical and Engineering students. He also stated that an option letter was circulated to the holders of Diploma of Associate Engineers, B.Tech Engineers and B.Sc Engineers of the Vocational Stream for change of their cadre from Vocational Cadre to Engineering

ATTESTED

ATA AGENA
Khayr Khattak
Service In-charge,
Peshawar

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Cadre, but the appellant did not opt for change of his cadre. He requested that the appeal may be dismissed.

6. The learned counsel for private respondents argued that fresh rules were notified in accordance with the law. The department has the authority to change the rules or to notify fresh rules keeping in view the betterment of the department. He further argued that the appellant belonged to the defunct Skill Development and Vocational Directorate and is Instructor in Vocational Centre has got no right to claim promotion in the Technical and Engineering Education Cadre or to challenge the same. The appellant teaches courses of Certificate level while the private respondents teaches to the students of Diploma & Degree level. The appellant was appointed on the qualification for the certificate level courses. He requested that the appeal may be dismissed.

7. The Tribunal observes that the respondent department is properly implementing judgment of the Tribunal. The department was directed to finalize rules/regulations, draw seniority list and promote all those from the date when their promotion were due and vacancies available. First step towards drawing seniority is the issuance of proper rules regulations after merger. Also in pursuance of provisions contained in sub-rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, read with Rule 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, the competent authority in consultation with the Establishment Department and Finance Department had issued the said rules for the new Department. Moreover, options were sought from all the staff including the appellant but the appellant did not opt for change of his cadre. The appellant belongs to a cadre who are teaching to school level cannot claim seniority with those who are teaching to intermediate and degree levels. The Tribunal agrees with the arguments advanced by the learned AAG and learned counsel for the private respondents.

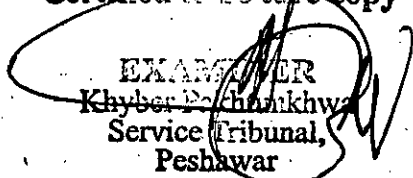
8. In view of the above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
13.3.2012.


(KHALID HUSSAIN)
MEMBER


(SULTAN MAHMOOD KHATTAK)
MEMBER

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



Date of Presentation of Application 9.4.2012
Number of Words 1600
Copying Fee 10
Upward 2
Total 12
Name of Copyist [Signature]
Date of Completion of Copy 9.4.2012
Date of Delivery of Copy 9.4.2012

(11)

ANNEX-B



GOVERNMENT OF KHYBER PAKHTUNKHWA
INDUSTRIES, COMMERCE AND TECHNICAL EDUCATION
DEPARTMENT

NOTIFICATION


No. SOIII(INDYTE/4-13/2010/Teaching cadre. In pursuance of the provisions contained in sub-rule (2) of rule 3 of the North West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all notifications issued in this behalf, the Industries, Commerce and Technical Education Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in column No. 3 to 5 of the Appendix to this Notification which shall be applicable to the posts belonging to the Teaching Cadre Staff of Government Colleges of Technology, Government Polytechnic Institutes, Government Technical Institutes and Government Technical Teacher Training College specified in column No. 2 of the said Appendix.

Secretary to Govt. of Khyber Pakhtunkhwa,
Industries, Commerce & Technical Education
Department.

Ends: No. SOIII(INDYTE/4-13/2010/Teaching cadre Dated 3rd December, 2010.

Copy is forwarded to:-

1. All administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Secretary to Governor, Khyber Pakhtunkhwa.
3. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. All DCOs in Khyber Pakhtunkhwa.
5. All Heads of Attached Departments.
6. All Districts and Session Judges, Khyber Pakhtunkhwa.
7. The Director General, Technical Education and Manpower Training, Khyber Pakhtunkhwa, Peshawar.
8. The Registrar, Peshawar High Court, Peshawar.
9. The Secretary Board of Revenue, Khyber Pakhtunkhwa.
10. The Secretary, Khyber Pakhtunkhwa, Public Service Commission.
11. The Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
12. PS to Chief Secretary, Khyber Pakhtunkhwa.
13. PS to Minister for Technical Education, Khyber Pakhtunkhwa.
14. PS to Secretary, Industries, Khyber Pakhtunkhwa.
15. The Manager, Govt. Printing and Stationery Department, Khyber Pakhtunkhwa with the request that ten printed copies (gazette-copies) of the notification may be provided to Law Department and Establishment Department, Govt. of Khyber Pakhtunkhwa alongwith details of the gazette in which it is published.


(ANWAR-UL-HAQ)
SECTION OFFICER-III



	<p>2. Master's Degree in the relevant subject having five years Teaching experience in the relevant field in Government, Semi-Government or Autonomous organization.</p>		<p>service as such.</p> <p>(b) forty per cent by initial recruitment.</p> <p>Note: A post required to be filled by promotion shall be made according to the relevant subject.</p>
<p>7. Lecturer (Technical Cadre) (BES-17):</p>	<p>Bachelor's Degree in Engineering or four years B.Tech (Hons) or equivalent qualification in the relevant Technology, from a recognized University with two years Teaching/ professional experience in the relevant field and one year Technical Teachers Diploma from a recognized Institute.</p>	<p>21 to 30 years</p>	<p>(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Junior Instructors, Demonstrators (BPS-14) with Diploma of Associate Engineering in the relevant Technology from a recognized Institute, having five years service as such and one year Technical Teachers Training Diploma from a recognized Institute;</p> <p>(b) ten per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Junior Instructors (BPS-14), having Bachelor Degree in Engineering or four years B-Tech: (Hons) in the relevant Technology from a recognized University; and</p> <p>(c) forty per cent by initial recruitment.</p>

(12)

STATEMENT SHOWING THE NUMBER OF POSTS OF LECTURERS (MECHANICAL) BPS-17 PRESENTLY HELD BY DIRECT RECRUITS VIZ-A-AVIZ PROMOTEEES IN THE TECHNICAL EDUCATION & MANPOWER TRAINING DEPARTMENT.

Total Number of sanctioned posts	=	70
Share of promotion quota Diploma Holders @ 50%	=	35
Share of promotion quota Degree Holders @ 10%	=	07
Share of initial recruitment @ 40%	=	28


Annex - C

Promotees				Initial	
Sr#	Diploma Holders	Sr#	Degree Holders	Sr. No.	Initial
1	Muhammad Ishaq	1	Syed Javed Iqbal	1	Abdul Jabbar
2	Abdul Jalil	2	Masood Jan	2	Maqsood Jamal
3	Jamshed Khan	3	Rehmat Ullah	3	Imtiaz Ahmad
4	Maula Bakhsh	4	Bazir Khan	4	Niqab Khan
5	Tariq Bin Jamal	5	Vacant due to promotion on Acting Charge basis of Niaz Ali as Assistant Professor (BS-18) vide Admn: Deptt: Notification No. SOIII (IND) TE/ 1-6/ 2005 dated 27-02-2008.	5	Attiq ur Rehman
6	Muhammad Yousef	6	Vacant due to promotion on Acting Charge basis of Muhammad Kaleem as Assistant Professor (BS-18) vide Admn: Deptt: Notification No. SOIII (IND) TE/ 1-6/ 2005 dated 27-02-2008.	6	Jehanzeb
7	Abdur Rehman	7	Vacant due to promotion on Acting Charge basis of Mashal Khan as Assistant Professor (BS-18) vide Admn: Deptt: Notification No. SOIII (IND) TE/ 1-6/ 2005 dated 27-02-2008.	7	Ijaz Khan
8	Hamayun			8	Imran Khan
9	Tufail Rashid			9	---Vacant---
10	Khan ul Mulk			10	---Vacant---
11	Shaukat Mir			11	---Vacant---
12	Muhammad Younis			12	---Vacant---
13	Syed Ghulam			13	---Vacant---
14	Hidayat Khan			14	---Vacant---
15	Sultan Akbar			15	---Vacant---

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16	Muhammad Idrees			16	---Vacant---
17	Nazir Ahmad			17	---Vacant---
18	Muhammad Ayub			18	---Vacant---
19	Sardar Ali			19	---Vacant---
20	Mian Farooq Iqbal			20	---Vacant---
21	Muhammad Riaz			21	---Vacant---
22	Masud Ur Rehman			22	---Vacant---
23	Liaqat Ali			23	---Vacant---
24	---Vacant---			24	---Vacant---
25	---Vacant---			25	---Vacant---
26	---Vacant---			26	---Vacant---
27	---Vacant---			27	---Vacant---
28	---Vacant---			28	---Vacant---
29	---Vacant---				
30	---Vacant---				
31	---Vacant---				
32	---Vacant---				
33	---Vacant---				
34	---Vacant---				
35	---Vacant---				


DIRECTOR GENERAL



ANNEX - D
(15)

Government of N.W.F. Province,
Industries, Commerce, Min. Dev.
Labour & Tech. Edu. Department.

Dated Peshawar, February 27, 2008.

NOTIFICATION

No. SO/II(IND)TE/I-6/2005 On recommendation of the Provincial Selection Board, the Competent Authority has been pleased to promote/appoint ~~on acting charge~~ the following Assistant Professor/Instructors (Technical Subjects) Govt. Polytechnic Institutes/Govt. Colleges of Technology (BPS-17, 18) to the posts of Assistant Professors/Heads of Department (Technical Subjects) (BPS-18) in the Directorate General of Technical Education & Manpower Training, NWFP, with immediate effect:-

S. No	Name/Designation	Promoted/Appointed on Acting Charge Basis as
1.	Mr. Ahmad Saeed, Assistant Professor (BPS-18) on Acting Charge Basis	Assistant Professor/Head of Department (BPS-18) (On regular basis)
2.	Mr. Abid Iqbal, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On regular basis)
3.	Mr. Niaz Ali, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)
4.	Mr. Sher Bahadur, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)
5.	Mr. Muhammad Zubair, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)
6.	Mr. Muhammad Sadiq, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)
7.	Mr. Muhammad Nazir, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)
8.	Mr. Muhammad Kalim, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)
9.	Mr. Raza Ullah, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)
10.	Mr. Mashal Khan, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)
11.	Mr. Ikhtiar Ahmad, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)
12.	Mr. Muhammad Khalid, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)
13.	Mr. Nasir Khan, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)
14.	Mr. Aleem John, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)



	Semi Ullah, Instructor (BPS-17)	(On acting charge basis) Assistant Professor/Head of Department (BPS-18) (On acting charge basis)
18.	Muhammad Iqbal, Instructor (BPS-17)	Assistant Professor/Head of Department (BPS-18) (On acting charge basis)

2. The officers will remain on probation for a period of one year in terms of Section-6 (2) of NWFP, Civil Servants Act, 1973 read with Rule-15 (i) of NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules, 1939.

3. Consequent upon their promotion, the following transfers/postings of officers are hereby ordered:-

S.No.	Name of officer with present posting	Posted as
1.	Engr. Ahmad Saeed, Assistant Professor (Mechanical) (BPS-18) (on Acting Charge Basis), Govt. College of Technology, Swat	Assistant Professor (Mechanical) (BPS-18) Govt. College of Technology, Swat (on Regular Basis)
2.	Engr. Abid Iqbal, Instructor (Mechanical) (BPS-17) Govt. College of Technology, Peshawar	Assistant Professor (Mechanical) (BPS-18) Govt. College of Technology, Abbotabad (Against the vacant post)
3.	Engr. Niaz Ali, Instructor (Mechanical) (BPS-17) Govt. College of Technology, Bannu	Assistant Professor (Mechanical) (BPS-18) Govt. College of Technology, Bannu (Against the vacant post)
4.	Engr. Sier Bahadur, Instructor (Electrical) (BPS-17) Govt. College of Technology, Peshawar	Assistant Professor (Electrical) (BPS-18) Govt. College of Technology, Peshawar (Against the vacant post)
5.	Engr. Muhammad Zubair, Instructor (Civil) (BPS-17) Govt. Technical & Vocational Centre (Boys), Tank	Assistant Professor (Civil) (BPS-18) Govt. College of Technology, D.I. Khan (Against the vacant post)
6.	Engr. Muhammad Sadiq, Instructor (Electrical) (BPS-17) Govt. College of Technology, Peshawar	Assistant Professor (Electrical) (BPS-18) Govt. College of Technology, Peshawar (Against the vacant post)
7.	Engr. Muhammad Nazir, Instructor (Electrical) (BPS-17) Govt. Technical & Vocational Centre (Boys) Mansehra	Assistant Professor (Electrical) (BPS-18) Govt. College of Technology, Abbotabad (Against the vacant post)
8.	Engr. Muhammad Kalim, Instructor (Mechanical) (BPS-17) Govt. College of Technology, Peshawar	Assistant Professor (Mechanical) (BPS-18) Govt. College of Technology, Peshawar (Against the vacant post)

9.	Engr. Raza Ghani, Instructor (Civil) (BPS-17) Govt. College of Technology, Nowshera	Assistant Professor (Civil) (BPS-18) Govt. College of Technology, Nowshera. (Against the vacant post)
10.	Engr. Niazat Khatun, Instructor (Mechanical) (BPS-17) Govt. Technical & Vocational Centre (Boys) Bannu	Assistant Professor (Mechanical) (BPS-18) Govt. College of Technology, Bannu. (Against the vacant post)
11.	Engr. Iqbal Ahmad, Instructor (Mechanical) (BPS-17) Govt. Technical & Vocational Centre (Boys) Ghazi	Assistant Professor (Mechanical) (BPS-18) Govt. Polytechnic Institute, Haripur (Against the vacant post)
12.	Engr. Muhammad Khalid, Instructor (Civil) (BPS-17) Govt. College of Technology, D.I. Khan	Assistant Professor (Civil) (BPS-18) Govt. College of Technology, D.I. Khan. (Against the vacant post)
13.	Engr. Nasir Khan, Instructor (Mechanical) (BPS-17) Govt. College of Technology, Tangi	Assistant Professor (Mechanical) (BPS-18) Govt. College of Technology, Tangi. (Against the vacant post)
14.	Engr. Aleem John, Instructor (Civil) (BPS-17) Govt. College of Technology, Peshawar	Assistant Professor (Civil) (BPS-18) Govt. College of Technology, Peshawar. (Against the vacant post)
15.	Engr. Asad Ullah, Instructor (Electrical) (BPS-17) Govt. Polytechnic Institute, Takht Bhai	Assistant Professor (Electrical) (BPS-18) Govt. Polytechnic Institute, Takht Bhai. (Against the vacant post)
16.	Engr. Asif Altaf, Instructor (Electrical) (BPS-18), Govt. College of Technology, Peshawar	Assistant Professor (Electrical) (BPS-18) Govt. College of Technology Kohat. (Against the vacant post)
17.	Engr. Samiullah Durrani, Instructor (Mechanical) (BPS-17), Govt. College of Technology, Peshawar	Assistant Professor (Mechanical) (BPS-18) Govt. College of Technology Nowshera. (Against the vacant post)
18.	Engr. Muhammad Iqbal, Instructor (Civil) (BPS-17), Govt. Polytechnic Institute, Karak	Assistant Professor (Civil) (BPS-18) Govt. Polytechnic Institute, Karak. (Against the vacant post)

Sd/-

Secretary to Govt of NWFP,
Industries, Commerce, Min. Dev.
Labour & Tech. Edu. Department.

Attest

[Signature]

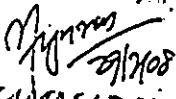
ASSISTANT DIRECTOR (ADMIN,
Technical Edu. and Manpower Trn
NWFP

[Signature]

Enrollment Form No. FE/1-6/2005. Dated Pesh: the February 27, 2008.

Copies forwarded to:-

- 1) The Accountant General, NWFP, Peshawar.
- 2) The District Accounts Officers, Abbottabad, Dikhan, Dir (Lower), Nowshera, Kohat and Agency Accounts Officer Miranshah, NWFP.
- 3) The Director General, Technical Education & Manpower Training, NWFP.
- 4) The Principals concerned.
- 5) The Officers concerned.
- 6) B/O file.


(MUHAMMAD YUNAS)
SECTION OFFICER-III

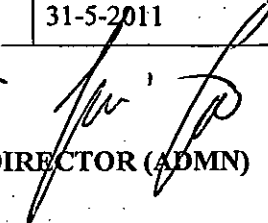
17

Annex - E

FINAL SENIORITY LIST OF JUNIOR INSTRUCTOR (MECHANICAL) BPS-14 DEGREE HOLDERS GCTs/GPIs IN THE TECHNICAL EDUCATION AND MANPOWER TRAINING DEPARTMENT KHYBER PAKHTUNKHWA AS STOOD ON 31-12-2011.

Sr.No.	Name of incumbent with academic qualification	Date of birth with domicile	Date of Ist entry into Govt. service	Regular appointment/ promotion to the present post			Present appointment	Remarks.
				Date	BPS	Method of recruitment		
1-	Mr. Niaz Ahmad, DAE (Mech:) ii) B-Tech (Hons)	01-02-1972 Malakand Agency	24-07-1997	24-07-97	14	Initial	Junior Instructor (Mechanical)	
2-	Mr. Asadullah, B-Tech (Hons) Mechanical	03-04-1971 Kohat	26-07-1997	26-07-97	14	-do-	Junior Instructor (Mechanical)	
3-	Mr. Abdul Nazer Shah, B-Tech (Hons) Mechanical	04-03-1980 Bannu	29-04-2006	29-04-06	14	-do-	Junior Instructor (Mechanical)	
4-	Mr. Ataulah, DAE (Mech) ii) B-Tech (Hons:) Mechanical	01-04-1975 Malakand	11-05-2006	11-05-06	14	-do-	Junior Instructor (Mechanical)	
5-	Mr. Akbar Ali, DAE (Mech) ii) B-Tech (Hons:)	01-12-1985 Charsadda	12-05-2006	12-05-06	14	-do-	Junior Instructor (Mechanical)	
6-	Mr. Javed Iqbal, DAE (Mech) ii) B-Tech (Hons DAE (Mech)	26-4-1967 Peshawar	30-11-88	01-07-91	14	-do-	Junior Instructor (Mechanical)	Date of passing of B-Tech (Hons) Degree 15-5-2010
7-	Mr. Khalid Gul DAE (Mech) ii) B-Tech (Hons DAE (Mech)	5-5-1967	26-9-1989	26-9-1989	14	-do-	Junior Instructor (Mechanical)	Date of passing of B-Tech (Hons) Degree 31-5-2011

Certified that the seniority list is final/ un-disputed and not sub-judice.


DEPUTY DIRECTOR (ADMN)





18
18-A

Dated Peshawar; the _____

NOTIFICATION

No. SOIII(IND)TE/I-17/2012/DPC/ On the recommendations of the Departmental Promotion Committee meeting held on 10-10-2012, the Competent Authority is pleased to promote the following officials of the Directorate of Technical Education, Khyber Pakhtunkhwa Peshawar as noted against their names with immediate effect:-

S.No	Name of Official	Promoted against the post
1	Mr. Niaz Ahmad, Junior Instructor (Mechanical) (BPS-14)	Recommended for promotion against the post of Lecturer (Mechanical) BPS-17.
2	Mr. Asadullah, Junior Instructor (Mechanical) (BPS-14)	Recommended for promotion against the post of Lecturer (Mechanical) BPS-17.
3	Mr. Abdul Nazer Shah, Junior Instructor (Mech:) (BPS-14)	Recommended for promotion against the post of Lecturer (Mechanical) BPS-17.

2. The above named promotees will be on probation for a period of one year in terms of section-6(2) of the Khyber Pakhtunkhwa, civil servants Act, 1973.

3. on their promotion the following posting are hereby ordered with immediate effect:-

Sr.No	Name of official	Proposed posting.
4	Mr. Niaz Ahmad, Junior Instructor (Mechanical), GPI, Wari.	As Lecturer (Mech:) (BPS-17), GPI, Wari against the vacant post.
5	Mr. Asadullah, Junior Instructor (Mechanical) GCT, Kohat.	As Lecturer (Mech:) (BPS-17), GCT, Kohat against the vacant post.
6	Mr. Abdul Nazir Shah, Junior Instructor (Mechanical), GCT, Bannu.	As Lecturer (Mech:) (BPS-17), GCT, Bannu against the vacant post.

-Sd-

Secretary to Govt. of Khyber Pakhtunkhwa,
Industries, Commerce & Technical Education
Department.

Endst: No. SOIII(IND)TE/I-17/2012/DPCDated Pesh, the 14th December, 2012

Copy is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Technical Education & Manpower Training, Peshawar.
3. The District Accounts Officers Dir(Lowwer), Kohat, Bannu.
4. The Principals Govt. College of Technology, Kohat, Bannu.
5. The Principals, Govt, Polytechnic Institute Wari(Dir Lower).
6. The Officers concerned.
7. O/O file.

(ANWAR-UL-HAQ)
DEPUTY SECRETARY-I

YKS

FINAL SENIORITY LIST OF JUNIOR INSTRUCTOR (DEGREE HOLDERS) ELECTRICAL. BPS-14, GOVT. COLLEGES OF TECHNOLOGY/GOVT. POLYTECHNIC INSTITUTES IN THE TECHNICAL EDUCATION AND MANPOWER TRAINING DEPARTMENT AS STOOD ON 31-12-2009.

S #	Name of Incumbents with academic qualification	Date of Birth with Domicile	Date of 1 st entry into Govt. Service	Regular appointment/ Promotion to the present post			Present Posting
				Date	BPS	Method of recruitment	
1	2	3	4	5	6	7	9
1.	Mr. Muhammad Tauqeer Hashimi, B.Sc (Electrical)	21-01-1984 D.I.Khan	18-04-2006	18-04-2006	14	Initial	Junior Instructor (Elect) GCT DIKhan
2.	Mr. Taimur Shah, B-Tech (Hons) Electrical	01-05-1985 Charsadda	24-04-2006	24-04-2006	14	Initial	Junior Instructor (Elect) GCT Tangi

DEPUTY DIRECTOR (AMDN)

Dated _____ / 2010

Endst: No. DGTE&MT/Estt/ S.List/ B-14/

Copy forwarded to the Principal, Govt. College of Technology, DIKhan and Tangi (Charsadda).

DEPUTY DIRECTOR (AMDN)

Y. Salahi
ASSISTANT DIRECTOR (AMDN)
Technical Edu. and Manpower Trg
N.W.F.P. Peshawar.

Serial No. 000391

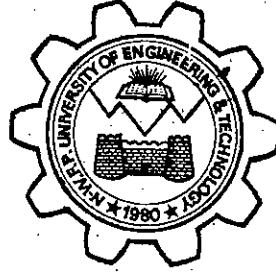
بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

Approved - H

Roll No. 824

Registered No. 99-B.TECH/M-250

N-W.F.P.
UNIVERSITY OF ENGINEERING
AND TECHNOLOGY
PAKISTAN



Session 2006

This is to certify that

NIAZ AHMAD SON OF ZOOR ZAMIN

and a student of Government College of Technology,
PESHAWAR has been duly admitted to the Degree of
Bachelor of MECHANICAL Technology (HONOURS COURSE)
He has been placed in SECOND Division.

[Signature]
Vice-Chancellor

[Signature]
Registrar

Peshawar, the 28.08.2008

[Signature]
Controller of Examinations

[Signature]

OFFICE OF THE PRINCIPAL GOVERNMENT POLY TECHNIC INSTITUTE WARI DIR UPPER

No/GPI/Wari/1940

Dated: 29/07/2013

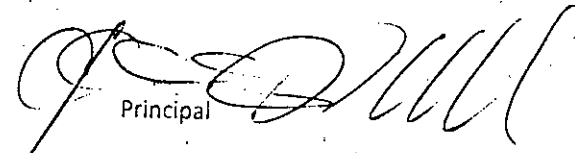
(21)

To

The Director General
Technical Education & Man Power Training Department
Khyber Pukhtunkhwa Peshawar

Subject: DEPARTMENTAL APPEAL FOR ANTEDATION OF PROMOTION TO THE POST OF LECTURER (MECH) BPS-17.

Enclose here with received self explanatory application in respect of Mr, Niaz Ahmad lecturer mechanical for subject mentioned above is forwarded for further necessary action please.



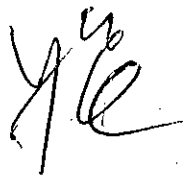
Principal

Govt Poly Technic

Institute Wari Dir Upper

D/G of MT. Dispatch/entry-no-4620

4620 Dated-29-7-13



To,

The Secretary,
Industries Commerce
and Technical Education, Department,
Khyber Pakhtunkhwa, Peshawar.

Through: PROPER CHANEL

SUBJECT:

DEPARTMENTAL APPEAL FOR ANTEDATION OF PROMOTION
TO THE POST OF LECTURER (MECH) BPS-17.

PRAYER IN APPEAL:

ON ACCEPTANCE OF THIS APPEAL THE PROMOTION ORDER
DATED 14/12/2012 OF THE UNDERSIGNED MAY PLEASE BE
ANTEDATION AND I MAY BE ALLOWED PROMOTION TO THE
POST OF LECTURER (MECH) BPS-17 FROM MY DUE DATE.

RESPECTFULLY SHEWETH,

1. That I was initially appointed as Junior Instructor BPS-14 on 24/7/1997 during the course of my service I improved my qualification and acquired B-Tech (Honours) Degree in 2008.
2. That after the merger of the Directorate of Technical Education and directorate of Man Power and Training into directorate of Technical Education and Man Power Training, a controversy regarding seniority and Promotions of the employees arose.
3. That an appeal No. 1011/Neem/2006 was filed before the Honourable service Tribunal which was accepted on 23/6/2009 and all promotions made after the merger on the basis of separate seniority list were declared null and void and the department was directed to finalize the rules / regulations draw the seniority list and promote all those from the date when their promotions were due and vacancies were available.

4. That the department implemented the judgment of Honourable Tribunal rules were framed and promotions were made, however the undersigned was ignored despite his seniority, eligibility and fitness.
5. That a provincial seniority list of junior instructor (Mech) BPS-14 Degree holder issued by the technical education and manpower training department KPK as stood on 31/12/2011 in which the name of incumbent with academic qualification was at serial No. 1 in BPS 14.
6. That Mr. Muhammad Tauqir Hashmi and Mr. Taimur Shah who were junior to me were promoted on 4/5/2011 while the promotion case of the appellate was sent to secretariat for DPC on 5/5/2011, however due to stay order of the Honourable Service Tribunal in appeal No. 652/2011 titled Ishtiaq Ahmad Vs Govt. my promotion case was stopped. The said appeal was dismissed vide order and judgment dated 13/3/2012 by the Honourable Service Tribunal.
7. That thereafter I was promoted as Lecturer (Mech) BPS-17 vide order dated 14/12/2012 but with immediate effect.
8. That I being the senior most, fit and eligible, moreover their were vacancies also available since 2008, however my promotion was delayed firstly due to the appeal of one Muhammad Ayaz then due to the appeal No. 612/2011 pending before the Honourable Tribunal.
9. That the service tribunal in an appeal No. 1011 / neem /2006 decided on 23/6/2009 has also directed the department to draw seniority list and promot all those from the date when their promotion were due and vacancies were available. As such I was entitled for promotion since 27/2/2008. Thus not allowing me promotion from the my date would also amount to contempt of the judgment of the Honourable Tribunal.
10. That juniors to me were promoted prior to me, however have been denied promotion from my due date for no fault on my behalf.
11. That I have not been treated in accordance with law, thus my rights secured and guaranteed under the law and rules are badly violated.

YH

(24)

12. That I was fit and eligible for promotion since 27/2/2008, moreover there were vacancies also available thus I have every right to be promoted from the date when my promotion was due.

13. That my allowing me promotion from my due date is illegal under against the law and rules serving the subject.

It is therefore, most humbly prayed that on acceptance of this appeal the promotion order dated 14/12/2012 of the undersigned may please be antedated and I may be allowed promotion to the post of lecturer (mech) BPS-17 from the date when it was due to me.

YOUR'S OBEDIENTLY,



NIAZ AHMAD

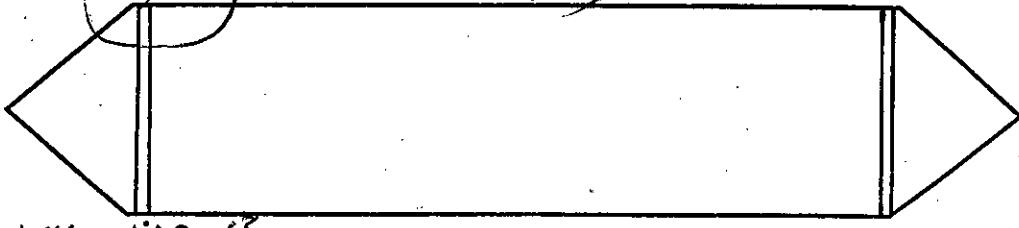
LECTURER (MECH) BPS-17

GPI, WARI.

Dated: 29/07/2013



بعد الت خیر و خیرین خواہ سہ ماہیہ خیرین



2013ء پنجاب ایسٹ
سازند بنام صولت و خیر

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کیلئے احیاء انکسٹریٹس ایسوسی ایشن اور ایسوسی ایشن
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دینے جو جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک دروپیا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم Amjad 26 ماہ نومبر 2013ء

کے لئے منظور ہے۔

Amjad
Amjad

بمقام
Attested as per
Amjad
Amjad

OFFICE OF
THE ADDITIONAL ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR

NO (Sr.GP)E&AD/1-5/Lit/Appeal/2013/

Date:

To

1. The Secretary Industries,
Khyber Pakhtunkhwa, Peshawar.
2. The Director General Technical Education, Khyber Pakhtunkhwa
Peshawar.

SUBJECT:- SUBMISSION OF WRITTEN REPLY IN APPEAL TITLED
MR. HIAZ AHMED VS T/EDUCATION.

Sir,

Reference to the subject noted above and to state that the above mentioned appeal was fixed for reply on 23/4/2014 before the Hon'ble Service Tribunal Peshawar. You were duly served but neither your representative attended the Tribunal nor parawise comments has been submitted. The undersigned sought time and was directed to submit reply on behalf of respondents on 4-7-2014 positively. It has also been directed that no further chance will be given.

It is, therefore, requested that reply in the subject case duly vetted by this office may please be submitted and also well conversant departmental representative not below the rank of BPS-17 be deputed on next date 4-7-2014 to pursue the appeal properly.

ADDITIONAL ADVOCATE GENERAL
KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR.

NO (Sr.GP)E&AD/1-5/Lit/Appeal/2013/

Copy forwarded to:

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal,
Peshawar.
2. The Deputy Solicitor Law Parliamentary Affairs & Human
Rights Department.
3. Appeal File.

ADDITIONAL ADVOCATE GENERAL
KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1548/2013

Mr. Niaz Ahmad S/O Zoor Zaman Lecturer (Mech),
Government Polytechnic Institute Wari, Dir.....APPELLANT.

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary,
- 2) Government of Khyber Pakhtunkhwa through Secretary Industries,
Technical Education & Manpower Training K. P. Peshawar.
- 3) Director General, Technical Education and Manpower
Training of Khyber Pakhtunkhwa.....RESPONDENTS

REPLY ON BEHALF OF RESPONDENT NO.1,2 & 3

PRELIMINARY OBJECTIONS:

- A- That the appeal is badly time barred.
- B- That the appellant has no cause of action.
- C- That the appellant has got no locus standi.
- D- That the appeal is incompetent in its present form.
- E- That the appeal is bad in its present form for non-joinder
and mis-joinder of the necessary parties.

Respectfully Sheweth,

- 1) As pertains to record.
- 2) Pertains to the Policy of Department.
- 3) Correct with further clarification that appeal No.1011/2006 as mentioned by the appellant in his appeal, was fully implemented as the fresh Service Rules of each stream were finalized and issued and notified accordingly. And the promotion cases were processed on the basis of newly framed Service Rules.
- 4) As explained in the para-3 above.
- 5) Pertains to record.
- 6) Correct with further clarification that both the appellant and Mr. Muhammad Tauqir Hashmai and Mr. Taimur Shah, seniority list in their own cadres and their promotion cases were proceed in their own cadre.
- 7) Correct with further clarification that as per policy of promotion the appellant was promoted with immediate effect.
- 8) As explained in above paras.
- 9) As explain in above para.

10) As explain in para 3 above.

11) As explain in above para.

12) Incorrect. The Departmental appeal was processed but was not found under the Rules.

G R O U N D S

- a) In correct. The appellant has been granted promotion in accordance with law and did not violate his right.
- b) As explained in comprehensive reply at above paras.
- c) As explained in para above ibid
- d) Correct with further clarification that when appellant was fit & eligible for promotion, during the time this honorable tribunal was granted status quo in favor of Mr. Ishtiaq Ahmad in appeal No.652/2011 which was dismissed on 13.3.2012, however, later on this promotion case of the appellant was processed and granted promotion him accordingly.
- e) Incorrect. The promotion of the appellant from due date is legal under the Law & Rules governing the subject.
- f) Incorrect. All the promotion cases were processed in their own streams lines under the prevailing Rules. So no one has been deprived from their due rights.
- g) No comments.

Keeping view of the above facts, It is therefore, requested that the instant appeal for having no force of law and facts may be dismissed with cost.

RESPONDENT) 
Managing Director KP-TEVTA.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1548/2013

Mr. Niaz Ahmad S/O Zoor Zaman Lecturer (Mech),
Government Polytechnic Institute Wari, Dir.....**APPELLANT.**

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary,
- 2) Government of Khyber Pakhtunkhwa through Secretary Industries,
Technical Education & Manpower Training K. P. Peshawar.
- 3) Director General, Technical Education and Manpower
Training of Khyber Pakhtunkhwa.....**RESPONDENTS**

AFFIDAVIT

I, the respondent in the above titled appeal do hereby solemnly affirm and confirm that the contents of the connected reply is true and correct to the best of my knowledge and belief and nothing has been concealed from this tribunal.

RESPONDENT 
Managing Director KP-TEVTA.

ANNEX I (37) E

1997] Government of the Punjab v. Ghulam Sarwar Khan
(Saad Saood Jan, J)

515

again. Learned Judge in the High Court was satisfied with the reasoning of the Trial Court and, therefore, he declined to interfere in revisional jurisdiction.

3. We have heard the learned counsel for the petitioners and find that on the facts stated hereinabove which have not been controverted, the Trial Court was perfectly justified in disallowing the petitioner's request for additional evidence. High Court rightly refused to interfere with that order. Learned counsel has not been able to point out any infirmity, factual, legal or jurisdictional, in the impugned orders, which in fact are unexceptionable. This petition has no merit and the same is accordingly dismissed and the leave sought is refused.

N.H.Q./G-565/S

Leave refused.

Appeal

1997 S C M R 515

[Supreme Court of Pakistan]

Present: Saad Saood Jan and Muhammad Ilyas, JJ

GOVERNMENT OF THE PUNJAB through Secretary Education
and another---Petitioners

versus

Rana GHULAM SARWAR KHAN and 111 others---Respondents

Civil Petition for Leave to Appeal No.611-L of 1995, decided on 20th December, 1995.

(From the judgment/order of Punjab Service Tribunal dated 19-2-1995 in Appeal No.494 of 1992).

Punjab Civil Servants Act (VIII of 1974)---

----S. 8---Constitution of Pakistan (1973), Art. 212(3)---Entitlement to B.P.S. 19---Civil servants' claim that vacancies in B.P.S. 19 being available on specified date they should have been promoted from that date, was rejected by Departmental Authority---Service Tribunal, however, directed Government to promote civil servants with effect from specified date---Validity---Government's claim that no civil servant had right to claim that he should be promoted from back date even though vacancy was available on that date for which promotion was being claimed was although true, yet there were no orders of Government that civil servant's promotion be held up for some time---Delay in making promotion had occurred entirely due to reason that officers of that department could not carry out fairly simple exercise within reasonable period---Judgment of

Service Tribunal directing Government to promote civil servants from specified date would not warrant interference---Leave to appeal was refused in circumstances. [p. 516] A

Nasim Kashmiri, Additional Advocate-General Punjab and Rao Muhammad Yousaf Khan, Advocate-on-Record for Petitioners.

S: Inayat Hussain, Advocate-on-Record for Respondents.

Date of hearing: 20th December, 1995.


ORDER

SAAD SAOOD JAN, J.---This is a petition for special leave to appeal from the judgment of the Punjab Service Tribunal whereby it allowed the appeal of the respondents and directed the Government to allow B.P.S.-19 to them with effect from 1-9-1990.

2. There were 12092 posts in the College Teachers Cadre (General). The Provincial Government decided to introduce a 4-tier structure for the college teachers and with that object it classified the posts in the ratio of 1:15:34:50 in the four-tiers, namely, B.P.S.20, 19, 18 and 17, respectively. The relevant notification was issued on 1-9-1990. Thereafter, the functionaries in the Education Department took two years to make the appointments in accordance with the above ratio. This exercise held up the promotions of the respondents to Grade-19 till 1992. They represented to the Government that as vacancies in B.P.S.19 were available on 1-9-1990 when the notification in question was issued they should have been promoted from that date. Their representation was rejected by the Government whereupon they filed an appeal before the Service Tribunal. The learned Tribunal accepted their appeal and directed the Government to promote them with effect from 1-9-1990. The Government seeks leave to appeal from the judgment of the learned Tribunal.

3. On behalf of the Government it is contended that no civil servant has a right to claim that he should be promoted from a back date even though a vacancy may be existing on the date from which the promotion is being claimed. This is no doubt true but here there are no orders by the Government that the respondents should be held up for sometime. The delay in making the promotions occurred entirely due to the reason that the officials of the Education Department could not carry out a fairly simple exercise within a reasonable period. In the circumstances it will not be appropriate for the Court to interfere with the order of the learned Tribunal. Leave is refused.

A.A./G-566/S

 Leave refused.

ANNEX H

(28)

accorded permission/NOC vide letter No.LCS (Engg-TP)-1/93-P dated 11-2-2010 and letter No.LCS (Engg-TP)-S(9)/93 dated 24-2-2010; thereafter, the petitioners appeared in GRE Test and secured highest marks in the said test. The petitioners have joined the Ph.D. Programme and they have also submitted their Ph.D. Research Proposals and not only the petitioners have incurred expenses in taking admission in the said programme after obtaining due permission/NOC from the respondent; therefore, at this stage of their studies, by transferring the petitioners vide impugned order dated 8-3-2010 to far off places, i.e. Bahawalpur and Sadiqabad, depriving the petitioners of their right of getting higher studies when their proposals have been accepted and the supervisors have been appointed, would amount to deprive the petitioners of their fundamental rights guaranteed under the Constitution, therefore, the impugned order dated 8-3-2010 is unjustified and arbitrary and is to be considered to be illegal and void. In the case of Mrs. Abida Parveen Channar v. High Court of Sindh at Karachi 2009 SCMR 605, it has been held that "all the public powers must be exercised reasonably and honestly for the purpose for which the same are conferred".

8. In view of the above, this writ petition is accepted and the impugned order dated 8-3-2010 is declared illegal, void, arbitrary and has been issued without lawful authority and of no legal effect; therefore, the impugned order dated 8-3-2010 to the extent of the petitioners is set aside as the same amounts to deprive the petitioners of their fundamental rights provided under Articles 4, 8 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973. Even if any inquiry is pending against the petitioners, in those circumstances, the respondent could suspend the petitioners under section 6 of the PEEDA Act instead of transferring the petitioners.

M.H./R-23/L

Petition allowed.

2010 P L C (C.S.) 760

[Supreme Court of Pakistan]

Before Tassaduq Hussain Jilani
and Asif Saeed Khan Khosa, JJ

MUHAMMAD AMJAD and others

versus

Dr. ISRAR AHMED and others

Civil Appeals Nos. 384 and 385 of 2003, decided on 14th April, 2010.

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2010

Muhammad Amjad v. Israr Ahmad.
(Tassaduq Hussain Jillani, J)

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(On appeal from the judgment of the Service Tribunal dated 15-10-2001 passed in Appeal No.775 of 1999).

Punjab Civil Servants Act (VIII of 1974)---

---S. 8---Promotion---Delay---Legitimate expectancy, principle of--- Civil servant was not promoted despite availability of vacancy---Service Tribunal allowed the appeal filed by civil servant and directed the authorities to consider him for promotion from the date when he became eligible for the post as there was vacancy available then--- Validity---State functionaries were mandated to act with certain amount of reasonableness---Such canon of due process of law was not observed in processing civil servant's promotion matter---Having acquired requisite experience and having authored number of articles required for post in question, the civil servant had legitimate expectancy for the post in question---Judgment passed by Service Tribunal was neither against the rules nor the law declared---Civil servant was eligible to be considered for promotion when substantive vacancy in promotion quota was available---Judgment passed by Service Tribunal directing the authorities to consider case of civil servant's promotion to post in question from the date when vacancy in his quota was available was unexceptionable---Supreme Court declined to interfere in the judgment passed by Service Tribunal---Appeal was dismissed. [pp. 765, 767, 768] A, B & C

Government of N.-W.F.P. v. Buner Khan 1985 SCMR 1158; Government of the Punjab v. Rana Ghulam Sarwar Khan 1997 SCMR 515; Muhammad Iqbal v. Executive District Officer (R) Lodhran 2007 SCMR 682; Sarwar Ali Khan v. Chief Secretary to Government of Sindh 1994 PLC (C.S.) 411; Luqman Zareen v. Secretary Education N.-W.F.P. 2006 SCMR 1938; Ch. Muhammad Siddique v. Director, Special Education 1998 SCMR 88 and Idrees Ahmed v. Hafiz Fida Khan PLD 1985 SC 376 ref.

Dr. A. Basit, Advocate Supreme Court (in C.A. 384) and Mr. Saeed Yousaf Khan, Additional Advocate-General for Appellants (in C.A. 385 of 2003).

Mr. Shoaib Shaheen, Advocate Supreme Court for Respondents.

Date of hearing: 14th April, 2010.

JUDGMENT

TASSADUQ HUSSAIN JILLANI, J.--- This judgment shall dispose of Civil Appeal No.384 of 2003 filed by Dr. Muhammad Amjad and another and Civil Appeal No. 385 of 2003 filed by Government of Punjab through Chief Secretary as they are directed against the same judgment passed by the Punjab Service Tribunal dated 15-10-2001, vide

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which the appeal of the respondents was allowed and it was directed as follows:--

"Appellant's promotion to the post of Associate Professor (ENT) having been kept in abeyance till 3-12-1998 has affected his vested right of seniority vis-a-vis respondents Nos.3 and 4. I, therefore, accept the appeal, direct the respondents to consider the case of the appellant for promotion to the post of Associate Professor (ENT) in BS-19 w.e.f. the date when the vacancy, in his quota, became available and thereafter a joint seniority list of the officers directly recruited and those promoted shall be issued according to the rules".

2. Facts briefly stated are that respondent Dr. Israr Ahmad was appointed as Assistant Professor (ENT) in the Health Department on 13-1-1992. Admittedly as per the relevant rules 33% of the posts of Associate Professor were to be filled through direct recruitment and 2/3 by way of promotion. Respondents became eligible for promotion to the post of Associate Professor in February, 1997 when four posts were available in the promotion quota. However, the department did not consider his case for promotion till 3-12-1998 when he was promoted. He filed a representation and even that was not considered whereafter he approached the Service Tribunal. In the meanwhile, in June, 1998, the Punjab Public Service Commission had conducted interviews for two posts of Associate Professor, in which both the appellants were selected whereas respondent could not qualify. The Punjab Service Tribunal allowed respondent's appeal mainly on the ground that since a substantive post against promotion quota was available in 1997 and respondent was eligible to be considered, his promotion as Associate Professor should reckon from the date the substantive post in the said quota was available.

3. Dr. Abdul Basit, learned counsel for the appellants in Civil Appeal No.384 of 2003 made the following submissions:--

- (i) That it is admitted position that in terms of the Punjab Health Department (Medical and Dental Teaching Posts) Service Rules, 33% of the posts are to be filled in through direct recruitment and the remaining 2/3rd by promotion. The appellants along with respondents Dr. Israr Ahmad applied through Public Service Commission against the posts reserved for direct recruitment, the appellants qualified the test and interview, in 1998 and on the recommendation of the Punjab Public Service Commission, they were selected against the posts of Associate Professor whereas the respondent could not qualify;
- (ii) that there is no cavil with the proposition that the posts of

Associate Professor in the promotion quota were available and the meetings of the Departmental Promotion Committee (D.P.C.) did take place on 11-5-1993, 17-8-1995, 1-10-1996 and on 3-9-1997 but since neither the appellants nor the respondent were qualified to be appointed as Associated Professors by the said date, they were not so appointed. Since respondent did not challenge the act of the department of not promoting him in time, he could not raise his claim for pro forma promotion at a belated stage particularly when he failed to qualify the examination conducted by the Punjab Public Service Commission for appointment of Associate Professors against the posts reserved for direct appointment; and

- (iii) that section 8 of the Punjab Civil Servants Act, 1974 was amended by Act III of 2005 and under the amended provision, no civil servant can claim pro forma promotion as of right.

4. Learned Additional Advocate-General adopted the arguments of learned counsel for the appellants (in Civil Appeal No.384 of 2003) and made following additional submissions:--

- (i) That the impugned judgment is violative of section 8 of the Punjab Civil Servants Act and cannot be sustained;
- (ii) that respondent Dr. Israr Ahmad was duly promoted on 3-12-1998 and although the post fell vacant earlier but the delay occurred due to procedural and unavoidable causes because the department sent the case for respondent's promotion only on the receipt of requisite documents; and
- (iii) that the respondent appeared along with appellants (in the connected appeal) before the Punjab Public Service Commission for appointment against the posts reserved for direct appointment wherein the former failed but appellants were declared selected. That being so, it was not open for the respondent to claim seniority over the appellants after having not being selected by the Commission.

5. Learned counsel for the respondent Mr. Shoab Shaheen who assisted the Court on behalf of respondent at the asking of the Court, submitted as under:--

- (i) That although the post for direct recruitment as Associate Professor fell vacant in February, 1997, and the case of respondent's promotion against the said post was pending decision in the department, yet, in the meanwhile the posts were filled through selectees of Punjab Public Service Commission on

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27-7-1998 and respondent was promoted later on 3-12-1998 which was unfair, mala fide and discriminatory; and

(ii) that respondent had a right to be considered for promotion against the post reserved for promotion quota as soon as the substantive vacancy was available and respondent could not have been condemned for inaction of the State functionaries. In support of the submissions made, learned counsel relied on Government of N.-W.F.P. v. Buner Khan 1985 SCMR 1158, Government of the Punjab v. Rana Ghulam Sarwar Khan 1997 SCMR 515 and Muhammad Iqbal v. Executive District Officer (R) Lodhran 2007 SCMR 682.

6. We have heard learned counsel for the appellants, learned Additional Advocate-General as also Mr. Shoab Shaheen, Advocate Supreme Court who assisted the Court on behalf of respondent at the asking of the Court.

7. In accepting respondent's appeal, the learned Service Tribunal considered the availability of substantive posts in the promotion quota, the eligibility of respondent to be considered in February, 1997 and the unreasonable delay caused by the department in processing his case. The Court found as follows:--

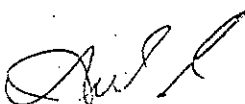
"In the comments submitted by respondent No.2, it was submitted that the post of Associate Professor (ENT) to be filled through promotion, when became available, the department started moving for filling the post by gathering documents from the prospective candidates and it was only after clearance that the competent authority, appellant was promoted as Associate Professor (ENT) on regular basis w.e.f. 3-12-1998. It is said that the delay which occurred, if any, was procedural and unavoidable because the case was prepared on receipt of documents from different quarters. Explanation given is hardly convincing. It means that spade work which commenced in February, 1997 ended in December, 1998 playing with the rights of civil servant in such an arbitrary manner is not only unpardonable but wholly unconscionable. Appellant suffered and felt aggrieved, undoubtedly when the post of Associate Professor (ENT) was not being filled but the last nail was driven in the coffin on 27-7-1998 when the recently arrayed respondents Nos.3 and 4 were inducted through direct recruitment as Associate Professors (ENT)."

8. We specifically asked the Additional Advocate-General as to whether the respondent was eligible to be considered for promotion against the promotion quota by 3-2-1997, to which his answer was in the

affirmative. He could not give any explanation tenable in law for non-consideration of case by the Departmental Promotion Committee. The State functionaries are mandated to act with a certain amount of reasonableness which canon of due process of law was not observed in processing respondent's promotion matter. Having acquired the requisite experience and having authored the number of articles required for the post in question, respondent had legitimate expectancy for the post in question. The impugned judgment in these circumstances is neither against the rules nor the law declared.

9. In *Sarwar Ali Khan v. Chief Secretary to Government of Sindh* 1994 PLC (C.S.) 411, the appellant was working as a Superintendent (BS-16) in the Sindh Labour Appellate Tribunal when the said post was converted into that of Deputy Registrar in BS-17. However, the post was upgraded on the recommendation of the Departmental Promotion Committee. On 1-7-1988, the post of Registrar (BS-18) fell vacant, and on 5-7-1988 he was appointed to the post in his own pay and status. Ultimately, he was promoted on regular basis to the post of Registrar (BS-18) on the recommendation of the Departmental Promotion Committee vide notification dated 30-6-1991. He applied for salary of BS-18 from the date when he was posted against the post of Registrar in his own pay and status i.e. 5-7-1988. His appeal was dismissed by the Service Tribunal merely on the ground that he did not challenge notification dated 5-7-1988 in time, that the Departmental Selection Board had not cleared his case for promotion and that he had been compensated by the grant of special pay. This Court allowed the appeal on the ground that his claim cannot be rejected merely on the ground of being time-barred; that there was no valid reason for the Selection Board to withhold clearance for regular promotion and in absence of any valid explanation, it was not fair and equitable to refuse the prayer.

10. In *Government of the Punjab through Secretary Education v. Rana Ghulam Sarwar Khan* 1997 SCMR 515, the brief facts are that there were 12092 posts in College Teachers Cadre. The Provincial Government decided to introduce a 4-tier structure for college teachers and with that object in view, it classified the posts in ratio of 1:15:34:50 in 4-tiers namely B.P.S 20, 19, 18 and 17. It was vide notification dated 1-9-1990. However, the department took two years to make the appointments in accordance with the above ratio. On account of this, the promotion of civil servants from BS-18 to 19 was held up till 1992. They represented before the Government that they should be promoted w.e.f. the date when the post was made available and in terms of notification dated 1-9-1990. The Service Tribunal allowed the relief. The Provincial Government challenged the judgment of the Tribunal. In upholding the said judgment, this Court was of the view that, "The delay in making the promotions occurred entirely due to the reason that the officials of the



Education Department could not carry out a fairly simple exercise within a reasonable period."

11. In *Government of N.-W.F.P. v. Buner Khan* 1985 SCMR 1158, the facts briefly stated are that 75% of the posts in Grade 18 in Provincial Education Department were to be filled in by promotion from among the Grade 17 officers of the said department and 25% by direct recruitment. However, no proper rotation of the vacancies for the purpose was maintained. The petitioners before this Court were directly recruited in BPS-18 on 30-12-1980 and 1-9-1982, whereas the respondents (who were promotees) were promoted to the said grade on 12-5-1984 and no joint seniority list in the said grade was notified with the result that some of the direct recruits were promoted to Grade 19 without the promotees being considered for the said promotion. The Tribunal allowed the appeal of the promotees and directed the Government to promote them in Grade 18 w.e.f. the date when the vacancies were available and a joint seniority list be issued accordingly. This judgment was challenged both by the Government and those who were directly recruited. This Court maintained the judgment of the Service Tribunal with a slight modification i.e. instead of direction by the Tribunal, "to promote", this Court directed that "the promotees shall be considered for promotion to Grade-18 post with effect from the dates when vacancies in their quota became available and that thereafter a joint seniority list of the officers directly recruited and those promoted shall be issued according to the rules."

12. In *Luqman Zareen v. Secretary Education N.-W.F.P.* 2006 SCMR 1938, several school teachers were allowed pro forma promotion w.e.f. the date when the substantive vacancies were available but they were not considered on account of, "the usual apathy, negligence and bureaucratic red-tapism which had deprived the petitioners of the fruits that they deserved. The petitioners could not be permitted to be punished for the faults and inaction of others."

13. In *Ch. Muhammad Siddique v. Director, Special Education* 1998 SCMR 88, the civil servant who was a lady teacher was granted pro forma promotion because her case was not considered when the substantive post was available for no fault of her own. The Court held as follows:--

"It has not been denied that the case of the respondent was placed before the D.P.C. on 23-7-1987 and was deferred due to certain deficiencies but she was later promoted on 15-5-1988. That being so, she was entitled to ask for promotion with effect from the date the post became available and/or the date when her case was deferred by D.P.C. The judgment of the Service

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Tribunal, in our view, is quite just and fair and does not suffer from any illegality."

14. Considering the case of the respondent in the light of the judgments of this Court, to which reference has been made above, we find that it is nobody's case that respondent was not eligible to be considered for promotion when substantive vacancy in the promotion quota was available. That being so, the impugned judgment directing the appellants to consider the case of respondent's promotion to the post of Associate Professor in BPS-19 w.e.f. the date when the vacancy in his quota was available is unexceptionable.

15. So far as the argument of learned Additional Advocate-General with reference to section 8 of the Punjab Civil Servants Act, 1974 (VIII of 1974) which was amended in terms of Act III of 2005 is considered, the same would be of no avail to the appellants because there is nothing in the amended provisions which makes it retrospective in effect. Reference to the amended provision would be in order which reads as under:-

- "8. Promotion.--- (1) A civil servant shall be eligible to be considered for appointment by promotion in the service or cadre to which he belongs in a manner as may be prescribed; provided that he possesses the prescribed qualifications.
- (2) Promotion including pro forma promotion shall not be claimed by any civil servant as of right.
- (3) Promotion shall be granted with immediate effect and be actualized from the date of assumption of charge of the higher post, and shall in no case be granted from the date of availability of post reserved for promotion.
- (4) A civil servant shall not be entitled to promotion from an earlier date except in the case of pro forma promotion.
- (5) A retired civil servant shall not be eligible for grant of promotion or pro forma promotion.
- (6) A post referred to in subsection (1) may either be a selection post or a non-selection post to which promotion shall be made as follows:--
 - (a) In the case of a selection post, on the basis of selection on merit; and
 - (b) in the case of non-selection post, on the basis of seniority-cum-fitness."

16. Section 6 of the General Clauses Act provides that any repeal or

amendment of a statute will not affect its previous operation unless the amended provision provides otherwise. The said section reads as under:

- "6. Effect of repeal.-- Where this Act, or any (Central Act) or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not:
- (a) revive anything not in force of existing at the time at which the repeal takes effect; or
 - (b) affect the previous operation of any enactment so repealed of anything duly done or suffered thereunder; or
 - (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
 - (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
 - (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed."

17. In *Idrees Ahmed v. Hafiz Fida Khan* PLD 1985 SC 376, the import of section 6 of the General Clauses Act came under consideration and the Court held as follows:--

"Unless different intention appears from repealing enactment, repeal ipso facto not to affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; nor to influence any investigation, legal proceedings of remedy in respect of any such right, privilege, obligation, liability, penalty, forfeitures or punishment to be imposed as if repealing enactment having not been passed."

18. For what has been discussed above, we do not find any merit in these appeals which are dismissed, with no order as to costs.

M.H./M-46/SC

Appeals dismissed

AD

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2005 SC MR 1542

[Supreme Court of Pakistan]

Present: Javed Iqbal and Muhammad Nawaz Abbasi, JJ

ABID HUSSAIN SHERAZI--Petitioner

Versus

SECRETARY M/O INDUSTRIES AND PRODUCTION, GOVERNMENT OF PAKISTAN
ISLAMABAD--Respondent

Civil Petition No. 898 of 2004, decided on 27th July, 2005.

(On appeal from the judgment dated 29-1-2004 of Federal Service Tribunal, Islamabad, passed as Appeal No. 1034(K) of 1999).

(a) Civil Service--

---Promotion---Principles---Promotion is neither a vested right nor it can be claimed with retrospective effect. Whenever there is a change of grade or post for the better, there is an element of selection involved which is promotion and it is not earned automatically, but under an order of competent Authority to be passed after consideration of comparative suitability and the entitlement of those incumbents. Promotion or pro forma promotion by civil servant can be claimed under law which can be considered when question of promotion is taken up. Civil servant cannot upon the Service Tribunal to direct the Department to fill the promotion post forthwith or particular date and not to keep the post vacant or under consideration.

Muhammad Umar Malik v. Federal Service Tribunal PLD 1987 SC 172; Government of the Punjab v. Muhammad Awain Shahid 1991 SCMR 696 and Muhammad Yousaf v. Chairman, Rai Board/Secretary 1999 SCMR 1559 ref.

(b) Constitution of Pakistan (1973)---

---Art. 25---Equality of citizens Article 25 of the Constitution guarantees a similarity of treatment and not identical treatment. Protection of equal laws does not mean that all laws must be uniform. It means that among equals the law should be equal and should be equally administered and that like should be treated alike, and that there should be no denial of any special privilege by reason of birth, creed or the like and also equal subjection of all individuals and classes to the ordinary law of the land.

Om Prakash v. The State AIR 1955 All. 275 Balochistan Bar Association v. Government of Balochistan PLD 1991 Quetta 7; Zakaria v. Trustees of the Port of Karachi PLD 1968 Kar. 73; Aftab v. Government of Hyderabad AIR 1953 Hyd. 100 and Sheoshankar v. State of Government of Madhya Pradesh AIR 1951 Nag. 58 ref.

F.K. Butt, Advocate Supreme Court and Ejaz Muhammad Khan Advocate-on-Record (absent) Petitioner.

Nemo for Respondents.

Date of hearing: 27th July, 2005.

JUDGMENT

JAVED IQBAL, J.--- This petition for leave to appeal is directed against the judgment, dated 29-1-2004 passed by learned Federal Service Tribunal, Islamabad whereby the appeal preferred on behalf of petitioner has been dismissed.

2. Precisely stated the facts of the case as enumerated in the judgment impugned are to the effect that "the appellant was appointed as LDC in BPS-5 in the Department of Explosives, Karachi on 15-7-1986 and was promoted as UDC in BPS-7 on 20-12-1989 and later promoted to the post of Assistant on 10-8-1995. Appellant submitted request for antedation of promotion from the date he became eligible for promotion which was recommended by the respondent's Chief Inspector vide his OM No:PF-280/411, dated 26.9-1997 but was rejected vide respondent's memorandum dated 10-9-1999 on the ground that his appeal for antedation of promotion was not covered under section 22(2), of the Civil Servants Act of 1973. Learned counsel for the appellant stated that due to this rejection of his request for antedation of promotion the appellant has been rendered junior to Mr. Muhammad Hashim Raza, Assistant who was surplus in IACP where was working as Key Punch Operator (K.P.O.) and while absorbing him in the respondent-Organization it was clearly mentioned to him in the letter dated 12-4-1994 that he would be treated as junior most in the Department from the date of joining of service". After rejection of the request of petitioner for antedation of promotion, a representation was made by him which was rejected by the Competent Authority. Being aggrieved, the learned Federal Service Tribunal was approached by way of appeal which has been dismissed by means of judgment impugned, hence this petition.

3. Heard Mr. F.K. Butt, learned Advocate Supreme Court on behalf of petitioner at length who mainly contended that the petitioner has been denied of his vested right because he was entitled to get promotion as Assistant (B-11) from the date when the vacancy occurred and no fault whatsoever can be attributed to the petitioner for his belated promotion which was made two years after due date. It is also contended that the petitioner has been discriminated and various other officials were promoted with retrospective effect causing serious prejudice to the petitioner. It is also contended that the denial of antedation promotion amounts to violation of the provisions as 'contained in Article 25 of the Constitution of Islamic Republic of Pakistan.

4. We have carefully examined the respective contentions as agitated on behalf of petitioner and perused the relevant record with eminent assistance of learned Advocate Supreme Court as well as the judgment impugned. It is well-settled by now that promotion is neither a vested right nor it could be claimed with retrospective effect. It is to be noted that petitioner has not claimed pro forma promotion, but retrospective promotion from the date when the vacancy had occurred i.e. on 19-12-1992 which, according to learned Advocate Supreme Court on behalf of petitioner, should have filled either on the same date i.e. 19-12-1992 or at the most within a period of two or three months.

5. We have considered the prime contention as mentioned hereinabove which is nothing more but a wishful thinking having no nexus whatsoever with the ground realities. By no stretch of imagination the vacant vacancy could have been filled on the date of occurrence in view of the time consuming formalities such as subjective assessment of the incumbent concerned, collection of ACR dossiers, their comparative study and convening the meeting of Departmental Promotion Committee (DPC). It transpired from scrutiny of record that meeting of DPC was held on 10-8-1994 and the petitioner was promoted as Assistant (B-11).

There is no cavil to the proposition that "there is no vested right in promotion or rules determining

eligibility for promotion. Wherever there is a change of grade or post for the better, there is an element of selection involved that is promotion and it is not earned automatically, but under an order of the competent Authority to be passed after the consideration of the comparative suitability and entitlement of those incumbents". Muhammad Umar Malik v. Federal Service Tribunal PLD 1987 SC 172; Government of the Punjab v. Muhammad Awain Shahid 1991 SCMR 696.

6. It also hardly needs any explanation that "as regards claim to promotion or pro forma promotion, what the civil servant could claim under the law was, that he should be considered when question of promotion was taken up. Civil servant, could not call upon the Service C Tribunal to direct the Department to fill the promotion post forthwith or on a particular date and not to keep it vacant or under consideration". Muhammad Yousaf v. Chairman, Railway Board/Secretary 1999 SCMR 1559.

7. Besides that what has been stated above, the petitioner has not impleaded all the seniors which could have been affected by any order passed in this petition and thus this petition being incomplete deserves dismissal on this score alone. It is noteworthy that the appeal preferred on behalf of petitioner before learned Federal Service Tribunal was also barred by time for the simple reason that petitioner was promoted on 10-8-1994, who made various representations to the Competent Authority which could not have been done and the petitioner should have approached learned Federal Service Tribunal within stipulated period if his first representation was not decided within 90 days by the Competent Authority as there is no provision of law whereby various representations/appeals could have been made to the Competent Authority. The petitioner had approached the learned Federal Service Tribunal after a lapse of about five years, which cannot be ignored. We are mindful of the fact that learned Federal Service Tribunal had not dilated upon this aspect of the matter but on the contrary found that the appeal was filed before it on 11-10-1999 with a delay of one day which is not correct as the petitioner should have approached the learned Federal Service Tribunal well in time as mentioned hereinabove. The petitioner has failed to substantiate the factum of "discrimination" by producing any cogent and concrete evidence. It is worth-mentioning that petitioner's Department had mentioned in an unequivocal manner while furnishing their comments that no promotion with retrospective effect was made. There is no reason whatsoever to disbelieve the view point as canvassed by the respondent-Department in parawise comments. The learned Advocate Supreme Court on behalf of petitioner has ignored the fact that while pressing the provisions as contained in Article 25 of the Constitution of Islamic Republic of Pakistan that "the Article guarantees a similarity of treatment and not identical treatment. The protection of equal laws does not mean that all laws must be uniform. It means that D among equals the law should be equal and should be equally administered and that the like should be treated alike, and that there should be no denial of any special privilege by reasons of birth, creed or the like and also equal subjection of all individuals and classes to the ordinary law of the land Om Prakash v. The State AIR 1955 All. 275; Balochistan Bar Association v. Government of Balochistan PLD 1991 Quetta 7; Zakaria v. Trustees of the Port of Karachi PLD 1968 Kar. 73; Abdul Fatah v. Government of Hyderabad AIR 1953 Hyd. 100 and Sheoshankar v. State of Government of Madhya Pradesh AIR 1951 Nag. 58.

In the light of what has been discussed hereinabove, the question of violation of Article 25 of the Constitution of Islamic Republic of Pakistan does to arise. The petition being merit less is dismissed and leave refused.

M.B.A./A-170/S

Leave refused.

WAKALAT NAMA

IN THE COURT OF Service Tribunal Peshawar.

Niaz Ahmed

VERSUS

Govt of Punjab

Accused/
Petitioner/
Appellant ✓
Plaintiff.

Respondent/
Defendant/
Complainant

FIR No. Dated: Police Station:
Charge U/s

KNOW ALL to whom these presents shall come that I the undersigned appoint:

Fazal Shah Mohmand Advocate Supreme Court of Pakistan,
(herein after called the advocate) to be the Advocate for the Appellant in the above mentioned case, to do all the following acts, deeds and things or any of them that is to say :

- 1) To act and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or execution or in any other stage of its progress until its final decision.
- 2) To sign, verify and present pleadings, appeals, cross - objections, petitions for execution, review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of said case in all its stages.
- 3) To withdraw or compromise in the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- 4) To receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said case.
- 5) To engage any other Legal practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so.

AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

AND I hereby agree not to hold the Advocate or its substitute responsible for the result of the said case and in consequence of his absence from the court when the said case is called up for hearing

AND I hereby that in the event of the whole or any part of the fee agreed by me to be paid to the Advocate remaining unpaid, He shall be entitled to withdraw from the prosecution of the said case until the same is paid.

IN WITNESS WHEREOF I hereunto set my hand to these presents the contents of which have been explained to and understood by me, this 29 day of May 2018

Accepted By

Fazal Shah Mohmand,
Advocate Supreme Court of Pakistan

Signature/ thumb impression
of party / parties.

2/10
2/6

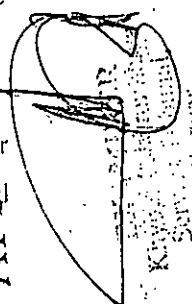
3.3.2010 be modified to the extent that appellant be appointed/promoted as PMS Officer (BPS-17) on regular basis w.e.f. 7.11.2008 or 3.3.2009 when his batch mates were promoted.

Brief facts of the case as averred in the memo of appeal are that the appellant was promoted as Tehsildar (BPS-16) on regular basis vide notification dated 6.9.2008 along with others. Vide notification dated 3.3.2009, who are batch mates of the appellant were promoted as PMS Officer (BPS-17) on regular basis but appellant due to unknown reasons was denied. On 25.3.2010, vide the impugned notification, although appellant on the recommendations of Provincial Selection Board has been promoted from Tehsildar to PMS Officer (BPS-17) but on acting charge basis and that too with immediate effect. The appellant is holding the post of ACO, Peshawar since long whereas he was posted as Deputy District Officer (Judicial) Nowshera vide notification dated 2.6.2009. On 3.4.2010, appellant submitted his departmental appeal/representation for his regular promotion w.e.f. 7.11.2008 or atleast from 3.3.2009 but no reply to the said representation has been received within the statutory period of 90 days. hence the present appeal.

After admission of the appeal, notices were issued to the respondents for submission of written reply. Respondents have filed their joint written reply and contested the appeal. Arguments heard and record perused.

The learned counsel for the appellant argued that according to Rule 9 of the Khyber Pakhtunkhwa Civil Servants Act (Appointment, Promotion and Transfer) Rules, 1989, acting charge appointment can only be made where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service. The learned counsel for the appellant further argued that the appellant was promoted as PMS Officer (BPS-17) on acting charge basis with immediate effect vide order dated 25.3.2010, despite the fact that there were clear vacancies of PMS Officer (BPS-17) in the department in promotion quota. The appellant along with others should have been considered for regular promotion against the said posts from the date when clear vacancies were available for them. He stated that other batch mates of the appellant were promoted w.e.f. 3.3.2009 and 7.11.2008, on regular basis, therefore, the appellant has also the right to be considered for promotion w.e.f. the date when the post was lying vacant and the appellant was holding the same on acting charge basis. In December, 2009, two PSB meetings were held but the appellant had not been considered for promotion without any plausible reasons despite the fact that he was eligible for promotion, so he has been

ATTESTED



vacant
Batch
Quota

discriminated. Articles 25 and 27 of the Constitution of Islamic Republic of Pakistan that all citizens are equal before law and are entitled to equal protection of law. No citizen otherwise qualified for appointment in the service of Pakistan/province shall be discriminated whatsoever. He also stated that as per Rule 9(2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 if a person is otherwise eligible for further promotion but his length of service is short, then he can be promoted/appointed on acting charge basis but in the appellant's case, his seniors have been given acting charge for the reason that they have not passed departmental examination and not completed their PERS, which is wrong and this wrong action/decision cannot be made a reason for not promoting those juniors who were eligible for regular promotion in all respect. Even sub-rule (2) of Rule 9 of the aforementioned rules has now been deleted. He further stated that during pendency of the appeal, the appellant has been promoted as PMS (BPS-17) on regular basis with immediate effect vide notification dated 21.12.2011 instead of ante-dation of his promotion w.e.f the date when a vacancy was available for him as per judgments of the august Supreme Court of Pakistan in reported in 1997-SCMR-515 and 2010-SCMR-1466. He requested that the appeal may be accepted as prayed for.

5. The learned AGP, on the other hand argued that the appeal is bad for non-joinder and mis-joinder of necessary parties. In case, the appeal allowed some officers will be effected who have not been impleaded as private respondents. He further argued that there were some vacant posts of PMS (BPS-17), against promotion quota and Tehsildars, senior to the appellant were considered and promoted on regular basis w.e.f. 3.3.2009. The appellant being junior had not been considered. Even the appellant had not challenged order dated 3.3.2009 in time and the present appeal is time-barred. He stated that it is true that vacant posts of PMS (BPS-17) were available in the department but meant for direct recruits. He maintained that vide notification dated 25.3.2010, the appellant was not promoted as PMS (BPS-17) but appointed on acting charge basis as per provision of Rule 9 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Appointments and promotions on acting charge basis are always made with immediate effect and under Rule 9 (6) confer no vested right for regular promotion. Moreover, claim of the appellant is not clear and has not specified the date to be considered for promotion as PMS (BPS-17) on regular basis.

5. The Tribunal observes that the appellant was eligible for promotion as PMS (BPS-17) on regular basis w.e.f. 3.3.2009 but he was not considered. On 25.3.2010, on the recommendations of PSB, he was promoted as PMS (BPS-17) on acting charge basis. Vide notification dated 21.12.2011, he has been promoted on regular basis with immediate effect.

vacancy available

212
288

6. The minutes of PSB meeting held on 29.12.2009, it has been clearly stated that the appellant was eligible for promotion on regular basis and 11 posts were available, in which 10 candidates were promoted as PMS Officer on regular basis. Due to deficiencies of service record, some candidates were not promoted and the appellant was 11th but was promoted on acting charge basis without any plausible reason. The Tribunal agrees with the arguments put forth by the learned counsel for the appellant.

6. In view of the above, the appeal is accepted, and the respondents are directed to ante-date promotion of the appellant as PMS (BPS-17) - with effect from 25.3.2010, with all back consequential benefits.

7. This order will also dispose off connected service appeals No. 1400/2010, Hidayatullah Khan, No. 1401/2010, Muhammad Nasir Khan, No. 1403/2010, Syed Kazim Hossain Shah, in the same manner.

8. So far as the appellant in Service Appeal No. 1404/2010, namely Habibullah Arif is concerned, his services have been regularized on 21.12.2011 but his appeal cannot be entertained for ante-dated promotion 25.3.2010 for the reason that only 11 posts were available and he comes at S.No.12 in eligible candidates in the minutes of PSB meeting held on 29.12.2009.

9. Since services of the appellants in Service Appeals No. 1372/2010, Abdul Mateen Qasaria, No. 1399/2010, Nacem Akhtar, and 1402/2010, Niaz Muhammad, have not been regularized so far, the respondents are directed to consider them for regular promotion as and when vacancies become available for them.

10. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
11.1.2012

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(SULTAN MAHMOOD KHATTAK)
MEMBER

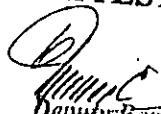
(NOOR ALI KHAN)
MEMBER

Date of Presentation of Application 23-1-2012
Number of Words 1600
Copying Fee 10
Urgent _____
Total 10
Name of Clerk _____
Date of Copying of File 3-2-2012
Date of Delivery of Copy 3-2-2012

Pakhtunkhwa dated 25.03.2010 on the recommendations of the Provincial Selection Board (PSB). They filed service appeals before the Tribunal praying for promotion to the posts they held on acting basis with effect from the date on which the vacancies became available. The appeals of, Fazal Hussain, Hidayatullah, Muhammad Nasir and Syed Kazim Hussain Shah, Respondents in Civil Petition Nos. 152-P, 155-P, 156-P and 158-P of 2012, respectively, were allowed in the terms that they were directed to be granted ante-date regular promotion to the post of PMS Officer (BPS-17) with effect from 25.03.2010 with all back and consequential benefits. The service appeals of Naeem Akhtar, Abdul Mateen Qasuria and Niaz Muhammad, Respondents in Civil Petition Nos. 153-P, 154-P and 157-P of 2012, respectively, were disposed of in the terms that they shall be considered for regular promotion as and when the vacancies became available for them. We may straight away dismiss the latter set of petitions filed by the Government of Khyber Pakhtunkhwa as no relief was granted to the said Respondents by the Tribunal and the direction was merely restatement of the law that whenever vacancies reserved for Tehsildars for promotion to the post of PMS Officer become available they shall be considered.

2. As regards the other petitions where the Respondents have been granted ante-date regular promotion to the post in question, the learned Additional Advocate General contended that the said Respondents were not eligible for promotion as they did not possess the requisite service of three years as Tehsildar for promotion to the higher post. This argument fails for two reasons. Firstly, that this was never the case of the Provincial Government before the Service Tribunal as nowhere in the comments filed by them before the Tribunal had they

ATTESTED


Deputy Registrar,
Supreme Court of Pakistan,
Feshawar.

W.S.

976

questioned the eligibility of the Respondents to be promoted. The same is also not discernable from the impugned judgment as no arguments to that effect were advanced before the Tribunal. Furthermore, we have perused the minutes of the Meeting of the Provincial Selection Board which considered the question of appointment of the Tehsildars against the vacant posts reserved for them. Its recommendations that the respondents be appointed on acting charge basis was not on account of their ineligibility for promotion to the said posts. Remarks against each of the respondents by the Board were favourable and there is no mention anywhere about their ineligibility. Rather it was expressly stated that they had passed their prescribed Departmental examination. Even otherwise the Additional Advocate General was not in a position to show from the available record that the respondents were not eligible for promotion to the post of PMS Officer.

3. The learned Additional Advocate General further contended that the respondents were duly promoted with immediate effect on 21.12.2011 during the pendency of their service appeals before the Tribunal. That the respondents had not challenged the said Notification superseding the Notification of their appointments on acting charge basis, which was the subject matter of their service appeals. In the impugned judgment the Tribunal did take note of the Notification of 21.12.2011. In case the respondents were otherwise found entitled for regular promotion with effect from the date of their appointment on acting charge basis the subsequent Notification of 21.12.2011 was not an impediment in the way of the Tribunal to grant such relief.

4. The learned Additional Advocate General then submitted that respondents could only have been promoted with immediate effect and not entitled to ante-date promotion. In response the learned

ineligibility of their seniors. The minutes of the Provincial Selection Board
 been made to suffer and their promotion delayed on account of
 for promotion against the available vacancies and they could not have
 not legally justifiable. The respondents were entitled to be considered
 promotion was the ineligibility of their senior colleagues. Such reasons as
 not being promoted when they were otherwise qualified for such
 regular basis. It seems that the only reason that the respondents were
 Tehsildars were together promoted to the posts of PMS Officer on
 Notification of 21.12.2011 the respondents as well as the said senior
 them were for one reason or another not eligible for promotion. They
 were not being considered for promotion as some Tehsildars senior to
 post of PMS Officers. It appears from the minutes that the respondents
 were available in the quota reserved for Tehsildars for promotion to the
 consideration. From the minutes it transpired that at that time 14 posts
 charge basis of the respondents for the post of PMC Officers was made
 of 29.12.2009 where the question of promotion/appointment on an ad hoc
 went through the minutes of meeting of the Provincial Selection Board.
 5. In order to examine the merit of the above contention we
 24.05.2012.

ANOTHER (Civil Appeal No. 860 and 861 of 2010) decided on
ESTABLISHMENT AND ANOTHER v. MUHAMMAD IOBAL KHATTAK AND
unreported judgment GOVERNMENT OF NWFP THROUGH SECRETARY
EDUCATION, NWFP AND OTHERS (2006 SCMR 1938) and in
 this Court in the case of TUOMAN ZARBEEN AND OTHERS v. SECRETARY

the Provincial Selection Board. He placed reliance on the ground that
 been promoted regularly when they were found duly fit and qualified
 qualified and vacancies available for their promotion they ought to have
 counsel representing the Respondents pointed out that before the

ATTESTED
 Deputy Registrar,
 Supreme Court of Pakistan,
 Islamabad

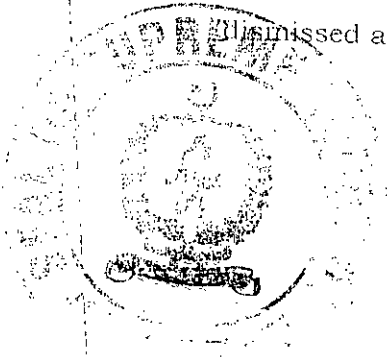
12/1

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978

Board clearly indicates that the respondents were otherwise eligible for promotion to the posts of PMS Officer. That being the situation, they were entitled to be promoted on the date when their acting charge basis appointments to the posts of PMS Officer were notified.

6. In this view of the matter, no exception can be taken to the impugned judgment of the Service Tribunal. The petitions are therefore dismissed and leave declined.



Sd/- Nasir-ul-Mulk, J.
Sd/- Tariq Parvez, J.

Certified to be true copy
[Signature]
07.02.2013
Deputy Registrar,
Supreme Court of Pakistan,
Peshawar

PESHAWAR
23rd January, 2013.
Hudassar

[Signature]
29/1

"Not approved for reporting."



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the March, 13, 2013

NOTIFICATION

NO.SOE-II(ED)2(584)/2009:- In pursuance of Judgment of Khyber Pakhtunkhwa Services Tribunal, dated 11.01.2012 in Service Appeal No. 1398/2010 titled Fazal Hussain and others Versus Govt of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa etc, and Supreme Court of Pakistan Judgment dated 23.01.2013, the competent authority is pleased to ante-date the promotion of following as PMS BS-17 officers w.e.f 25.03.2010 with all back benefits/consequential benefits:-

1. Mr. Muhammad Nasir Khan, APA Bara, Khyber Agency.
2. Mr. Hidayatullah Khan, LAC, NHA, KTP, Kohat.
3. Syed Kazim Hussain Shah, Special Magistrate, SNGPL, Peshawar
4. Mr. Fazal Hussain, LAC, NHA, Peshawar Northern bypass, Peshawar.

**CHIEF SECRETARY
KHYBER PAKHTUNKHWA**

ENDST: NO. & DATE EVEN.

A copy is forwarded to:-

1. Commissioner, Peshawar Division, Peshawar.
2. Political Agent, Khyber Agency.
3. Accountant General, Khyber Pakhtunkhwa.
4. Accountant General(PR) Sub Office, Peshawar.
5. Director Personnel, NHA Islamabad.
6. Managing Director, SNGPL, Peshawar.
7. Project Director, NHA, Peshawar Northern Bypass, Peshawar,
8. Project Director, NHA, Kohat Tunnel Project, Kohat.
9. District Accounts Officer, Kohat.
10. Agency Accounts officer, Khyber Agency.
11. Officers concerned.
12. P.S to Chief Secretary, Khyber Pakhtunkhwa.
13. P.S to Secretary Establishment, Khyber Pakhtunkhwa.
14. PA to AS(E)/DS(E) Establishment Department.
15. Office order file.

**(TABASSUM)
SECTION OFFICER(E-II)**

2/13/2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1548/2013

Mr. Niaz Ahmad S/O. Zoor Zaman Lecturer (Mech),
Government Polytechnic Institute Wari, Dir.....**APPELLANT.**

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary,
- 2) Government of Khyber Pakhtunkhwa through Secretary Industries,
Technical Education & Manpower Training K. P. Peshawar.
- 3) Director General, Technical Education and Manpower
Training of Khyber Pakhtunkhwa.....**RESPONDENTS**

Statement

of the defendant / respondents regarding order sheet dated 07.02.2020

Respectfully Sheweth,

The record pertaining to promotion case of the appellant is not traceable due to cease / closure of the Directorate of Technical Education and Manpower Training in 2015 and because of passage of very long time. However, the following pertinent aspects of the case are highlighted for kind consideration of this honorable tribunal:

2) Engr: Niaz Ali Jan was initially appointed as lecturer through the recommendation of the Public Service Commission in the year 2003 at Annexure-A further, consequent upon promotion of the officer as Assistant Professor in year 2008, the resultant vacancy of lecturer B-17 was fallen in the quota for initial appointment, which was further requisition to the PSC for initial recruitment.

3) Furthermore, with regard to para-7 of the plaint, it is submitted that the respondent department frame fresh Service Rules 2010 as per direction of the Service Tribunal Judgment dated 23.6.2009 in Appeal No.1011 /neem/2006, wherein the promotion cases of Mr. Tauqeer Hashmi and Taimur Shah, were processed in 2011 on separate relevant seniority list of the electric technology as per requirement of the service rules 2010 the appellant belong to Mechanical Technology and had his own separate seniority in mechanical technology. His promotion case was process against the post of lecturer in mechanical technology, upon its later on vacation after 2010.



Managing Director Khyber Pakhtunkhwa
Technical Education and Vocational Training
Authority on behalf of Respondent No. 2& 3.

INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT,
LABOUR AND TECHNICAL EDUCATION DEPARTMENT

Dated Peshawar, the _____

1514
22/7/03

NOTIFICATION

No. SQUHEND-3-6/99 Consequent upon the recommendation of the NWFP Public Service Commission, the Competent Authority is pleased to appoint Mr. Niaz Ali Jan S/O Ali Mar Jan presently working as C.T Teacher (BPS-14) in the Schools & Literacy Department as Instructor (Mechanical) (BPS-17) on regular basis in relaxation of ban with immediate effect subject to the following terms and conditions.

2. On his appointment as Instructor (Mechanical) (BPS-17) he is hereby posted at Government Polytechnic Institute, Bannu against the vacant post.

TERMS AND CONDITIONS

- 1) The appointment of the candidate mentioned above is subject to the condition that he is domiciled of NWFP.
 - 2) His inter-se-seniority will be fixed according to the order of merit assigned by the NWFP Public Service Commission.
 - 3) His services will be liable to termination on one month's notice from either side. In case of resignation without notice his one month's pay/allowances, if any, shall be forfeited to Government.
 - 4) No T.A/D.A etc is allowed to the candidate on his first appointment.
 - 5) The candidate should join his post within 30-days of the issue of this Notification. The Director, Technical Education and Manpower Training, NWFP should furnish a certificate to the effect that the candidate has joined the post or otherwise, after one month of the issue of this Notification.
- Charge report in duplicate should be submitted to all concerned.

Officers in
necessary

INDUSTRIES, COMMERCE, MINERAL DEVELOPMENT,
LABOUR AND TECHNICAL EDUCATION DEPARTMENT

Dated Peshawar, the _____

- 7) He will be governed by such rules and regulations as may be issued from time to time by the Government for the category of Government servant to which he belongs.
- 8) A declaration of assets should be obtained from him if not already done and kept on record.

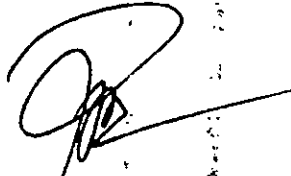
Sd/-

Secretary to Govt of NWFP,
Industries, Commerce, Min: Dev.
Labour & Tech: Edu: Department.

Endst. No. SOU(IND)/173-6/99, ¹⁰⁰⁰⁸ Dated Pesh: the 19th July, 2003.

Copy is forwarded to:-

- 1) The District Accounts Officer, Bannu.
- 2) The Agency Accounts officer, Miranshah.
- 3) The Director (Recruitment) NWFP Public Service Commission.
- 4) The Director, Technical Education & Manpower Training, NWFP along-with all documents of the officer for record.
- 5) The Director of Schools & Literacy Department, NWFP with the request to relieve Mr. Niaz Ali Jan S/O Ali Marjan, G.T (BPS-14) Government High School, Spinwar to join his new assignment in the Technical Education Department.
- 6) The Principal, Govt: Polytechnic Institute, Bannu.
- 7) The Principal, Govt High School, Spinwar.
- 8) The Manager, Govt: Printing Press, Peshawar.
- 9) Mr. Niaz Ali Jan S/O Ali Marjan, Village Haider Khei P.O and Tehsil Mir Ali, North Waziristan Agency.
- 10) C/O file.


(JANAT GUL AFRIDD)
SECTION OFFICER-III

HABD

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 625/2018

Date of Institution ... 17.04.2018

Date of Decision ... 12.09.2019

Anees Ahmad, Ex-Office Assistant (BPS-16),
Office of Deputy Director Agriculture Department (FATA).
... (Appellant)

VERSUS

The Secretary to Government of Khyber Pakhtunkhwa, Agriculture, Livestock &
Cooperative Department, Civil Secretariat, Peshawar and three others.
... (Respondents)

MR. TAIMUR ALI KHAN,
Advocate --- For appellant.

MR. ZIAULLAH,
Deputy District Attorney --- For respondents.

MR. AHMAD HASSAN, --- MEMBER(Executive)
MR. M. AMIN KHAN KUNDI --- MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the
parties heard and record perused.

ARGUMENTS

02. Learned counsel for the appellant argued that he joined the Agriculture
Department as Junior clerk in 1976 and thereafter promoted to the post of Office
Assistant (BPS-14) in 2004, which was subsequently up-graded to BPS-16. In 2014
on attaining the age of superannuation, he stood retired from government service on
21.06.2017 notified vide order dated 01.08.2017. According to the service rules
notified on 20.04.2012, the post of Superintendent was required to be filled on the
basis of 90% quota of promotion seniority-cum-fitness from amongst the holders of
the post Assistant/Accountant with five years service as such. Name of the appellant

was placed at serial no.2 of the seniority list notified in 2013 and final list issued in 2017.

03. That in 2013 three posts of Superintendents became vacant and the respondents started necessary paper work for promotion against the said posts. The appellant vide letter dated 13.11.2013 and 20.11.2013 was asked to submit relevant papers for placement before the DPC. In between 2013 and 2016 due to promotion/retirement Eight posts of superintendents became available for promotion, out of which five officials were promoted. Similarly fifteen sanctioned posts of Superintendents were also available for promotion, out of which five officials were promoted, while eight posts were left vacant. The working paper prepared for promotion of Assistant to the post of Superintendent included the name of the appellant at serial no.2, as per communication dated 26.09.2017. The DPC was scheduled on 19.06.2017. Respondent no.1 wrote letter dated 19.06.2017 to get options from the concerned, as decided in the said meeting. Finally DPC, was held after retirement of the appellant on 19.10.2017 and promotion of five Superintendents was notified through notification dated 06.12.2017. He submitted a departmental appeal for proforma/notional promotion on 16.02.2018, which was rejected on 20.03.2018, hence, the present service appeal. Learned counsel for the appellant further contended that the respondents deliberately delayed the process of promotion, which deprived him of elevation to the post of Superintendent (BPS-17).

04. Learned Deputy District Attorney argued that due to seniority dispute between various officials serving in the respondent-department service appeals were filed by them for adjudication in this Tribunal. Due to litigation the process of preparation/finalization of seniority lists got delayed and in the meanwhile the appellant reached the age of superannuation and stood retired on 21.06.2017 vide order dated 01.08.2017. He conceded that working paper prepared for consideration

by DPC included the name of the appellant, however, respondent no.1 directed to get fresh options from the concerned and after doing the needful the matter was placed before the DPC for promotion against the post of Superintendent on 19.10.2017, as the appellant had retired from service thus his case was not considered. According to para-9 of the promotion policy case of the appellant was not worth consideration.

CONCLUSION

04. The following method of recruitment is laid down for filling the post of Superintendent (BPS-17):

“The post of superintendent is to be filled on 90% by promotion on the basis of seniority-cum-fitness from amongst the holders of the post Assistants/Accountants with five years service as such”.

05. On the other hand name of the appellant was reflected at serial no.2 of the seniority list, which fact has not been disputed by the respondents. There is also no confusion about the availability of sufficient number of vacant posts of Superintendents in the respondent-department. It is further strengthened by the record that the appellant was asked by the respondents vide letter dated 20.11.2013 to complete his ACRs and other testimonials to be placed before the DPC meeting. We have minutely examined the record and reached the conclusion that the respondents deliberately delayed the promotion case of Superintendents, as a result of which the appellant stood retirement on 21.06.2017 and thus deprived of valuable rights accrued to him before retirement. Furthermore, a meeting of DPC was convened on 19.06.2017 and on the previous date of hearing vide order sheet dated 15.07.2019, the respondents were directed to furnish minutes of the DPC meeting alongwith working paper, however learned Assistant Advocate General and departmental representative stated at the bar that no such meeting was held on the

said date, rather verbal directions followed by written order were given to get options from the concerned. It has further established malafide, insensitivity and heartlessness of the respondents in depriving a government servant of his due right of promotion and that too at the last leg of his service. It would have definitely benefited him not only in getting higher post coupled with pension and other monetary benefits. The concocted story of protracted litigation highlighted by the respondents in their para-wise comments was nothing but a lame excuse to cover their inefficiency, incompetence and lethargy. Last appeal as per record submitted by the respondents in para-4 of their para-wise comments was dismissed by this Tribunal on 24.10.2016, whereas the appellant stood retired from government service on 21.06.2017. Had there been any commitment in the respondents and fear of God towards official duty they could have processed his promotion case well before his retirement. Learned counsel for the appellant has succeeded in making out a very strong case for proforma/notional promotion. It is a wakeup call for respondents to set their house in order, which can only be done by initiating disciplinary action under E&D Rules 2011 against responsible for this lapse.

06. In view of the foregoing, the appeal is accepted. The respondents are directed to consider the case proforma/notional promotion of the appellant from the date of retirement. Parties are left to bear their own costs. File be consigned to the record room.

(AHMAD HASSAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

ANNOUNCED
12.09.2019

Ante-dated Promotions with Costs para-9
in Time based Ante-dated 10

BEFORE THE N.W.F.P. SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 1035/2008

Date of institution ... 23.7.2008
Date of decision ... 24.2.2009



Appellant
side

Mst. Dilshad Begum, Subject Specialist (Chemistry),
Govt. Girls Higher Secondary School Kakki,
District Bannu.

(Appellant)

VERSUS

1. The Govt. of NWFP through Chief Secretary, Peshawar.
2. The Secretary to Govt. of NWFP,
Elementary & Secondary Education, Peshawar.
3. The Secretary to Govt. of NWFP Finance Department, Peshawar.
4. The Director, Elementary & Secondary Education,
NWFP, Peshawar. ... (Respondents)

Service Appeal U/S 4 of the NWFP Service Tribunals Act, 1974 against Notification bearing Endst: No. SO(S)1-4/2003 Promotion Subject Specialist dated 27.5.2003 issued by respondent No.2 to the extent of its effectiveness from 27.5.2003 instead of the correct date of 31.8.2000 when the appellant took over the charge as S.S (BPS-17) and the departmental appeal dated 15.4.2008 of the appellant to respondent No.1 remained un-actioned as yet despite the lapse of 90 days meaning thereby that the same has been declined.

Mr. Naqibullah Khan Khattak,
Advocate.

... For appellant

Mr. Zahid Karim Khalil,
Addl: Govt. Pleader.

For respondents

Mr. Justice(R) Salim Khan,
Mr. Bismillah Shah.

Chairman,
Member

ATTESTED

JUDGMENT

JUSTICE(R) SALIM KHAN, CHAIRMAN:-

Appeal No. 1035 of

2008 by Dilshad Begum, Appeal No. 1036 of 2008 by Saeeda Khatoon and Appeal No. 1037 of 2008 by Ambreen Raza are similar with each other in law.

2. The appellants were adjusted as Subject Specialists on 31.8.2000. They were regularized as such Subject Specialists on 27.5.2003. Many other Subject Specialists filed departmental appeals and Service Appeals for ante-dating their posting as Subject Specialists. Such appeals (Service Appeal No. 439 of 2006 and

EXAMINER
Kyber Pakhtunkhwa
Service Tribunal,
Peshawar

Service Appeal No. 244 of 2007) were decided by this Tribunal. The August Supreme Court of Pakistan declared judgments dated 21.6.2006 and dated 27.6.2006 for their regularization w.e.f 31.8.2000. The departmental appeals dated 15.4.2008 of the present appellants were not decided, hence the present appeals.

3. The respondents contended that the present appeals were time-barred, and the regularization of the appellants was made with the concurrence of the Departmental Promotion Committee from the date of approval, after completion of the required procedure and codal formalities. They further contended that each and every case had its own nature, grounds and law points. The Finance Department contended that the claim of the appellants for regularization from the date of acting charge appointment was baseless.

4. We heard the arguments of the learned counsel for the appellants and of the A.G.P. We also perused the record.

5. The learned counsel for the appellants relied on 2009 SCMR 1 and contended that the August Supreme Court of Pakistan has declared vide judgment reported as 1996 SCMR 1185 that if a Tribunal or the August Supreme Court of Pakistan decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum. It was also mentioned that this view was reiterated in the case reported as 2005 SCMR 499 and was upheld in the light of Article 25 of the Constitution of the Islamic Republic of Pakistan, on the ground that all citizens are equal before law and are entitled to equal protection of law.

6. The learned counsel for the appellants also relied on PLD 2003 SC 724 and many other cases mentioned therein, 2004 PLC (C.S) 1014, 1998 PLC (C.S) 980,

2006 SCMR 1938 and 2005 SCMR 499. He contended that the August Supreme Court of Pakistan had declared that a judgment in rem may be defined as the judgment of a Court of competent jurisdiction determining the status of a person or thing, or the disposition of a thing (as distinct from the particular interest in it of a party to the litigation). Apart from the application of the term to persons, it must affect the res in the way of condemnation, forfeiture, declaration of status or title, or order for sale or transfer. It was also held that a legal determination is binding not only on the parties but on all the persons.

7. The A.G.P contended that the appeals of the present appellants were time-barred, and the appellants had not agitated their rights at the proper time.

8. It has to be clarified that, when once a Court of competent jurisdiction declares a right in favour of one (or more than one) member of a class of persons, that right automatically accrues to all the similarly placed members of that class, without any reference to the fact that whether they litigated or not. Such a right does not lapse under any principle or rule regarding bar of limitation or laches. Such a right becomes a recurring liability of the persons or Authorities, who may be responsible for its implementation. Any of the similarly placed persons may demand such a right at any time and shall remain entitled to receive the right like the other similarly placed persons who had litigated or had been given such right, though subject to the relevant rules regarding the actual recovery of arrears of financial benefits.

9. In view of the above, we have found that the appellants are the persons similarly placed with the persons who had already litigated, and decisions were granted by this Tribunal and by the August Supreme Court of Pakistan in their favour. The appellants are entitled to the same rights. We prefer to decide the present cases on merits and condone the delay caused in the present cases, keeping in view the vested rights of the appellants. It was the recurring liability of the

official respondents to correct the record and to provide the rights to the appellants. The failure of the official respondents in providing the rights to the appellants, which have already been supported by the Courts of competent jurisdiction, does not prevent the appellants from demanding their vested rights at any time.

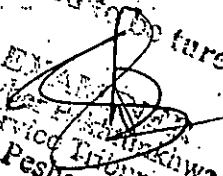
10. We, therefore, accept all the three(3) appeals with costs in favour of the appellants. We also direct the official respondents to issue corrigendum order to ante-date the regular promotion/posting of the appellants to the posts of Subject Specialists with effect from 31.8.2000, (after confirmation that each of the appellants had taken over the charge of their respective posts on officiating/acting charge basis on 31.8.2000 or any subsequent date as a result of the order dated 31.8.2000). The appellants shall be entitled to the ante-dation of their regular promotion/posting as aforesaid, shall be entitled to all back benefits on the strength of the modified order, and shall also be entitled to the recovery of arrears of pay and allowances etc., though subject to the relevant rules regarding recovery of arrears of financial benefits.

11. Before parting with this judgment, we advise the official respondents to check the cases of all other remaining similarly placed persons and to grant them the benefits of the judgments mentioned above, and of this judgment, without compelling them to enter into litigation with the official respondents. The office is directed to send the copies of this judgment to the concerned respondents for perusal and compliance.

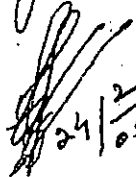
ANNOUNCED
24.02.2009


(BISMILLAH SHAH)
MEMBER


(JUSTICE (R) SALIM KHAN)
CHAIRMAN

Certified to be true copy

Khayal Hussain
Service Tribunal,
Peshawar

Approved for reporting


24/09

Time back appeal vs Ante dated Promoters
Ante-dated

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 517/2008

Date of Institution. 20.3.2008
Date of Decision ... 23.2.2008



Mst. Roheela Rehmat, Subject Specialist (Statistic),
Government Girls Higher Secondary School, Kakki,
Tehsil and District Bannu.

(Appellant)

VERSUS

1. The Government of NWFP through its Chief Secretary, Peshawar.
2. The Secretary to Government of NWFP, Schools & Literacy Department, Peshawar.
3. The Secretary to Government of NWFP, Finance Department, Peshawar.. (Respondents)

SERVICE APPEAL AGAINST NOTIFICATION BEARING
ENDORSEMENT NO.SORS 1- 4/2003/PROMOTION SUBJECT
SPECIALIST DATED 27.5.2003 ISSUED BY RESPONDENT NO.2
TO THE EXTENT OF ITS EFFECTIVENESS FROM 27.5.2003
INSTEAD OF THE CORRECT DATE OF 31.8.2000 WHEN THE
APPELLANT TOOK OVER THE CHARGE AS SUBJECT SPECIALIST
(BPS-17).

Husband of appellant present.

Mr. Zahid Karim Khalil,
Addl. Government Pleader, ... For respondents.

MR. JUSTICE (R) SALIM KHAN, ... CHAIRMAN
SYED MANZOOR ALI SHAH, ... MEMBER.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN. - The appellant contended that she was adjusted as Subject Specialist on 31.8.2000 but she was regularized as such w.e.f. 27.5.2003. She contended that many other similarly placed Subject Specialists challenged the order dated 27.5.2003, and this Tribunal decided their cases vide judgment in Service Appeal No. 244 of 2007 and sixty-four other appeals. On appeal, the August Supreme Court of Pakistan decided the issue in favour of the appellants vide judgment dated 05.10.2006.

2. The respondents contested the appeal on the grounds that it was time-barred, that the appellant had accepted the terms and conditions laid down in the order dated 31.8.2000, and she was estopped by her conduct to file the present service appeal. They also contended that the order of regularization of the appellant was issued in accordance with the concurrence of the Departmental Promotion Committee and with the approval of the competent Authority. They were of the view that the departmental appeal dated 15.4.2008 was time-barred.

3. We heard the arguments and perused the record.

4. In view of the judgments reported as 1996 SCMR 1185, 2003 SCMR 1030, 2005 SCMR 499, 2006 SCMR 1938, and 2009 SCMR 1, it had become the vested right of the appellant and other similarly placed persons to be treated in the same manner, in which the appellants who had litigated before this Tribunal and before the August Supreme Court of Pakistan were treated. It was always the responsibility of the official respondents to decide the cases of the appellant and other similarly placed persons in the light of the provisions of Articles 4 and 25 of the Constitution of Islamic Republic of Pakistan, irrespective of the fact that whether they had, or had not, submitted a departmental appeal, and whether they had, or had not, litigated against the official respondents.

5. As a result of the above, we accept the present appeal, and direct the official respondents to modify the order dated 27.5.2003 and antedate the appointment of the appellant on regular basis as Subject Specialist from the date on which she took-over the charge of her post or, from 31.8.2000, whichever is later. Parties are left to bear their own costs.

The official respondents are further directed to take up the cases of all other similarly placed persons for dealing with them in accordance with law, the judgments of the August Supreme Court of Pakistan and the judgments of this Tribunal, including this judgment. It is worth mentioning that unnecessary litigation by the civil servants against the Government adversely affects the efficiency of the respective civil servants, *shows Slows*

ATTORNEY GENERAL

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

down the processes of public work and puts the concerned civil servants to financial burden. The cost of their litigation causes loss to provincial exchequer, due to negligence or inefficiency of their responsible officers, and that loss can be recovered from the persons and properties of such officers consequently under the law.

ANNOUNCED
23.02.2009

SD/
(SYED MANZOOR ALI SHAH)
MEMBER

SD/
(JUSTICE (R) SALIM KHAN)
CHAIRMAN

Certified to be true copy
MEMBER
Kh. Mansoor Khan
Secty. Tribunal,
Peshawar

File for reporting

[Signature]
CHAIRMAN
SPTT Service Tribunal
Peshawar

Date of Presentation of Application 13-12-17
Number of Words 1200
Copying Fee 8.00
Urgent 2.00
Total 10.00
Name of Copy [Signature]
Date of Cont. Fee 13-12-17
Date of Delivery of Copy 13-12-17

- 1. Service Tribunal Judgment dt. 13-03-2012. — (7)
- 2. Promotion Rules. — (11)
- 3. Statement showing availability of Posts. (13)
- 4. Seniority list ~~dated~~ as it stood on 31-12-2011 — (14)
- 5. Promotion Notification dt. 4-5-2011.
in respect of junior officers — (18)
- 6. Promotion order dated 14-12-2012 — (19) A.
- 7. Seniority list of juniors who were promoted — (9)
- 8. Departmental Appeal dt. 29-07-2013 — (27)

Not responded till date, despite

lapse of 90 days statutory period.

Grounds,

1. Posts were vacant since 2008.

2. Fit and eligible for promotion

16. Atta-ur-Rehman Programmers (BPS-17), ~~FMIU~~, Finance Department, Karak.
17. Muhammad Yasser Programmers (BPS-17), ~~FMIU~~, Finance Department, Bannu.
18. Farman Programmers (BPS-17), ~~FMIU~~, Finance Department, D.I. Khan.
19. Zahoor Ahmad Programmers (BPS-17), ~~FMIU~~, Finance Department, Swabi.
20. Asif Wahab Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Peshawar.
21. Janas Khan Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Charsadda.
22. Muhammad Asim Assistant Programmers (BPS-17), ~~FMIU~~, Finance Department, Mardan.
23. Muhammad Sadiq Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Swabi.
- ✓ 24. Nizam-ud-Din Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Bunner.
25. Akhlaq Ahmad Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Shangla.
- 26. Shams-ur-Rehman Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Kohistan.
27. Hayat Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Battagram.
28. Bilal Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Mansehra.
29. Shams-ur-Rehman Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Haripur.
- ✓ 30. Nosheen Bibi Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Kohat.
31. Aman Ullah Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Hangu.
32. Ghufra Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Karak.
33. Noman Assistant Programmers (BPS-16), ~~FMIU~~, Finance Department, Bannu.



**Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar**

PII No. 091-9201389, 9210938.
9210437, 9210957, 9210468
Fax 091-9210936 0800-33857
No. 2412-352A // Promotion / Estab
Dated Peshawar the 18/01/2013.

To All the District Education Officers,
(Male & Female), in Khyber Pakhtunkhwa.

Subject:- Guidelines for Posting of PST B-12 on Promotion to the post of Senior PST B-14 and PSHT B-15, Qari B-12 to B-15, CT B-15 to Senior CT B-16, AT B-15 to Senior AT B-16, TT-15 to Senior TT B-16, DM B-15 to Senior DM B-16 and PET B-15 to Senior PET B-16.

Memo: I am directed to refer to the subject noted above and to clarify that posts of PST B-12 /Senior PST B-14/PSHT B-15 may be rationalized and re-distributed among the Primary schools in the following manner and on Promotion of PST B-12 to the post of Senior PST B-14 and PSHT B-15, may be posted as under:-

Up gradation of Posts in Primary Schools (Female) After Rationalization @ 1-40 ratio												
S.No	School Code	Name of Primary School	Total Enrolment	Sanctioned Posts after Rationalization								
				SST B-16	CT B-15	PSHT B-15	SPST B-14	PST B-12	NQ	Caller	Chow	
1	25288	GGPMS A (JICA)	208	1	2	0	2	3	1	1	1	
2	25048	GGPMS B (JICA)	306	1	2	0	2	6	1	1	1	
3	25143	GGCMS C	173	1	0	0	2	3	1	1	1	
4	30056	GGPS D ✓	150	0	0	1	0	1	0	0	1	
5	25224	GGPS E ✓	110	0	0	1	1	1	0	0	1	
6	25244	GGPS F	160	0	0	1	1	2	0	0	1	
7	25277	GGPS G	198	0	0	1	1	3	0	0	1	
8	25221	GGPS H	240	0	0	1	2	3	0	0	1	
9	32912	GGPS I	285	0	0	1	2	4	0	0	1	
10	25097	GGPS J	320	0	0	1	2	5	0	0	1	
11	25138	GGPS K	360	0	0	1	2	6	0	0	1	
12	32606	GGPS L	400	0	0	1	3	6	0	0	1	
13	25278	GGPS M	440	0	0	1	3	7	0	0	1	
Total			3250	3	4	10	23	50	3	3	13	

ADG
50-109
110-159
160-197
198-239
240-284
285-319
320-359
360-399
400-439
440-

Up gradation of Posts in Primary Schools (Male) After Rationalization @ 1-40 ratio							
S.No	School Code	Name of Primary School	Total Enrolment	Sanctioned Posts after Rationalization			
				PSHT B-15	SPST B-14	PST B-12	Chow
1	30056	GPS A	50	1	0	1	1
2	25224	GPS B	110	1	1	1	1
3	25244	GPS C	160	1	1	2	1
4	25277	GPS D	198	1	1	3	1