

07.11.2022


Nemo for appellant.

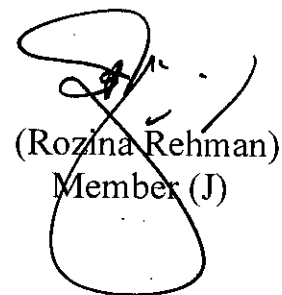
Naseer Ud Din Shah learned Assistant Advocate
General respondents present.

Case was called time and again but none appeared
on behalf of appellant till rising of the Bench. As such the
instant service appeal stands dismissed in default for non-
prosecution. No order as to costs. File be consigned to the
record room.

Announced

07.11.2022

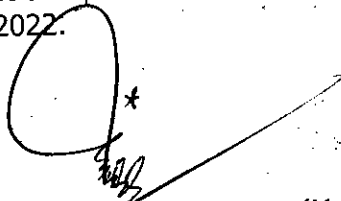

(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

07.04.2022

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

Counsel for the appellant requested for adjournment. Request accepted. To come up for argumenst before D.B on 11.07.2022.


(Mian Muhammad)
Member (E)


(Kalim Arshad Khan)
Chairman

11-7-2022

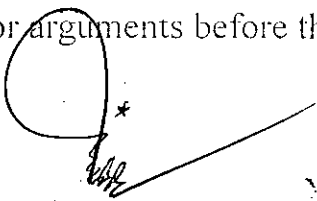
Due to Holidays of Eid Ul Azha the case is adjourned to 14-10-2022


Reader

14.10.2022

Clerk of learned counsel for the appellant present. Mr. Raheem Dad ADO (Litigation) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents 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 before the D.B on 07.11.2022.


(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member (J)

12.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

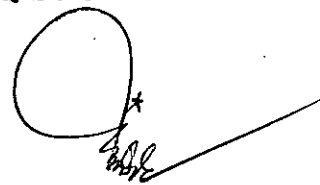

Chairman

Stipulated period passed reply not submitted.

04.10.2021

Learned counsel for the appellant present. Mr. Muhammad Rashid, DDA alongwith Mr. Naeem Dad, ADEO for respondents present.

Representative of the respondents submitted written reply/comments which is placed on file. A copy of the same is handed over to the learned counsel for the appellant. Learned counsel for the appellant seeks adjournment and the ground that he has not prepared the brief. To come up for arguments on 04.01.2022, before the D.B.

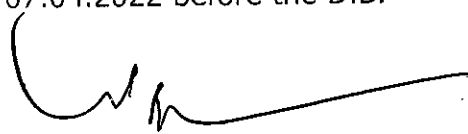

(Mian Muhammad)
Member(E)


Chairman

04.01.2022

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Hafiz Muhammad Anwar, DEO (M) for the respondents present.

Former seeks adjournment in order to further prepare the brief. Request accorded. To come up for arguments on 07.04.2022 before the D.B.


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


Chairman

31.05.2021

Counsel for the appellant present. Preliminary arguments already heard.

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

File to come up for arguments on 04.10.2021.

Appellant Deposited
Security & Process Fee

04/6/21

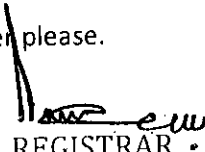


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 4523 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/04/2021	<p>The appeal of Mr. Muhammad Alam presented today by Mr. Muhammad Arif Jan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	26/05/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>31/05/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____/2021

Muhammad Alam Ex-CT GMS Dhoop Jijal Kohistan Lower.

..... Appellant

VERSUS


Govt. of Khyber Pakhtunkhwa through Secretary E & SE Khyber
Pakhtunkhwa, Peshawar & others..... Respondents

INDEX

S.No	Description of Documents	Annex	Pages
1.	Grounds of Appeal with affidavit		1-6
2.	Addresses of parties		7
3.	Copy of appointment order	A	8
4.	Copy of appointment order dt 19-10-2017	B	9-10
5.	Copies of letter dt 26-11-2020 and reply	C & D	11-12
6.	Copy of order dated 7-12-2020 <i>with Better copy.</i>	E	13-14
7.	Copy of departmental appeal	F	15-18
8.	Wakalat Nama		19


APPELLANT

Through


Muhammad Arif Jan
Advocate Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

4523
Service Appeal No. _____/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4528

Dated 01/04/2021

Muhammad Alam Ex-CT GMS Dhoop Jijal Kohistan Lower.

..... Appellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary E & SE Khyber Pakhtunkhwa, Peshawar.
2. Director E & SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (M) Kohistan Lower.

..... Respondents

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNE TERMINATION ORDER DATED 07-12-2020 AGAINST WHICH DEPARTMENTAL APPEAL HAS BEEN FILED ON 05-01-2021 BUT THE SAME HAS NOT BEEN DISPOSED OF WITHIN THE PRESCRIBED STATUTORY PERIOD.

Respectfully Sheweth:

That the appellant was initially appointed as CT on 7-11-1996 and was posted at GHS Hattar Haripur where after the appellant was adjusted in Middle School Dargah against the vacant post on 27-11-1996.(Copy of appointment order is attached as ANNEX-A).

Filed to
Registrar
01/04/2021

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2. That the then competent authority terminated the services of the appellant which were later on restored vide order dated 19-10-2017 and the appellant was posted in GMS Dhoop Jijal where the appellant served and performed his duties with full devotion and to the entire satisfaction of his superior. (Copy of order dated 19-10-2017 is attached as ANNEX-B).
3. That respondent No-3 issued a letter dated 26-11-2020 (brief mentioned therein) against the appellant which was replied within time but respondent ignored the submission of the appellant. (Copies of letter dt 26-11-2020 and reply are attached as ANNEX- C & D respectively).
4. That without holding proper inquiry and without issuing any show cause notice, with a single stroke of sign, the District Education Officer (M) Kohistan Lower respondent No-3 issued the impugned Office Order dated 7-12-2020 in respect of termination of services

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of the appellant. (Copy of order dated 7-12-2020 is hereby attached as ANNEX-E).

5. That the appellant then filed departmental appeal on 05-01-2021 against the impugned order dated 07-12-2020 before respondent No-2 but of no avail, hence the instant appeal on the following amongst other grounds. (Copy of departmental appeal is attached as ANNEX-F).

GROUND:

- A. Because the order dated 07-12-2020 passed against the appellant by District Education Officer (M) Kohistan Lower/Respondent No-3 (hereinafter impugned) is patently illegal, unlawful, of no legal effect, against the existing law, rules and regulation governing the subject matter, hence liable to be set aside and the appellant may kindly be allowed to carry on his duties with all back benefits.
- B. Because the impugned order is outcome of hastily given. The condition precedent and procedural safeguard provided under the law

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insure rule of law having been thrown to the wolves, hence the impugned order is not sustainable in the eyes of law, thus liable to be set aside.

C. Because due to COVID-19 not only in Pakistan but throughout the World, the education has badly been suffered, hence in the prevailing circumstances, the innocence of the appellant is even established from the reply/ written statement submitted by the appellant wherein strong assurance has been given in respect of improving his higher education further more the non improvement of higher education by the appellant is/was not intentional but was beyond his control and command however the appellant is ready with strong assurance for the improvement of his higher qualification to meet the requirements.

D. Because the appellant have been discriminated as the other employees have been extended further time for improvement

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of higher education but the appellant have been ignored/discriminated.

E. Because no proper inquiry has been conducted into the matter nor any show cause notice has been served upon the appellant but the respondent No-3 by way of misusing his power, terminated the services of the appellant with a single stroke of sign which is unjust, unfair and this act of the respondent No-3 amounts to abuse of law.

F. Because the appellant has got no alternate source of income to feed mouths of members of his entire poor family, hence living miserable life from hands to mouth.

G. That any other ground which has not been mentioned may also be permitted to raise at the time of hearing.

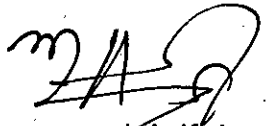
It is therefore, respectfully submitted that in the context of the appeal in hand, the impugned order dated 07-12-2020 passed by the District Education Officer(M) Kohistan Lower/Respondent No-3 may graciously be withdrawn/ set aside and the appellant may kindly be reinstated into his service and allow to keep and continue his duties with all back benefits.

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Any other relief which this Hon'ble Tribunal deems fit under the facts and circumstances of the case may also be award in favor of appellant.

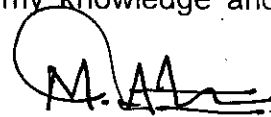

APPELLANT

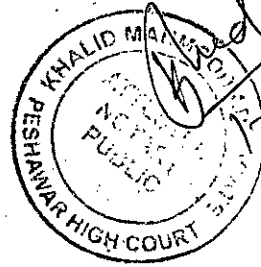
Through


Muhammad Arif Jan
Advocate Peshawar

AFFIDAVIT

I do hereby solemnly affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed


DEPONENT



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____/2021

Muhammad Alam Ex-CT GMS Dhoop Jijal Kohistan Lower.

..... Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary E & SE Khyber
Pakhtunkhwa, Peshawar & others..... Respondents

ADDRESSES OF THE PARTIES

APPELLANT

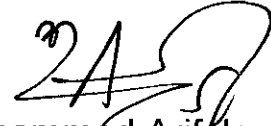
Muhammad Alam Ex-CT GMS Dhoop Jijal Kohistan Lower

RESPONDENTS

1. Govt. of Khyber Pakhtunkhwa through Secretary E & SE Khyber
Pakhtunkhwa, Peshawar.
2. Director E & SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (M) Kohistan Lower.

Through

APPELLANT



Muhammad Arif Jan

Advocate Peshawar

... sanctioned in Budget
but not show in school record.

3

Annex 'A'

Handwritten Sign

OFFICE OF THE DIVL: DIRECTOR OF EDUCATION (S) HAZARA DIVISION, ABBOTTABAD.

OFFICE ORDER NO: 304 /AE-
DATED A'ABAD THE 07/11/96.

APPOINTMENT:-

The following candidate/s is hereby appointed against the vacant post of AT/CT/SV/DM/PET ~~post~~ in the school mentioned ag: each their names below in BPS (Rs. 1605-97-3060) fixed plus usual allowances as admissible to him/her/tham under the rules w.e.f. the date of taking over charge with the following terms and conditions:-

S.No.	Name of candidate with qualification and address.	School where appointed.	Remarks
1.	Mohammad Alam S/O Mehndia CT/Trd R/O Shehal Mazullah Khan Manshara.	GHS, Hattar Haripur.	Ag: V: CT, post

CONDITIONS:-

- i) The appointment is purely on temporarily basis & liable to termination at any time without any notice or assigning notice.
 - ii) He/she/they should produce age & health certificate from the concerned Medical Supdt.
 - iii) The head of institution is required to check all the original Edu: Professional documents before handing over charge.
 - iv) He/she/they is/are to get verify academic certificates from concerned University/Board.
 - v) In case he/she/they wish to resign from service will have to give one month's prior notice or forfeit one month's pay in lieu of short notice.
 - vi) The appointment shall automatically stand cancell if he/she/they failed to join the post within 15 days of the issue of this order.
 - vii) The candidate should not be handed over charge if his/her/their age exceed 32 years or below 18 years.
- * No TA/DA & TG is allowed on Ist appointment.
Charge reports should be sent to all concerned.

29480-87

(FAZALUR REHMAN KHAN)
DIVL: DIRECTOR OF EDUCATION(S)
HAZARA DIVISION, ABBOTTABAD.
Dated A/Abad the 07/11/96.

Endst: No: /AE- /Apptt:

Copy to the:-

1. P/S to Minister for NWFP at Peshawar.
2. Director Secondary Education, NWFP at Peshawar.
3. District Edu: Officer (M/S)
4. Distt: Accounts Officer
5. Principal/Headmaster/Headmistress
6. Candidate concerned. Haripur
7. ADEO-(E) Local Directorate Haripur
8. office order file. concerned.

Tariq Khan

CR

For/DIVL: DIRECTOR OF EDUCATION(S)
HAZARA DIVISION, ABBOTTABAD

(9)

Annex-B

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) KOHISTAN
Phone # 0998-407128

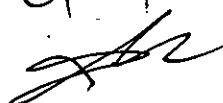

APPOINTMENT OF SACKED EMPLOYEE AGAINST CT POST.

In pursuance to the Judgment of Honorable Peshawar High Court Abbottabad Bench in W.P. No.516-A / 2013 announced on 24.5.2016, consequent upon on the recommendation of the Departmental Selection Committee, meeting held on 19/10/2017 and as approved by the competent authority on note sheet vide Para No. 46 dated 19.10.2017 appointment of the following sacked employees are hereby ordered against the vacant posts of CT, in BPS-15 (Rs. 16120-1330-56020) @ Rs.16120 /- plus usual allowances as admissible under the rules on - under the existing policy of the Provincial Government, on the terms and conditions given below with effect from the date of their appointment.

Name of sacked Employee	Father Name	Qualification		Date of Birth	Domicile	CNIC No.	Place of posting	Remarks
		Acad:	Prof					
Rahmat Ali	Haq Nazar	MA	CT	15/04/1976	Shangla	15501-2257483-1	GMS Mahreen	
Gohar Zaman	Badeau Zaman	FA		16/09/1973	Mardan	16101-5058672-5	GMS Kolai	
Javed Hayat Akhtar	Rahmattullah	BA	CT	15/07/1962	Mardan	16101-8170019-9	GMS Shamal Gul (Pattan)	
Inayatullah	Bakhtiar	BA		05/06/1963	Swat		GMS Mandraza	
Munir Ahmad	Hafizullah Khan	FA	CT	01/01/1969	Manshera	13501-1723769-9	GMS Jag Dubair	
Muhammad Alam	Mehndia	FA	CT	05/04/1968	Manshera	13501-9479232-7	GMS Dhoop Jijal	


TERMS & CONDITIONS:

- No TA/DA etc is allowed.
- Charge reports should be submitted to all concerned in duplicate.
- Their Appointment is subject to the condition that the certificate/documents are verified from the concerned authorities by the DEO Office, anyone found producing bogus Certificates/documents proceeded against through law enforcing agencies.
- Their services are liable to termination on one month's notice from either side. In case of resignation without notice, their one-month pay/allowances shall be forfeited to the Government.
- Pay will not be drawn until and unless a certificate, regarding verification of their documents is issued by this office.
- They will be governed by such rules and regulations as may be issued from time to time by the Govt.
- Their services shall be terminated at any time, in case their performance is found unsatisfactory during contract period. In case of misconduct, they shall be proceeded under the rules framed from time to time.
- Before handing over charge, once again their document may be checked by the DDO concerned, if they have not passed the prescribed qualification, they may not be handed over charge of the post.
- The prescribed qualification for appointment of CT is Bachelor's Degree or equivalent qualification from a recognized University with CT or two years Associate Degree in Education from a recognized University or eighteen months Diploma in Education.. In case they failed to acquire the requisite qualification/training certificate within three years, their services shall stand terminated automatically. The stipulated period shall be reckoned from the date of issuance of appointment order.
- Their appointment is subject to the medical fitness & verification of their character antecedents to the satisfaction of the undersigned in the light of section-3 of the Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012.
- The period of dismissal, removal and termination from service of the SACKED employee till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force in the light of section-4 of the Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012.
- SACKED employees shall not be entitled to claim seniority and other back benefits and their appointment shall be considered as fresh appointment in the light of section-5 of the Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012.

CTC



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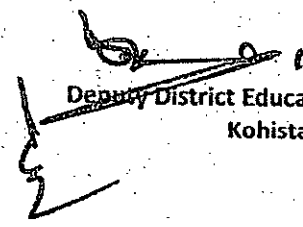
- 14. They should join their post within 30 days of the issuance of this appointment order if no willingness or response is received within a period of 30 days, the next senior sacked employee shall be considered for appointment in the light of section -7(3) of Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012
- 15. Copy of professional standards, core competencies and job description issued vide Govt: of Khyber Pakhtunkhwa E&SE Notification No. SO (PE)4-3/PST/2014 dated 17-09-2014.



 (Fida Muhammad Khan)
 District Education Officer (M)
 Kohistan

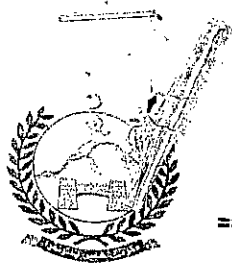
Endstt No 9/145-55 /EB-II/ CT Sacked/KH/DEO (M) Dated 19/10 /2017

Copy forwarded for information and necessary action to the:-

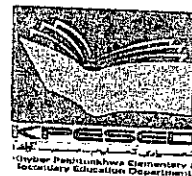
1. Additional Registrar Peshawar High Court Abbottabad Bench w/r to Judgment passed in W.P No.516-A / 2013 announced on 24.5.2016
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. Deputy Commissioner Kohistan (Upper & Lower).
4. Deputy District Education Officer (M) Kohistan.
5. District Accounts Officer Kohistan.
6. District Monitoring Officer (IMU) Kohistan
7. All the Principals/HMs of the concerned schools
8. PS to the Secretary to Govt. Khyber Pakhtunkhwa E&SE Department Peshawar.
9. B&AO Local Office
10. AP EMIS local office.
- 11-16. Candidates Concerned. CTs


 Deputy District Education Officer (M)
 Kohistan

CTC




OFFICE OF THE DISTRICT EDUCATION OFFICER(MALE)
KOHISTAN LOWER



Email: deokohistan1@gmail.com

Face Book: DEO Male Kohistan Lower

No. 7711-2 / DEO(M) KHL
To

Dated Patten the 26-11 /2020

1. Mr. Munir Ahmad CT GMS Kotia.
2. Mr. Muhammad Alam CT GMS Dhoop Jijal.

Subject: - PROVISION OF BA DEGREE ALONGWITH BANK DRAFT/ CHALLAN FOR VERIFICATION.
Memo:-

Kindly refer to your appointment order as Sacked Employee vide Endstt:-
No. **9145-55 dated 19-10-2017** issued by then District Education Officer (Male) Upper
Kohistan subject to the achieve of prescribed qualification with in three (3) years in
Terms & Condition No 10 i:e BA/CT but after expired of stipulated period you have not
been provided their BA degree for verification as well entry in service book.

It is therefore you are directed to provide two attested photo copies of BA
degree alongwith bank challan/ draft to this office within 10 days after issuance of this
letter, otherwise your monthly salaries will be stopped and in the light of appointment
order condition No 10, disciplinary action shall be taken against you.

Endst: No. 7713-17 / DEO(M) KHL

Copy of the above is forwarded to the:-

1. Deputy Commissioner Kohistan Lower.
2. Deputy District Education Officer (M) Kohistan Lower.
3. District Accounts Officer, Kohistan Lower
4. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
5. Office record

26/11/2020
District Education Officer (Male)
Kohistan Lower

26/11/2020
District Education Officer (Male)
Kohistan Lower

CTC

[Signature]

حضرت صاحبان! ڈی ای او (12) صاحب کوستان پبل کوئیر

جناں عالی

Annex 'D'

تذکرہ حضرت نے کہ مددہ کوئی۔ لے ڈگری کے بارے میں

بیتہ ہی نہیں دیتا۔ جس وجہ سے بی ای اے کا امتحان نہیں دے سکا۔

بڑا کرم مددہ کے ساتھ میرا بی بی باسکول کیا جائے۔

مددہ کا ذرا لہجہ معاش بھی ملازمت کے سوا کوئی نہیں ہے۔

لینڈا میں اسٹامپ میرے پر لگا کر دیتا ہوں کہ ان کی

کا امتحان ہوں گا اور ڈگری الشہادۃ اللہ 2 آپ کے دفتر میں جمع کر

گا۔ میرا بی بی کوئی۔ کینڈا بھی سخت پریشان تھا۔ وہ کی وجہ سے بی۔

مددہ فیلج کوستان میں ٹرانسفر کیلئے بھی سخت پریشان تھا۔ وہ کی وجہ سے بی۔

شیں کر سکا۔ الشہادۃ اللہ 2 کا امتحان دونا۔ شکریہ۔

الحق قورم 4.12.2020

العارف

مددہ عالم سے بی بی گورنمنٹ ڈی ای او کوستان پبل کوئیر

M. A. Khan
4.12.2020

CTC

DDO Middle School
for action as per
condition no. 10 of
appointment order
of Scaled Employee
04/12/2020

(D.E.O office order No 1711-12
dated 26.11.2020)

13

BETTER COPY

Annex - E

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
KOHISTAN LOWER

Email: deokohistani@gmail.com

Facebook: DEO Male Kohistan Lower

OFFICE ORDER

Whereas, Mr. Muhammad Alam S/o Mehndia was appointed as sacked employee on CT Post (Bearing Personnel No.00884696) at GMS Dhop Jilal in the light of Honorable Peshawar High Court Abbottabad Bench in WP No.516-A/2013 announced on 24.05.2016 and sacked employee (Appointment Act, 2012 vide DEO (M) Kohistan Appointment of sacked Employees Endst; No.9145-55 dated 19.10.2017).

Whereas in appointment order Condition No.10 "the prescribed qualification for Appointment of CT is Bachelors from a recognized University with CT or two years Associate Degree in Education from a recognized University or eighteen Months Diploma in Education in case he failed to acquire the requisite qualification, Training Certificate within three years, his service shall stand Terminated automatically. The stipulated period shall be reckoned from the date of issuance of appointment order".

Whereas the above named official has failed to acquire the above prescribed qualification with the stipulated period i.e. in three years upto 18.10.2020. However, this office informed the official to provide his BA Degree if he acquired vide this office letter No.7711-12 dated 26.11.2020, but the official submitted written statement that he has not even applied for admission in BA.

In the light of above, under condition No.10 his appointment is hereby terminated w.e.f. 01.12.2020 and concerned DDO is directed to stop his salary and recover of any over-payment, if made accordingly.

Sd/-

District Education Officer (M)
Kohistan Lower

Endst: No.8161-67/File No.55/Estab; DEO (M) KH-L dated Pattan the 07.12.2020

Copy forwarded to:

1. The Director E&SE Khyber Pakhtunkhwa Peshawar
2. The Deputy Commissioner Kohistar Lower.
3. The Deputy District Education Officer (M) Kohistan Lower
4. The District Monitoring Officer (EMA) Kohistan Lower
5. The District Accounts Officer Kohistan Lower
6. The Official concerned.
7. Office Record.
- 8.

Sd/-

District Education Officer (M)
Kohistan Lower

CTC



17

impugned order is not sustainable in the eyes of law, thus liable to be set aside.

6. That due to COVID-19 not only in Pakistan but throughout the World, the education has badly been suffered hence in the prevailing circumstances, the innocence of the appellant is even established from the reply/ written statement submitted by the appellant where in strong assurance has been given in respect of

14

Annexure - E



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHISTAN LOWER



Email: ymkohistan@gmail.com

Face Book: DEO Male Kohistan Lower

Office order

Whereas Mr. Muhammad Alam S/O Mehndia was appointed as sacked employee on CT post (Bearing Personnel No. 00884695) at GMS Dhoop Jhal in the light of Honorable Peshawar High court Abbottabad bench in WP No.516,A/2013 announced on 24/05/2016 and sacked employee (Appointment Act 2012, vide DEO (M) Kohistan Appointment of sacked Employees Endst; No. 9145-55 dated 19/10/2017).

Whereas in appointment order Condition No-10 "the prescribed qualification for Appointment of CT is Bachelors from a recognized University with CT or two years Associate Degree in Education from a recognized University or eighteen Months Diploma in Education in case he failed to acquire the requisite qualification Training Certificate within three Years, his service shall stand Terminated automatically. The stipulated period shall be reckoned from the date of issuance of Appointment order".

Whereas the above named official has failed to acquire the above prescribed qualification with in stipulated period i.e. in three years up to 18/10/2020. however this office informed the official to provide his BA Degree if he acquired vide this office letter No.7711-12 dated 26/11/2020, but the official submitted written statement that he has not even applied for admission in BA.

In the light of above, under condition No. 10 his appointment is hereby terminated w.e.f 01/12/2020 and concerned DDO is directed to stop his salary and recover of any over-payment, if made accordingly.

District Education Officer (M) Kohistan Lower.

Endst; No. 8161-67/ File No. 55/Estab; DEO (M) KH-L Dated Pattan the. 07/12/2020

Copy forwarded to.

- 1. The Director E&SE Khyber Pakhtunkhwa Peshawar. ✓
- 2. The Deputy Commissioner Kohistan Lower.
- 3. The Deputy District Education Officer (M) Kohistan Lower. ✓
- 4. The District Monitoring Officer (EMA) Kohistan Lower. ✓
- 5. The District Accounts Officer Kohistan lower. ✓
- 6. The Official Concerned
- 7. Office record.

CTC

07/12/2020

District Education Officer (M) Kohistan Lower.

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Annexure - F

**BEFORE THE WORTHY DIRECTOR (E&SE) KHYBER
PAKHTUNKHWA , PESHAWAR.**

**DEPARTMENTAL APPEAL / REPRESENTATION
AGAINST THE IMPUGNED OFFICE ORDER
DATED 07-12-2020 PASSED BY THE DISTRICT
EDUCATION OFFICER (M) KOHISTAN LOWER,
VIDE WHICH THE APPELLANT HAS BEEN
TERMINATED FROM SERVICE.**

Respected Sir:

1. That the appellant was initially appointed as CT on 7-11-1996 and was posted at GHS Hattar Haripur where after the appellant was adjusted in Middle School Dargah against the vacant post on 27-11-1996.
2. That the then competent authority terminated the services of the appellant which were later on restored vide order dated 19-10-2017 and the appellant was posted in GMS Dhoop Jijal where the appellant served and performed his duties

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with full devotion and to the entire satisfaction of his superior.

3. That without holding proper inquiry and without issuing any show cause notice, with a single stroke of sign, the District Education Officer M Kohistan Lower issued the impugned Office Order dated 7-12-2020 in respect of termination of services of the appellant. (Copy of order dated 7-12-2020 is hereby attached).
4. That the order dated 07-12-2020 passed by District Education Officer Kohistan Lower (hereinafter impugned) is patently illegal, unlawful, of no legal effect, against the existing law, rules and regulation governing the subject matter, hence liable to be set aside and the appellant may kindly be allowed to carry on his duties with all back benefits.
5. That the impugned order is outcome of hastily given. The condition precedent and procedural safeguard provided under the law insure rule of law having been thrown to the wolves, hence the

impugned order is not sustainable in the eyes of law, thus liable to be set aside.

6. That due to COVID-19 not only in Pakistan but throughout the World, the education has badly been suffered hence in the prevailing circumstances, the innocence of the appellant is even established from the reply/ written statement submitted by the appellant where in strong assurance has been given in respect of improving his higher education.
7. That the appellant has got no alternate source of income to feed mouths of members of his entire poor family, hence living miserable life from hands to mouth.
8. That any other ground which has not been mentioned may also be permitted to raise at the time of hearing.

It is therefore, respectfully submitted that in the context of the appeal in hand, the impugned order dated 07-12-2020 passed by the District

18

Education Officer M Kohistan Lower may
graciously be withdrawn/ set aside and the
appellant may kindly be allowed to carry on his
duties with all back benefits.

Appellant *sd -*

Muhammad Alam
CT GMS Dhoop Jijal
Kohistan Lower

03355666544,

5/1/2021

03335156340

CTC



19

WAKALATNAMA

IN The KP Soomie Tribunal, Peshawar

Muhammad Alam³¹ Mehindia.
(Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

VERSUS

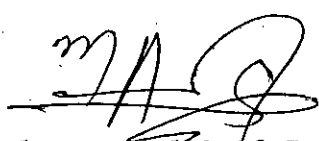
Govt of
(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

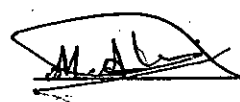
Case SVC-2024

I/We, M. Alam do hereby appoint and constitute **Muhammad Arif Jan Advocate** High Court, Peshawar, to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted

CLIENT/S


Muhammad Arif Jan
Advocate, High Court, Peshawar.
Office No. 6, 1st Floor
Pabbi Medical Centre, G.T. Road
Peshawar.
Mobile: 0333-2212213



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No

4523 of 2021

Muhammad Alam Ex.CT GMS DHOOP JIJAL KOHISTAN LOWER

APPELLANT

VERSUS


1. Govt.of Khyber Patunkhwa through Secretary E & SE KP PESHAWER

1. Director E & SE Khyber Pakhtunkhwa, Peshawar.
2. District Education Officer (M)Kohistan Lower

Respondents

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S.No.	Description	Page Nos.	Annexures
01	Comment along with Affidavit	01 to 04	
02	Appointment Order, Sacked Employee act 2012 and decision of High Court.	05 to 17	A,B and C
03	Office Letter, Written statement of appellant .	18 to 19	D,E


District Education Officer (M)
Kohistan Lower
Respondent No.3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No
4523/2021

Muhammad Alam Ex.CT GMS DHOOP JIJAL KOHISTAN LOWER
Appellant

VERSUS

1. Govt.of Khyber Patunkhwa through Secretary E & SE Khyber Pakhtunkhwa, Peshawar.
2. Director E & SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (M)Kohistan Lower

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.3

PRELIMINARY OBJECTIONS

1. That the appellant is not an aggrieved person.
2. That the appellant has been estopped by his own conduct.
3. That the appellant has got no cause of action/locus standi to file the instant appeal.
4. That the service appeal is against the facts prevailing rules and policy as the appellant is failed to acquire the requisite qualification within three years.
5. That the appellant has come to this Tribunal with unclean hands.
6. That the appeal is not maintainable in the present circumstances of the issue.
7. That the appellant has concealed the material facts from this Honorable tribunal.



FACTUAL OBJECTIONS

- 1) That the Para No.1 relates to appellant service record hence no need for comment.
- 2) That the Para No.2 is incorrect, as it needs cogent proof, whereas in the light of decision of Honorable Peshawar High Court Abbottabad Bench in WP No. 516-A/2013 announced on 24/5/2016 upon the basis of Sacked Employees (Appointment) Act 2012. He was appointed as sacked employee against the post of CT at GMS Dhoop Jijal vide DEO (M) Kohistan Order No 9145-55 dated 19.10.2017, on the condition that the prescribed qualification for appointment of CT is Bachelor Degree or Equivalent qualification from recognized University with CT/two years Associate Degree in Education from the recognized University or eighteen month Diploma in Education, In case he failed ,not acquire the requisite qualification within three years, his service shall stand terminated automatically. The stipulated period shall be reckoned from the date of its issuance of Appointment Order.(Appointment Order, Sacked employees Act 2012,decision of high court are annexed as annexure A,B&C)
- 3) That the Para No.3, is incorrect, Whereas the above named official has failed to acquire the above prescribed qualification with in stipulated period i.e.in three years up to 18/10/2020.However this office informed the official to provide his BA Degree if he acquired vide this office letter No.7711..12 dated 26/11/2020, but the official submitted written statement that he has not even applied for admission in BA. So in the light of above, under appointment of sacked employee against CT Post condition No:10 his appointment was terminated w .e .f 01/12/2020.(Office Letter, Written statement of appellant are annexed as annexure D,E)
- 4) That the Para No.4 is incorrect as discussed in Para No.2&3.
- 5) That the Para No.5 is correct, as the respondent no.2 has correctly dismissed the appeal.



GROUNDS:

- a. That the Para "A" of the ground is incorrect, as the order dated 07.12.2020, passed against the appellant is legal, for further the appellant is not entitled for any back benefit as mentioned in appointment order condition no11.
- b. That the Para No. "B" of the ground is incorrect; hence the impugned order may be maintainable in the eyes of law.
- c. That the Para "C" of the ground is incorrect.
- d. That the Para No "D" of the ground is incorrect.
- e. That the Para No "E" of the ground is incorrect.
- f. That the Para No "F" of the ground is incorrect.
- g. That any other reply of which has not been mentioned may also be permitted to raise at the time of hearing.

PRAYER:

It is therefore, humbly prayed that on acceptance of the above comments, the instant appeal may be dismissed in the favor of the Respondents in the interest of justice.

Secretary E & SE KPK Peshawar

Director E & SE KPK Peshawar.....

District Education Officer (M) Kohistan Lower...06/09/2021

04

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No4523 of 2021

**Muhammad Alam Ex.CT GMS DHOOP JIJAL KOHISTAN LOWER
Appellant**

VERSUS

1. Govt.of Khyber Patunkhwa through Secretary E & SE Khyber Pakhtunkhwa, Peshawar.
2. Director E & SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (M)Kohistan Lower

Respondents

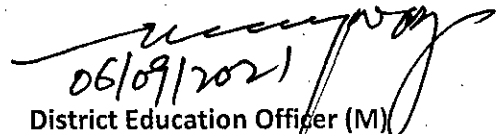
AFFIDAVIT

I Mr. Hafiz Muhammad Nawaz District Education Officer (M) Kohistan Lower do hereby affirm and declared on oath that contents of forgoing comments are correct and true according to the best of my knowledge, belief and nothing has been concealed from this Honorable Tribunal.

Identified by

Additional Advocate General

Peshawar (Service Tribunal)


06/09/2021
District Education Officer (M)
Kohistan Lower
Respondent No.3

(5)

Annex-1 A

OFFICE OF THE DISTRICT EDUCATION OFFICER

(MALE) KOHISTAN
Phone # 0998-407128

APPOINTMENT OF SACKED EMPLOYEE AGAINST CT POST

In pursuance to the Judgment of Honorable Peshawar High Court Abbottabad Bench in W.P. No.516-A / 2013 announced on 24.5.2016, consequent upon on the recommendation of the Departmental Selection Committee, meeting held on 19/10/2017 and as approved by the competent authority on note sheet vide Para No. 46 dated 19.10.2017, appointment of the following sacked employees are hereby ordered against the vacant posts of CT, in BPS-15 (Rs. 16120-1330-56020) @ Rs.16120 /- plus usual allowances as admissible under the rules on under the existing policy of the Provincial Government, on the terms and conditions given below with effect from the date of their appointment.

Name of sacked Employee	Father Name	Qualification		Date of Birth	Domicile	CNIC No.	Place of posting	Remarks
		Accd:	Prof					
Rahmat Ali	Haq Nazar	MA	CT	15/04/1976	Bhanguia	15501-2257483-1	GMS Mahreen	
Gohar Zaman	Badeou Zaman	FA		16/09/1973	Mardan	16101-5058672-5	GMS Kolai	
Javed Hayat Akhtar	Rahmattullah	BA	CT	15/07/1962	Mardan	16101-8170019-9	GMS Shamal Guli (Pattan)	
Inayatullah	Bakhtiar	BA		05/06/1963	Swat		GMS Mandraza	
Munir Ahmad	Hafizullah Khan	FA	CT	01/01/1969	Manshera	13501-1723769-9	GMS Jag Dubair	
Muhammad Alam	Mehndia	FA	CT	05/04/1968	Manshera	13501-9479232-7	GMS Dhoop Jijal	

TERMS & CONDITIONS:

- No TA/DA etc is allowed.
- Charge reports should be submitted to all concerned in duplicate.
- Their Appointment is subject to the condition that the certificate/documents are verified from the concerned authorities by the DEO Office, anyone found producing bogus Certificates/documents proceeded against through law enforcing agencies.
- Their services are liable to termination on one month's notice from either side. In case of resignation without notice, their one-month pay/allowances shall be forfeited to the Government.
- Pay will not be drawn until and unless a certificate, regarding verification of their documents is issued by this office.
- They will be governed by such rules and regulations as may be issued from time to time by the Govt.
- Their services shall be terminated at any time, in case their performance is found unsatisfactory during contract period. In case of misconduct, they shall be proceeded under the rules framed from time to time.
- Before handing over charge, once again their document may be checked by the DDO concerned, if they have not passed the prescribed qualification, they may not be handed over charge of the post.
- The prescribed qualification for appointment of CT is Bachelor's Degree or equivalent qualification from a recognized University with CT or two years Associate Degree in Education from a recognized University or eighteen months Diploma in Education.. In case they failed to acquire the requisite qualification/training certificate within three years, their services shall stand terminated automatically. The stipulated period shall be reckoned from the date of issuance of appointment order.
- Their appointment is subject to the medical fitness & verification of their character antecedents to the satisfaction of the undersigned in the light of section-3 of the Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012.
- The period of dismissal, removal and termination from service of the SACKED employee till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force in the light of section-4 of the Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012.
- SACKED employees shall not be entitled to claim seniority and other back benefits and their appointment shall be considered as fresh appointment in the light of section-5 of the Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012.

DDE
[Signature]


(6)

(7)

(8)

Amendure "A"

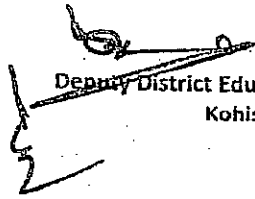
to join their post within 30 days of the issuance of this appointment order if no willingness or response is
within a period of 30 days, the next senior sacked employee shall be considered for appointment in the
Section -7(3) of Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012
professional standards, core competencies and job description issued vide Govt. of Khyber Pakhtunkhwa
Notification No. SO (PE)4-3/PST/2014 dated 17-09-2014.


(Fida Muhammad Khan)
District Education Officer (M)
Kohistan

Endstt No 7145-55 /EB-II/ CT Sacked/KH/DEO (M) Dated 19/10 /2017

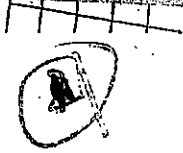
Copy forwarded for information and necessary action to the:-

1. Additional Registrar Peshawar High Court Abbottabad Bench w/r to Judgment passed in W.P No.516-A / 2013 announced on 24.5.2016
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. Deputy Commissioner Kohistan (Upper & Lower).
4. Deputy District Education Officer (M) Kohistan.
5. District Accounts Officer Kohistan.
6. District Monitoring Officer (IMU) Kohistan
7. All the Principals/HMs of the concerned schools
8. PS to the Secretary to Govt. Khyber Pakhtunkhwa E&SE Department Peshawar.
9. B&AD Local Office
10. AP EMIS local office.
- 11-16. Candidates Concerned. CTs


19/10/2017
Deputy District Education Officer (M)
Kohistan

CTC





THE KHYBER PAKHTUNKHWA
SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

[first published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 20th September, 2012].

AN
ACT

to provide relief to those sacked employees in the Government service, who were dismissed, removed or terminated from service, by appointing them into the Government service.

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998 on various grounds;

WHEREAS the Federal Government has also given relief to the sacked employees by enactment;

AND WHEREAS the Government of the Khyber Pakhtunkhwa has also decided to appoint these sacked employees on regular basis in the public interest;

It is hereby enacted as follows:

1. **Short title, extent and commencement.**—(1) This Act may be called the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.

(2) It shall apply to all those sacked employees, who were holding various civil posts during the period from 1st day of November, 1993 to 30th day of November, 1996 (both days inclusive).

(3) It shall come into force at once.

2. **Definitions.**— In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,-

- (8)
- (B)
- (a) "civil post" means a post created by the Finance Department of Government for the members of civil service of the Province;
 - (b) "Department" means the Department and the Attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, including the Divisional and District Offices working thereunder;
 - (c) "Government" means the Government of the Khyber Pakhtunkhwa;
 - (d) "Prescribed" means prescribed by rules;
 - (e) "Province" means the Province of the Khyber Pakhtunkhwa;
 - (f) "rules" means the rules made under this Act; and

Section 2(b) → (g)

(g) "Sacked employee" means a person who was appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1st day of November 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998 on the ground of irregular appointments;

3. Appointment of sacked employees.— Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

Provided further that the appointment of sacked employees shall be subject to the medical fitness and verification of their character antecedents to the satisfaction of the concerned competent authority:

4. Age relaxation.— The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.

(1) (9)

4

5. Sacked employees shall not be entitled to claim seniority and other back benefits.— A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

6. Preference on the basis of age.— On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.

7. Procedure for appointment.—(1) A sacked employee, may file an application, to the concerned Department within a period of six months from the date of commencement of this Act, for his appointment in the said Department.

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted in the prescribed manner, for appointment.

Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(4) The Concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. Removal of difficulties.— If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act as may appear to him to be necessary for the purpose of removing the difficulty.

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.

8 10

9. Act to override other laws.—Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.

10. Power to make rules.— Government may make rules for carrying out the purposes of this Act.

(11)

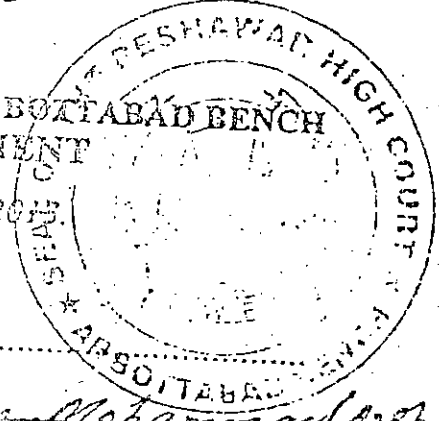
Amendment

Judgment Sheet

IN THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH
JUDICIAL DEPARTMENT

Writ Petition No. 516-A/2016

JUDGMENT



Date of hearing..... 24.05.2016

Petitioners Mst. Iqbal Khan by Mr. Mohammad Wahid Khan Advocate

Respondents Govt etc. Mr. Mohammad Aslam Abbasi

ROOH-UL-AMIN KHAN, J.- Through this single judgment

we intend to dispose of connected W.P.No. 20-A/2014 titled

"Akram Khan & 05 others Vs. Government of Khyber

Pakhtunkhwa through Secretary Education (E&SE) Peshawar

& 03 others", W.P.No. 546-A/2013 titled "Waseem Gul Khan

& 47 others Vs. Government of Khyber Pakhtunkhwa through

Secretary Education (E&SE) Peshawar & 14 others", W.P.No.

676-A/2015 titled "Abdul Razaq Vs. Government of Khyber

Pakhtunkhwa through Secretary Education (E&SE) Peshawar

& 02 others", W.P.No. 195-A/2015 titled "Mst. Saima Noreen

& 04 others Vs. Government of Khyber Pakhtunkhwa through

Secretary Education (E&SE) Peshawar & 03 others", W.P.No.

189-A/2015 titled "Muhammad Zafar Iqbal. Vs. Government of

Khyber Pakhtunkhwa through Secretary Education (E&SE)

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28/5/16
High Court
Abbottabad Bench
Sd/-
Sd/-

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Peshawar & 02 others", W.P.No. 216-A/2015 titled "Muhammad Nawaz & 45 others Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Peshawar & 03 others", W.P.No. 1155-A/2015 titled "Rashid Iqbal & 14 others Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Peshawar & 02 others", W.P.No. 702-A/2014 titled "Shaheen Akhtar Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Peshawar & 02 others and W.P.No. 115-A/2014 titled "Khalid Khan & another Vs. Government of Khyber Pakhtunkhwa through Secretary Education (E&SE) Peshawar & 02 others" as the petitioners of all these petitions have prayed for reinstatements in their services on the basis of "Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012".

28/5/12. Succinct facts leading to the instant petitions are that the petitioners were appointed by the respondents against their respective posts in accordance with the prescribed method of recruitment and later on their services were illegally terminated by the respondents, whereafter the Government of Khyber Pakhtunkhwa introduced "Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012" whereunder the

respondents were bound to reinstate the petitioners as per criteria mentioned in the Act *ibid* but they did not appoint the petitioners inspite of the fact that more than hundreds posts were lying vacant in different cadres and were available in the establishment of respondent No.3, which conduct of the respondents towards the petitioners, being perverse, callous, malafide, is liable to be declared illegal and against the law. Initially comments of the respondents were called for, which were submitted accordingly wherein the claim of petitioner was refuted on the grounds that at the time of initial appointment, petitioners were not qualified to be selected as teacher, as they were not possessing the requisite training certificates.

3. In essence, grievance of the petitioners is that they were recruited by the respondents after fulfilling all the legal and codal formalities but their services were terminated in the year 1996-97 on the basis of political victimization, however, the Provincial Government promulgated the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 for reinstatement of the employees, who had been appointed on regular basis to a civil posts in the Province and equipped with the prescribed

Authorized to sign for the Govt
 28/5/12

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(14)

7/5/16

qualification and experience of sacked employees at the time during the period from 01.11.1993 to 30.11.1996.

4. In pursuance of the enabling provisions of the Act, the petitioners approached the respondent-department but were refused the benefit of the Act ibid on the sole ground that at the time and during their initial service they were lacking the prescribed teaching training.

5. At the very outset, learned counsel for the petitioner produced a judgment of this court rendered in W.P.No. 1662-P/2013, whereby the respondents were directed to consider the untrained teachers for appointments against their respective posts, for the reason that at the time of initial appointments of the employees, under the laid down criteria, the untrained candidates were made eligible for appointment against the post of PTC.

6. The learned Additional Advocate General representing the respondent-department reiterated the same old arguments that the petitioners were lacking the requisite training certificate, therefore, under the Act ibid they cannot be considered for appointment.

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Established by Court
Abolished Bench
Authorized Under Sec 75 Acts Ord 1956
28/5/16

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7. We are not in consonance with the arguments advanced by the learned AAG for the reason that the respondent-department itself has considered numerous employees under the Act *ibid*, who were not in possession of the training certificate whereas they were provided opportunity to complete their training within three years. The relevant para of the reinstatement order / notification of various employees is reproduced below for ready reference: -

"16. In case of having less qualification which ever is prescribed intermediate / FA for PST as well as PST certificate as professional the candidate must be qualified both the academic / professional qualification within three years after issue of this appointment order, failing which their appointment order shall stand terminated automatically, without any further period."

N.B: This is not the decision but decision is in Para 9.

8. It is golden principle of law that alike shall be treated alike which has further been elaborated by the apex court in the case of "*Hameed Akhtar Niazi Vs. The Secretary, Establishment Division, Government of Pakistan & others*" reported as 1996 SCMR 1185 and again in the case of "*Government of Punjab through Secretary Education & others*"

28/1/16

Lawyer

Vs. Sameena Parveen & others reported as 2009 SCMR 01

where it has been held as under: -

"if a Tribunal or this Court, 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 same 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."

9. In view of the above, all these petitions are disposed of in the following terms: -

- i. That the petitioners though eligible for appointment but not equipped with training certificate, shall be considered for reinstatement against their respective posts under the *Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012* immediately;
- ii. The concerned District Education Officer shall scrutinize the case of each individual petitioner independently;
- iii. Thereafter, the department shall arrange and manage the requisite training course for them and the petitioners shall be provided opportunity

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(17)

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to acquire the requisite training certificate;

- iv. In case the petitioner failed to acquire the requisite training certificate within the stipulate period, specified by the department, their services shall stand terminated automatically

Needless to remark, that the respective EDOs of each district shall complete the process of reinstatement of the petitioners within one month positively.

Announced:
24.05.2016

sdc - Judges

Certified to be a true Copy

High Court
Alibottabad Bench
Registered Under 2875/16

Self

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Annexure "D" (18)

**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
KOHISTAN LOWER**

Email: deokohistanl@gmail.com

Face Book: DEO Male Kohistan Lower

No. 7711-2 / DEO(M) KHL
To

Dated Patten the 26-11 /2020

1. Mr. Munir Ahmad CT GMS Kotia.
2. Mr. Muhammad Alam CT GMS Dhoop Jijal.

Subject: - **PROVISION OF BA DEGREE ALONGWITH BANK DRAFT/ CHALLAN FOR VERIFICATION.**
Memo:-

Kindly refer to your appointment order as Sacked Employee vide Endstt: No. **9145-55 dated 19-10-2017** issued by then District Education Officer (Male) Upper Kohistan subject to the achieve of prescribed qualification with in three (3) years in **Terms & Condition No 10** i:e BA/CT but after expired of stipulated period you have not been provided their BA degree for verification as well entry in service book.

It is therefore you are directed to provide two attested photo copies of BA degree alongwith bank challan/ draft to this office within 10 days after issuance of this letter, otherwise your monthly salaries will be stopped and in the light of appointment order condition No 10, disciplinary action shall be taken against you.

Endst: No. 7713-17 / DEO(M) KHL

Copy of the above is forwarded to the:-

1. Deputy Commissioner Kohistan Lower.
2. Deputy District Education Officer (M) Kohistan Lower.
3. District Accounts Officer, Kohistan Lower.
4. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
5. Office record

Received Munir Ahmad

26/11/20
District Education Officer (Male)
Kohistan Lower

26/11/2020
District Education Officer (Male)
Kohistan Lower

02/12/20
M. Alam
12-11-20



خدمت حیاں ڈی - ای - او حیاں کوستان میں لوگنر

حیاں عالی

گزارش خدمت ہے کہ بندہ کوئی - ای ڈگری کے بارے میں
بیتہ ہی نہیں تھا۔ جس وجہ سے بی ای ایے کا امتحان نہیں دے

براہ کرم بندہ کے سابقہ سرکاری ماسٹروں کو کیا جانے
بندہ کا ذریعہ احساس بھی ملازمت کے سوا کوئی نہیں ہے۔

لینڈا میں اسٹاٹس سیر کر دیتا ہوں کہ ان کی
کا امتحان ہوں گا اور ڈگری الشاد اللہ آج دفتر میں جمع کر

گا۔ سرکاری ہو سکتی ہے۔ کینڈا بھی سخت پریشان تھا۔ صہ کی وجہ سے بی۔
بندہ صلاح کوستان میں سفر کیلئے بھی سخت پریشان تھا۔ صہ کی وجہ سے بی۔
شیں کر سکا۔ الشاد اللہ دن امتحان دونا۔ شکریہ۔

4.12.2020

الحق قرم

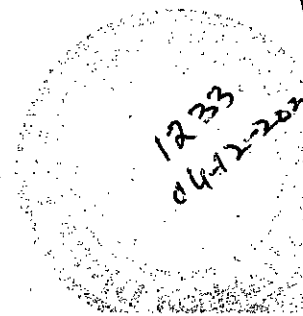
العارف

محمد عالم سی ڈی گورنمنٹ ہڈل سکول ڈوبو حیاں کوستان

M. A. A.

4.12.2020

DDO Middle Schools
for action as per
condition No. 10 of
appointment order
of Succeeded employees



04/12/2020

(D.E.O office order No 1711-12

Dated 26.11.2020)