

20.09.2022

Learned counsel for the appellant present. Mr. Zahid Ullah Khan, Litigation Officer on behalf of respondents No. 1 to 3 alongwith Mr. Muhammad Adeel Butt, Additional Advocate General present. None present on behalf of official respondent No. 4 as well as private respondents No. 5 to 7.

Written reply on behalf of official respondents No. 1 to 3 submitted, which is placed on file and copy of the same is handed over to learned counsel for the appellant.

Previous two consecutive dates were changed on Reader Note, therefore, notice be issued to respondents No. 4 to 7 through registered A.D with the direction to submit written reply/comments on the next date positively, failing which their right for submission of written reply/comments shall be deemed as struck of. Adjourned. To come up for submission of written reply/comments on behalf of respondents No. 4 to 7 on 04.11.2022 before the S.B.

The appellant shall submit registered A.D within 02 days.



(Salah-Ud-Din)
Member (J)

04.11.2022

Clerk of counsel for the appellant present.

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

File to come up alongwith connected Service Appeal No. 12780/2020 titled "Shams Un Nehar Vs. Education Department" on 15.12.2022 before S.B.



(Rozina Rehman)
Member (J)


27.06.2022

Appellant alongwith his counsel present.

Learned Member (Executive), is on leave.
Therefore, the case is adjourned to 08.08.2022
for the same as before.


READER

8.8.2022 Due to The Public Holiday The
Case is Adjourned to 20-9. 2022


Reader.

14.12.2021

Counsel for the appellant present. Mr. Noor Zaman Khattak,
District Attorney for respondents present.

Written reply/comments not submitted. Learned District
Attorney seeks time to contact the respondents for submission of
written reply/comments. Fresh notice be issued to the
respondents for submission of written reply/comments.
Adjourned. To come up for written reply/comments on
23.02.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

23.02.2022

Due to retirement of the Hon'able Chairman, the case is
adjourned to 9.05.2022 for the same before D.B.


Reader

09.05.2022

Junior to counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate
General alongwith Haseen Ullah Assistant for respondents
present.

File to come up alongwith connected Service Appeal
No.12780/2020 titled Shams un Nihar Vs. Government of
Khyber Pakhtunkhwa 27.06.2022 before S.B.


(Rozina Rehman)
Member (J)

Stipulated period passed reply not submitted.

29.07.2021

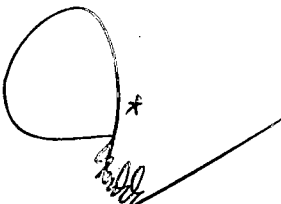
Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.



Chairman

26.10.2021

Ms. Najma Kamran, Advocate, for the appellant present and submitted fresh Wakalat Nama on behalf of the appellant, which is placed on file. Ms. Surrya, District Education Officer (F) and Mr. Mujeeb-ur-Rehman, Assistant Accounts Officer alongwith Mr. Kabirullah Khattak, Additional Advocate General for official respondents present and sought time for submission of reply/comments. Adjourned. To come up for reply/comments as well as arguments on 14.12.2021 before the D.B.

None present on behalf of private respondents No. 5 to 7 therefore, notice be issued to them for submission of reply/comments as well as arguments for the date fixed.


(MIAN MUHAMMAD)
MEMBER (E)


(SALAH-UD-DIN)
MEMBER (J)

10.06.2021 Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal and just objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 26.10.2021 before the D.B.

Appellant Deposited
Security & Process Fee



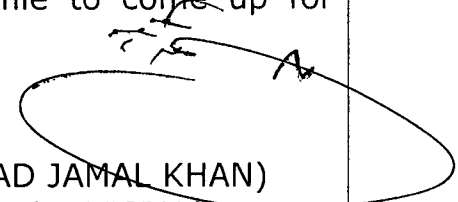

10/6/21


Chairman

FORM OF ORDER SHEET

Court of _____

Case No.- 12927 /2020 20


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3.
1-	28/10/2020	<p>The appeal resubmitted today by Mr. Masood-ur-Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/11/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	30.11.2020 14	<p>Neither appellant nor anyone else representing him has appeared despite having been called time and again, therefore, appellant as well as his respective counsel be noticed for 24.02.2021 on which date file to come up for preliminary hearing before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p>
	24.02.2021	<p>The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 10.06.2021.</p> <p style="text-align: right;"> Reader</p>

(4)

The appeal of Mr. Qismatullah resubmitted to-day i.e. on 19.10.2020 is returned again to the counsel for the appellant with the direction to submit Four more copies/sets of the appeal along with annexures i.e. complete in all respect within 15 days in file covers.

No. 3021 /S.T,

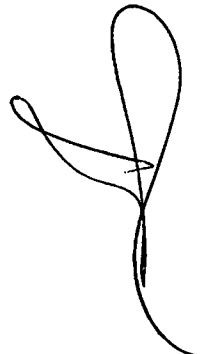
Dt. 21/10 /2020


Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Mr. Masood-ur-Rehman
Adv. High Court Bannu.

Respected Sir

After removal of office
objection case is
submitted once again


26/10

To,

The Registrar,
KPK Service Tribunal,
Peshawar .

SUBJECT: Application under Khyber Pakhtunkhwa Service Tribunal Rules, 1974, under Rule.6 clause (e) sub clause G for waiving of Judgment of Peshawar High Court Abbottabad Bench.

Dear Sir,

That petitioner counsel file appeal for back benefit on behalf of appellant and in office objections in para 2 of the objections for submitting Peshawar High Court Abbottabad Bench.

That petitioner annexed the judgment of Peshawar High Court Bannu Bench in which all the judgments are discussed and petitioner counsel will submit judgment of Abbottabad Bench during course of arguments.

It is, therefore, requested that Khyber Pakhtunkhwa Service Tribunal Rules, 1974, under Rule.6 clause (e) sub clause G Judgment of Peshawar High Court Abbottabad Bench may kindly be waived for the ends of justice.

Dated: 16/10


Masood Ur Rahman Advocate
Peshawar High Court
Bannu Bench

The appeal of Mr. Qismatullah Khan PST GPS Ghora Baka Khel Bannu received today i.e. on 06.10.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Addresses of respondents no. 5 to 7 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Copies of Writ Petition and Judgment of Peshawar High Court Abbottabad Bench mentioned in para-3 and 5 of the memo of appeal respectively are not attached with the appeal which may be placed on it.
- 3- Annexures-B, C and E of the appeal are illegible which may be replaced by legible/better one.
- 4- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 5- Annexures of the appeal may be attested.
- 6- Annexures of the appeal may be flagged.

No. 2853 /S.T,


Dt. 06/10 /2020.


REGISTRAR,
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Masood-ur-Rehman Wazir
Advocate High Court Bannu.

Respected Sir,

- 1- Address of Res 5 to 7 are included in memo of address
- 2- Copy is placed on record further more Appellant relies on Judgment of PHC Ben Ben which is already annexed AS E in which all judgment is discussed.
- 3- Annex B, C and E are replaced as attested copy as well as better copy.
- 4- Placed in sequence.
- 5- Annexure is already attested AS C.T.E signed by counsel (Certified To Be True Copy)
- 6- Annexure flagged

 16/10

5

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 12927/2020.

Qismat Ullah Khan

...(Appellant)

Versus.

Government of Khyber Pakhtunkhwa through Secretary Education Khyber Pakhtunkhwa Civil Secretariat Peshawar and others.

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11.	Wakalatnama		30

Dated: 30/9/20

قسمت اﷲ خان

Appellant

Qismat Ullah Khan

Through,

Masood Ur Rehman Wazir
Advocate, High Court, Bannu
Call 03339740590

(1)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 12927 /2020.

Diary No. 11077

Dated 06/10/2020

Qismat Ullah Khan S/O Mir Fazal Khan PST Teacher posted at GPS
Ghora Baka Khel Syed Ali Tehsil & District Bannu.

...(Appellant)

Versus.

1. Government of Khyber Pakhtunkhwa through Secretary Education
Khyber Pakhtunkhwa Civil Secretariat Peshawar.
2. Director Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer Male Bannu.
4. District Account Officer Bannu.
5. Farooq Khan S/O Muhammad Arif PTC Teacher R/O Sabo Khel
Mandan Bannu.
6. Raqiaz Khan S/O Bahader Sher PTC Teacher R/O Mandew District
Bannu.
7. Atta Ullah Khan S/O Wali Ayaz Khan PTC Teacher R/O Mumir Kaki
District Bannu.

.....Respondents / defendants

SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974 FOR GRANT OF SENIORITY/ARREAR OF PAY
AND OTHER BACK BENEFITS W.E.F 30/05/2000 TO 18/04/2009
WHICH IS GRATED TO RESPONDENTS NO.5 TO 7 ALONGWITH
ABOVE HUNDRED OTHER CANDIDATES WHO ARE APPOINTED
THROUGH COURTS ORDER FROM 25% QUOTA A.I.O.U 1999
QUOTA AND DENIED TO PETITIONER WHICH IS DISCRIMINATORY
AND VIOLATION OF ARTICLE 25 OF CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN 1973.

Filed to-day

Registrar
06/10/2020

Re-submitted to -day
and filed.

Registrar

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL AND
GRANTING SENIORITY ARREAR OF PAY AND OTHER
BACK BENEFITS WHICH IS GRANTED TO RESPONDENTS
NO.5 TO 7 ALONGWITH ABOVE HUNDRED OTHER PST
TEACHERS APPOINTED FROM 25% QUOTA A.I.O.U

1999 AND OTHER PST TEACHERS FROM 30/05/2000
TILL THEIR APPOINTMENT ORDER WHO ARE
STANDING ON SAME FOOTING HENCE PETITIONER
MAY BE GRANTED SENIORITY ARREAR OF PAY AND
OTHER BACK BENEFIT.

RESPECTFULLY SHEWETH:

- 1) That, respondent No.1 to 4 issue advertisement for appointment of PTC teacher on dated 07/02/1999.
(Copy of advertisement as annexure "A")
- 2) That, on response appellant submitted application for appointment appeared in test and interview and denied appointment on the soul ground that he has got PTC certificate from Ilama Iqbal Open University Islamabad.
- 3) That, the august Supreme Court of Pakistan in C.A No. 1904, 1906, 1907 of 2000 decided that all certificates are equal hence in 2004 in writ petition No.75/2004 titled Shaukat Ullah VS Provincial Government 25% quota is allocated to those candidate who are denied from appointment in 1999. **(Copy of writ petition is annexure as "B")**
- 4) That on dated 18/04/2009 Petitioner is appointed as PTC teacher on direction of Court from 25% denied candidate quota and upto High Court Judgment is maintained.**(Copies of Court order and appointment order are annexed as C & D)**
- 5) That respondent No. 5 to 7 along with other hundred PTC teachers who are appointed on denied 25% quota were given seniority arrear of pay and other back benefits on the direction of Honourable Peshawar High Court Bench Bannu and writ petition No. 242-B/2014 and writ petition No.543A/2012 titled Baber Ilahi vs Govt of KPK & other decide by Peshawar High Court

Abbottabad Bench. (Copy of the Judgment of PHC Bannu Bench is annexed as E)

- 6) That petitioner made departmental appeal on dated 09/06/2020 to the respondent No.1 but till date not decided hence approach this Honourable Service Tribunal enter alia the following grounds. (Copies of service appeal & registry receipt are annexed as F & G)

GROUND:

- A) That, petitioner is not treated according to law, rules and regulations and as per Judgment deliver by the Peshawar High Court Bannu Bench and Abbottabad Bench and it is well established principle of law that once question of law is decide a competent forum then its benefits will be also extended to those Civil Servant who are not before the Court (2009 SCMR page 1).
- B) That, respondents made discrimination to giving back benefits seniority arrears to respondents No.5 to 7 along with hundred others while refusing to appellant which is against norms of good administration.
- C) That, when from same merit list interview list giving back benefit of service from 2000 while refusing to appellant is against article 25 of the Constitution of Islamic Republic of Pakistan 1973 and against legitimate expectation, good governance.
- D) That, every monthly pay giving fresh cause of action to the petitioner hence petitioner is entitled to claim seniority along with other benefits granted to others appointees of 25% quota while refusing to appellant so coming in the ambit of term & condition of civil servant hence this tribunal has got the jurisdiction and appeal of the appellant is with in time.
- E) That, appellant is victim of the discriminatory treatment and it is the for most duty of the

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Court/Tribunal to save the citizen/employees from discriminatory treatment and decide the fundamental rights granted by the Constitution of Islamic Republic of Pakistan 1973 which is coming in the ambit of this Honourable Tribunal.

It is, therefore, humbly prayed that on acceptance of instant service appeal and appellant may granted seniority, arrear of pay and other back benefits from 30/05/2000 till 18/04/2009 which is granted to respondents and other PST teachers from 30/05/2000 till appointment order who are standing on same footing as appellant.

Dated: 30/9/20

Appellant
قِسْمَتِ اُلاّھِ کھان
Qismat Ullah Khan

Through,

Masood Ur Rehman Wazir
Advocate, High Court, Bannu

3

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2020.

Qismat Ullah Khan


...(Appellant)

Versus.

**Government of Khyber Pakhtunkhwa through Secretary Education Khyber
Pakhtunkhwa Civil Secretariat Peshawar and others.**

Affidavit

I Qismat Ullah Khan S/O Mir Fazal Khan PST Teacher posted at GPS Ghora Baka Khel Syed Ali Tehsil & District Bannu, do hereby solemnly affirm and declare that the contents of the above noted appeal are true correct and noting has been kept secret or concealed from this Honourable Court.


SIGNED BY

CATIN (C) 10/2020

1-10-2020

قسمت اللہ خان بیگم

Deponent

Qismat Ullah Khan

6

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2020.

Memo of addresses.

**Qismat Ullah Khan S/O Mir Fazal Khan PST Teacher posted at GPS
Ghora Baka Khel Syed Ali Tehsil & District Bannu.**

...(Appellant)

Versus.

- 1. Government of Khyber Pakhtunkhwa through Secretary Education
Khyber Pakhtunkhwa Civil Secretariat Peshawar.**
- 2. Director Education Khyber Pakhtunkhwa Peshawar.**
- 3. District Education Officer Male Bannu.**
- 4. District Account Officer Bannu.**
- 5. Farooq Khan S/O Muhammad Arif PTC Teacher R/O Sabo Khel
Mandan Bannu. *Posted at GPS Sabo Khel mandan Bannu***
- 6. Raqiaz Khan S/O Bahader Sher PTC Teacher R/O Mandew District
Bannu, *Posted at GPS mandew khas Bannu.***
- 7. Atta Ullah Khan S/O Wali Ayaz Khan PTC Teacher R/O Mumir Kaki
District Bannu.**

.....Respondents / defendants

Dated: 30/9/20

Appellant
Qismat Ullah Khan
Qismat Ullah Khan

Through

**Masood Ur Rehman Wazir
Advocate, High Court, Bannu**

Best Copy A max B
JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT D.I KHAN BENCH

JUDGMENT

Date of hearing. 28/04/2004

Appellant/Petitioner: _____

Respondents: _____

TARIQ PARVEZ KHAN, J: by this common judgment we intend to dispose of Writ Petition No.75/03, 120/03 and 43/04 as all the petitioners in the three petitions are holder of Primary Teaching Certificate but from Allama Iqbal Open University.

1. They all applied for their appointment in the Education Department but were denied the appointment on the basis of a policy then prevalent i.e. if there shall be available vacancies of PTC Teachers, the education Department shall advertise it. 25% shall be filled on District wise basis and 75% on the basis of Union Council/batch wise. It was further subjected to those candidates who have qualified/obtained their Primary Teaching Certificate from Government Elementary Schools/Collage/Institutions shall get preference over candidates who have similar qualification i.e from Allama Iqbal Open University.

(8) Amia B
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JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, D.I. KHAN BENCH.
(JUDICIAL DEPARTMENT)

W.P. No. 75 of 2004

JUDGMENT

Date of hearing 28-4-2004

Appellant-petitioner (Shaukat Ali & others) by S. Zafer Abbas Zaidi, Advocate

Respondents (Govt. of NWFP through Secretary Primary Education, Lahore) by Mr. Muhammad Sharif Chaudhry, P.A. of Mr. Faizul Nawaz, I.C.O. Branch

TARIQ PARVEZ KHAN, J. - By this common judgment we intend to dispose of Writ Petitions No. 75/04, 120/04 and 43/04 as all the petitioners in the three petitions are holder of Primary Teaching Certificate, but from Allama Iqbal Open University.

They all applied for their appointment in the Education Department but were denied the appointment on the basis of a policy then prevalent i.e. if there shall be available vacancies of P.T.C. teachers, the Education Department shall advertise it. 25% shall be filled on District wise basis and 75% on the basis of Union Council/batch wise. It was further subjected to those candidates who have qualified/obtained their Primary Teaching Certificate from Government Elementary Schools/College/Institutions shall get preference over candidates who have similar qualification i.e. from Allama Iqbal Open University.

ATTORNEY
EXAMINOR
Peshawar High Court
3/11/04

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2. At some stage in our province difference of opinion arose between the two benches of equal jurisdiction, therefore, matter was placed before a full bench of this Court in Writ Petition No. 374/98 (Darber Elahi and others VS Director of Education Primary Schools NWFP Peshawar and others). The Full Bench on 20/05/2000 held that certificate obtained from Government Institutions and the one obtained from Allama Iqbal Open University should be taken not only equal but as par and if the then policy of the Govt. was allowed to continue was held to be discriminatory.

3. The Government dissatisfied from the Full Bench Judgment of this Court filed petition before august Supreme Court of Pakistan as well as certain private individuals and the august Supreme Court upheld the decision of this Court vide judgment dated 28/05/2002 and in para 7 of its judgment observed as under:-

In most of the appeals, learned counsel stated at the Bar that the appellants/respondents were duly selected by the relevant selection committees of the government on merits but their appointments have been withheld on account of order of status quo passed by this Court while granting leave to appeal on 17/08/2000. Since these appeals are being finally disposed of such selectees subject to academic qualifications shall be immediately appointed to their respective posts as, prima facie: there is no other embargo in their way. We are informed at the Bar that a large number of vacancies of PTC Teachers, exist at the moment. Such of the appellants who were non-suited in C.A No. 1910 of 2000 shall be sympathetically considered for appointment in the first instance and, if they are otherwise qualified and suitable

2. At some stage in our Province difference of opinion arose between the two Benches of equal jurisdiction, therefore, matter was placed before a Full Bench of this court in Writ Petition No. 374/98 (Barber Elahi and others Vs. Director of Education Primary Schools NWFP Peshawar and others). The Full Bench on 20.5.2000 held that certificate obtained from Government Institutions and the one obtained from Allama Iqbal Open University should be taken not only equal but at par and if the then policy of the Government was allowed to continue was held to be discriminatory.

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"In most of the appeals, learned counsel stated at the Bar that the appellants/respondents were duly selected by the relevant Selection Committees of the Government on merits but their appointments have been withheld on account of order of status quo passed by this Court while granting leave to appeal on 17.3.2000. Since these appeals are being finally disposed of, such selectees subject to academic qualifications shall be immediately appointed to their respective posts as prima facie; there is no other imbargo in their way. We are informed at the Bar that a large number of vacancies of PTC Teachers exist at the moment. Such of the appellants who were non-suited in C.A. No.1910 of 2000 shall be sympathetically considered for appointment in the first instance and, if they are

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EXAMINOR
High Court
31/11/12

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Bannor copy

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for the job, they must be given preference over new entrants. In case some of the effected appellants/respondents are over-age by passage of time, Provincial Government shall consider their case with utmost compassion and fairness by relaxing upper age limit. Needless to urge that technicalities should not thwart the course of justice, as legal procedures are essentially meant to regulate the proceedings and to advance the cause of justice rather than to frustrate the ends of justice.

4. We have heard learned Counsel for the petitioners and learned Deputy Advocate General who is appearing alongwith Mr. Farid Nawaz DEO Bannu.

The latter informs that notwithstanding judgment of Full Bench of this Court and the august Supreme Court of Pakistan But Now policy for appointment to the post of PTC Teachers has been changed by the Provincial Government and batch wise appointment/consideration has been omitted, thus the petitioners if at all would like to be appointed as PTC Teachers shall compete on open merit.

5. We doubt that the contentions raised by learned counsel for the respondents, when seen on the touchstone of justice and when applied to the case of the petitioners, would be tenable.

Present policy apart, the petitioners who were similarly placed as were the petitioners before Full Bench of this Court and the parties before august Supreme Court of Pakistan could not be discriminated nor denied any advantage merely on the ground that they did not approached the High Court or the Supreme Court at that

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①
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CTC
②

otherwise qualified and suitable for the job, they must be given preference over new entrants. In case some of the affected appellants/respondents are over-age by passage of time, Provincial Government shall consider their case with utmost compassion and fairness by relaxing upper age limit. Needless to urge that, technicalities should not thwart the course of justice, as legal procedures are essentially meant to regulate the proceedings and to advance the cause of justice rather than to frustrate the ends of justice."

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EXAMINOR
Peshawar High Court
3/11/12

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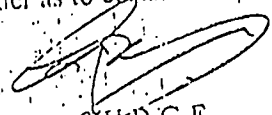
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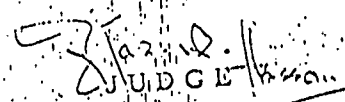
petitioners or any other candidates similar to the case of the
petitioners shall be allocated 25% seats of the available
vacancies. 75% vacancies shall go to the new entrant. This
25% is for those who were denied because of holding
certificate from Allama Iqbal Open University and such 25%
would be filled amongst them but on the basis of their own
merit separately prepared.

~~(12)~~
ETC

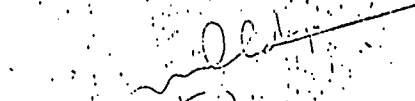
8. By the time that all the candidates like petitioners and
similarly placed persons are adjusted but on merit, those found
fit on merit if because of earlier denial to their appointment by
the Government, the Government shall relax age as
permissible under the law. With these recommendations we
allow these three writ petitions but with no order as to costs.

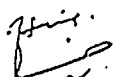
Announced:
28.04.2004.

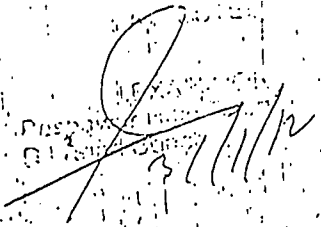

JUDGE


JUDGE

Qaseem


A-d-d. Registrar
29.4.2004


2014



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JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT D.J KHAN BENCH

CIC
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JUDGMENT

Date of hearing. 28/04/2004.

Appellant/Petitioner: _____

Respondents: _____

TARIQ PARVEZ KHAN, J: by this common judgment we intend to dispose of Writ Petition No.75/03, 120/03 and 43/04 as all the petitioners in the three petitions are holder of Primary Teaching Certificate but from Allama Iqbal Open University.

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(13) Amd C
JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, D.I. KHAN BENCH
(JUDICIAL DEPARTMENT)

W.P. No. 75 of 2003

JUDGMENT

Date of hearing: 28-4-2004

Appellant-petitioner (Shankar Lal & others) by S. Rafiq Abbas Zaidi
Advocate

Respondents (Govt. A.N.F.P. through Secretary Primary Education) by Mr. Akbar Hussain Shamsi
Chamberlain, D.A.G. Sargodha
Mr. Farid Nawaz Khan E.D.O. Bara

TARIQ PARVEZ KHAN, J. - By this common judgment we intend to dispose of Writ Petitions No. 75/03, 120/03 and 43/04 as all the petitioners in the three petitions are holder of Primary Teaching Certificate, but from Allama Iqbal Open University.

They all applied for their appointment in the Education Department but were denied the appointment on the basis of a policy then prevalent i.e. if there shall be available vacancies of P.T.C. teachers, the Education Department shall advertise it. 25% shall be filled on District wise basis and 75% on the basis of Union Council/batch wise. It was further subjected to those candidates who have qualified obtained their Primary Teaching Certificate from Government Elementary Schools/College/Institutions shall get preference over candidates who have similar qualification i.e. from Allama Iqbal Open University.

ATTEST

EXAMINOR

Peshawar High Court
D.I. Khan Bench

3/11/14

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2. At some stage in our province difference of opinion arose between the two benches of equal jurisdiction, therefore, matter was placed before a full bench of this Court in Writ Petition No. 374/98 (Darber Elani and others VS Director of Education Primary Schools NWFP Peshawar and others). The Full Bench on 20/05/2000 held that certificate obtained from Government Institutions and the one obtained from Allama Iqbal Open University should be taken not only equal but as par and if the then policy of the Govt. was allowed to continue was held to be discriminatory.

3. The Government dissatisfied from the Full Bench Judgment of this Court filed petition before august Supreme Court of Pakistan as well as certain private individuals and the august Supreme Court upheld the decision of this Court vide judgment dated 28/05/2002 and in para 7 of its judgment observed as under:-

In most of the appeals, learned counsel stated at the Bar that the appellants/respondents were duly selected by the relevant selection committees of the government on merits but their appointments have been withheld on account of order of status quo passed by this Court while granting leave to appeal on 17/08/2000. Since these appeals are being finally disposed of such selectees subject to academic qualifications shall be immediately appointed to their respective posts as, prima facie: there is no other embargo in their way. We are informed at the Bar that a large number of vacancies of PTC Teachers, exist at the moment. Such of the appellants who were non-suited in C.A No. 1910 of 2000 shall be sympathetically considered for appointment in the first instance and, if they are otherwise qualified and suitable

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Peshawar High Court
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for the job, they must be given preference over new entrants. In case some of the effected appellants/respondents are over-age by passage of time, Provincial Government shall consider their case with utmost compassion and fairness by relaxing upper age limit. Needless to urge that technicalities should not thwart the course of justice, as legal procedures are essentially meant to regulate the proceedings and to advance the cause of justice rather than to frustrate the ends of justice.

4. We have heard learned Counsel for the petitioners and learned Deputy Advocate General who is appearing alongwith Mr. Farid Nawaz DEO Bannu.

The latter informs that notwithstanding judgment of Full Bench of this Court and the august Supreme Court of Pakistan But Now policy for appointment to the post of PTC Teachers has been changed by the Provincial Government and batch wise appointment/consideration has been omitted, thus the petitioners if at all would like to be appointed as PTC Teachers shall compete on open merit.

5. We doubt that the contentions raised by learned counsel for the respondents, when seen on the touchstone of justice and when applied to the case of the petitioners, would be tenable.

Present policy apart, the petitioners who were similarly placed as were the petitioners before Full Bench of this Court and the parties before august Supreme Court of Pakistan could not be discriminated nor denied any advantage merely on the ground that they did not approached the High Court or the Supreme Court at that

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otherwise qualified and suitable for the job, they must be given preference over new entrants. In case some of the affected appellants/respondents are over-age by passage of time, Provincial Government shall consider their case with utmost compassion and fairness by relaxing upper age limit. Needless to urge that, technicalities should not thwart the course of justice, as legal procedures are essentially meant to regulate the proceedings and to advance the cause of justice rather than to frustrate the ends of justice."

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Peshawar High Court
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stage when other petitioners were knocking the door of the courts for seeking redress.

6. The purpose of our reproducing para 7 of the judgment of the august Supreme Court is to get support that where the petitioners were discriminated against candidates holding certificate from Government Elementary Institutions and when such discrimination was set aside by the High Court and by the august Supreme Court, their non-consideration in the first instance on the basis of the then prevalent policy was not legal and if it was not legal they shall be having a legal right to ask for their appointment.
7. Whether in the given scenario have got an outright right of appointment? We doubt it cannot be answered in affirmative. However, respondents are directed that the petitioners if apply against the vacancies of PTC Teachers they shall be given their own merit position as against new entrants keeping in view the fact that at the time they first appeared they were to be considered on batch wise basis with other candidates of the same batch.

Now as the policy of appointment on batch wise basis has been done away with we, therefore, while allowing these writ petitions direct the respondents that since refusal meter out to the petitioners has been tested by the august Supreme Court and Full Bench of this court whereby they have been held to be at par with candidates holding certificates from Government institutions, respondents-Government shall henceforth adopt the procedure that whenever the vacancies of PTC Teachers occurred they shall be accordingly notified. The

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EXAMINING
High Court
Bench
3/11/12

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petitioners or any other candidates similar to the case of the petitioners shall be allocated 25% seats of the available vacancies 75% vacancies shall go to the new entrant. This 25% is for those who were denied because of holding certificate from Allama Iqbal Open University and such 25% would be filled amongst them but on the basis of their own merit separately prepared.

8. By the time that all the candidates like petitioners and similarly placed persons are adjusted but on merit, those found fit on merit if because of earlier denial to their appointment by the Government, the government shall relax age as permissible under the law. With these recommendations we allow these three writ petitions but with no order as to costs.

Announced:

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Announced:
28.04.2004.

[Signature]
 JUDGE

[Signature]
 JUDGE Hassan

Quseem

[Signature]
2004

[Signature]
 Addl. Registrar
 29.4.2004

[Signature]
 JUDGE

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**OFFICE OF THE EXECUTIVE DISTRICT OFFICER, ELEMENTARY & SECONDARY
EDUCATION, BANNU**

APPOINTMENT ORDER

In compliance of Honourable Supreme court of Pakistan Judgment Dated 28/5/2002 & Honourable Peshawar High Court Circuit bench at D.I. Khan, Judgment Dated 28/4/2004 & consequent upon the recommendation of the Departmental Requirement committee & after obtaining proper age relaxation from the competent authority, the undersigned is pleased to appoint the following PTC Male denied candidates AIOU 1999 from the 'merit list in BPS-7 plus usual allowances as admissible under the existing rules/ policy in the schools noted against each candidates with effect from date of taking over charge in the best interest of public service subject to the terms /conditions below.

S /No	Name	Father's Name	Address	Place of Posting	Remarks
1	Mehar Gul	Muhammad Saddiq	Nurur	GPS Amandi Ayub	
2	Paridullah Shah	Ghaffar Ali	Nurur	GPS Masoori Gul Dadan	V/Post
3	Gul Daud Khan	Iqbal Zaman	Nurur	GPS Rasool Zaman Mandew	V/Post
4	Abdur Rehman Shah	Gul Ahmad Shah	Zarger Matina Khel	GPS Hassan Khel Kharaki	V/Post
5	Sifatullah	Mir Sarwar Jan	Zarger Manna Khel	GPS Nawaz Zarger Manna Khel	V/Post
6	Shah Niaz Khan	Mumtaz Khan	Zarger Manna Khel	GMPS Muhammad Shakoor Mandew	V/Post
7	Azmat Ali	Latif Khan	Mitta Khel	GPS Shahbaz Azmat Khel No.2.	V/Post
8	Irfanullah	Abdul Ghaffar	Mitta Khel	GPS Manak Khel Nazir Din	V/Post
9	Sheraz Ali	Muhammad Ayub	Landidak	GPS Haved Khass	V/Post
10	Faridullah	Amandullah	Lasndidak	GPS Amirdad Khan Khawaja mad	V/Post
11	Qadir Khan	Qasim Khan	Landidak	GPS Ismail Khel	V/Post
12	Qismatullah Khan	Mir Faiz Khan Mir Faizal Khan	Kakki	GPS Ghora Baka Khel Syed Ali	V/Post
13	Sadiq Ali	Muhammad Rehman	Kakki	GPS Gumber Khass	V/Post
14	Mir Akhtar	Mir Afzal	Kakki	GPS Dodi Khel Domel	V/Post
15	Sargar Ali Shah	Gul Jahan Shah	Shanshi Khel	GPS Latif Mughal Khel	V/Post
16	Tariq	Gul Nawaz	Jhandu Khel	GPS Jhandu Khel No.2.	V/Post

The appointment order of Mr. Muhammad Farooq S/O Mir Afsar & Muhammad Aslam S/O Sher Ali (overage candidates) will be issued after obtaining relaxation in upper age limit from the competent authority with in a week time from the date of issuance of this appointment order.

TERMS & CONDITIONS

1. His/Their service will be considered regular but without pension & gratuity in term of Section-19 of NWFP, civil servant Act, 1973 as amended vide NWFP, civil servant (Amendment) Act, 2005. He will however be entitled to contributory provident Fund in such a manner and such rates may be prescribed by the Govt.

2. His/Their services will be liable to termination on one month's notice from either side, in case of resignation without notice their/ his two months pay/ allowances shall be forfeited to Govt.

3. The appointee should submit their charge report to all concerned.

4. His/Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct they will be proceeded against under the NWFP removal from service Special ordinance 2000 & the rules framed from time to time.

5. The candidates should join their post with in 15 days on or after issue of this order. The head of the institution concerned should furnish a certificate to the effect that the candidate has joined the post or

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Charge should not be handed over if age of the candidate is below 18 years or above 35 years as per policy.

The appointees are directed to perform their/ his duties in their/ his respective school noted against their names for a minimum period of three years & they/ he will not be transferred from school where appointed.

In case of fake certificates/ Degree or other any mistake detected later on the undersigned reserves the right of amendment in the appointment order accordingly. The appointment of the candidates mentioned above will be subject to the conditions that they are the domicile of Bannu.

They/He will produce Health & Fitness certificates from Medical Superintendent concerned before taking over charge.

No TA/DA etc is allowed

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ٹاؤن ہاؤس باننوں فون: 612748

(BAKHTULLAH SHAH)
EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY
EDUCATION, BANNU.

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Dated Bannu the 18/04/2009

Copy For information & necessary action to:-

- 1. PA to District Nazim Bannu
- 2. The District Coordination Officer Bannu
- 3. Director Schools & Literacy NWFP, Peshawar.
- 4. Dy. DO (M) with the remarks that their pay may not be drawn until & unless their testimonials are not verified from concerned Board/University.
- 5. District Account officer, Bannu.
- 6. Candidate concerned.
- 7. Regional Director Information Department, Bannu.

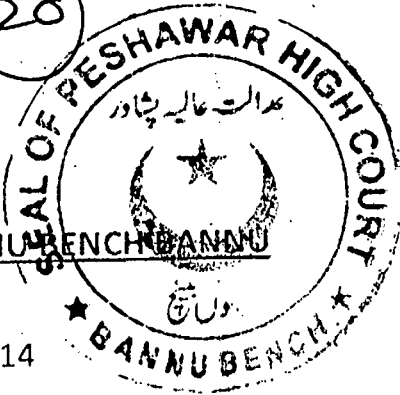
EXECUTIVE DISTRICT OFFICER
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BEFORE THE PESHAWAR HIGH COURT BANNU BENCH BANNU



Writ Petition No. 242-B/2014
with GR

- 1) Farooq Khan Son of Muhammad Arif Khan Resident of Sabo Khel Mandan Bannu.
- 2) Raqiaz Khan Son of Bahadur Sher Khan Resident of Mandeve, District Bannu.
- 3) Ataullah Khan Son of Wali Ayaz Khan Resident of Momeer Kakki, District Bannu.
- 4) Farid Ullah Khan Son of Mir Nawaz Khan Resident of Sikander Bharat, District Bannu.
- 5) Muhammad Tariq Son of Mir Saudad Khan Resident of Hakim Bharat, District Bannu.
- 6) Irfan Ul Haq Son of Abdul Khalim Resident of Kotka molvi Fazal Ghani Daud Shah, District Bannu.
- 7) Muhammad Imtiaz Khan Son of Muhammad Ghulam Khan Resident of Nar Sharif Nar Jaffar, District Bannu.
- 8) Inam Khan Son of Maeen Ullah Khan Resident of Nekam Kakki, District Bannu.
- 9) Bashir Ahmad Son of Abbas Khan Resident of Niab Kakki, District Bannu.
- 10) Sher Andaz Khan Son of Muhammad Ali Khan Resident of Shah Baz Kakki, Bannu.
- 11) Farooq Khan Son of Mir Wali Khan Resident of Kakki Khas District Bannu.
- 12) Hakim Nawaz Khan Son Balqiaz Khan Resident of Bharat District Bannu.
- 13) Umer Ayaz Khan Son of Muhammad Daraz Khan Resident of Nekam Kakki, District Bannu.
- 14) Gulap Khan Son of Sakhi Sarwat Resident of Mandeve District Bannu.
- 15) Nawab Khan Son of Mir Zalim Khan Resident of Nekam Kakki District Bannu.
- 16) Naimat Ullah Khan Son of Aman Ullah Khan Resident of Nekam Kakki, District Bannu.

ATTESTED

EXAMINER

Filed Today

Additional Registrar

29-5-14

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17) AKhter Ali Shah Son of Bahader Ali Shah Resident of Machan Khel Khojari District Bannu.

All are Primary School Teachers. (Petitioners)

VERSUS

- 1) Secretary to Government of K.P, Elementary & Secondary Education Department Civil Secretariat, Peshawar.
- 2) Secretary to Government of K.P, Finance Department, Civil Secretariat, Peshawar.
- 3) Director Elementary & Secondary Education K.P.K, Peshawar.
- 4) District Education Officer (Male) Bannu.
- 5) District Account Officer Bannu. (Respondents)

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973.**

PRAYER: ON ACCEPTANCE OF INSTANT WRIT PETITIONER, THIS HONOURABLE COURT MAY VERY GRACIOUSLY BE DIRECTED THE RESPONDENTS TO VERIFY THE SERVICE BOOKS OF THE PETITIONERS SINCE 2000 AND MAY ALSO GRANTED ARREARS / SALARIES SINCE 30/05/2000 TILL 2003.

Note: Addresses of the parties given above are sufficient for the purpose of

Service.

Filed Today
Additional Registrar
13-5-24

Respectfully Sheweth;

- 1) Brief facts of the case in hand are that on 07/02/1999 the respondent No. 3 advertised PST posts / vacancies in daily news paper for public attention,

ATTESTED

EXAMINER

Peshawar

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**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH.**

(Judicial Department)

W.P No. 242-B of 2014

Farooq Khan etc Vs Government of Khyber

Pakhtunkhwa etc

JUDGMENT

Date of hearing 04/04/2016

Appellant-Petitioner Farooq Khan and Others By

Mr. Hamidullah Shah Adv.

Respondent Country and others By Qudratullah

Jehan Gondepuri Adv. AG A/o Farzand Ali Sult.

HAIDER ALI KHAN J.- Farooq Khan and 16 others

petitioners seek constitutional jurisdiction of this Court praying

that :

“On acceptance of instant Writ petition, this honourable court may very graciously be directed the respondents to verify the service books of petitioners since 2000 and may also granted arrears/salaries since 30/05/2000 till 2003”

ATTESTED

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Peshawar High Court

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2. Brief facts giving rise to the instant Writ petition are that initially some posts of Primary School teachers (PST) were advertised on 07/02/1999 in the Daily News paper by the District Education Officer (M), Bannu (respondent No.4), to which the petitioners had also applied being eligible and qualified for the said posts of PST having certificates of Primary School teachers from Allama Iqbal Open University Islamabad; that after qualifying the test and interview, merit list was prepared and those who were having Primary teaching certificates (PTC) from Elementary Colleges were appointed while the petitioners were not considered by the respondents at par with P.T.C teachers, having certificates from Government Elementary Colleges; that the petitioners approached the Peshawar High Court D.I.Khan Bench against such like discrimination vide Writ petition No.79/1999 which was allowed on 30/05/2000 by treating the petitioners at par with others while appointment orders of those who were appointed in pursuance of advertisement dated 07/02/1999, having certificates of P.S.T from Government Elementary Colleges, were also declared illegal, void ab-initio and having no sanctity in the eyes of law; that the said decision of Peshawar High court, D.I.Khan Bench was challenged by said appointed candidates before the august Supreme court of Pakistan in C.A No.1904 of 2000, CA No.1906 of 2000 and C.A No. 1907 of 2000 which were decided in their favour on 28/05/2002 and in compliance of that order, appointment orders

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Peshawar High Court
Bannu Bench

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of the petitioners were issued. Relevant portion of said order dated 01/07/2002, issued by Executive District Officer, Literacy and Education, Bannu is reproduced herein below:-

"His arrear/appointment will be considered with effect from 30.05.2000 as per the decision/judgment of the Hon'ble Peshawar High Court, DIKhan Bench (announced on 30/05/2000), but their pay will be drawn with effect from taking over charge, i.e 01/09/2000".

4) The petitioners time and again requested the respondents to verify the service books of petitioners since 2000 and they may also be granted arrears/salaries since 30/05/2000 till 2003" but invain, hence the instant Writ petition.

3. The comments were invited from the concerned respondents, which were submitted accordingly, wherein prayer for dismissal of instant Writ petition has been made.

4. We have heard valuable arguments of the learned counsel for the parties and gone through the record appended with the petition.

5. Learned counsel for petitioner argued that respondents refused to verify the service books of petitioners since 2000 and to grant arrears/salaries since 30/05/2000 till 2003" with malafide and without any justification. He relied on

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judgment delivered by this court in WP No.62 of 2008 on 10/05/2011.

6. From perusal of the record, it appears that the appointment orders of the petitioners were outcome of the judgment of the Peshawar High court and in this respect, petitioners have faced the ordeal of lengthy litigation upto the august Supreme Court of Pakistan and after their appointment orders, their service books were issued and entries were also made therein. Admittedly grievances of petitioners stand redressed except verification of service books of petitioners, while in similar circumstances Abbot Abad Bench of this Court has allowed the following Writ petitions whereby the petitioners of those petitions were held entitled for their arrears/back benefits. The act of the respondents was also declared against the constitution:-

"WP No.543-A/2012, titled Babar Illahi & others VS Government of Khyber Pakhtunkhwa etc decided on 29/03/2011 as well as Writ petition No.62/2008 of 2008, titled Muhammad Saeed & others Vs Government of Khyber Pakhtunkhwa, etc, decided on 10/05/2011"

7. Thus it is very much clear that it is incumbent upon the respondents to consider and to verify their respective service books from the date of their appointment and similarly their

ATTESTED
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salaries need to be fixed right from their dates of appointment and are also entitled for their arrears and salaries.

8. In light of the above, coupled with the judgments of this court as well as august Supreme Court of Pakistan, this writ is allowed and respondents are directed to verify the service books of petitioners in accordance with law.

Announced.
Dt.04/04/2016

Sd/ Mr. Justice Muhammad Ghazanfar Khan, J
Sd/ Mr Justice Haider Ali Khan, J

[Handwritten signature]
04/5/2016

CERTIFIED TO BE TRUE COPY

Examined
Peshawar High Court Bannu Bench
Authorised Under Article 87 of
The Qanun-e-Shahadat Ordinance 1984

14/10/2025

Azmat Awan

بخدمت جناب سیکرٹری ایجوکیشن خیبر پختونخواہ پشاور

عنوان: اپیل / بمراد سیناریٹی

جناب عالی!

گزارش ہے کہ سائل نے 1995 میں PTC کورس علامہ اقبال اوپن یونیورسٹی اسلام آباد سے پاس کیا ہے اور ایم اے، پی ٹی سی تک تعلیم یافتہ ہے۔ سائل نے سال 1999 میں محکمہ ایجوکیشن بنوں سے پی ایس ٹی پوسٹ کے لئے کاغذات جمع کیے تھے۔ اس وقت سائل ٹیسٹ اور انٹرویو پاس کر کے میرٹ پر تعیناتی کا حقدار تھا۔ لیکن سائل کو بدینتی سے تعینات نہ کیا گیا۔ اور ایلیمنٹری کالجز کے امیدواران جو سائل سے سیشن اور میرٹ اسکور میں کم تھے تعینات کیے گئے۔ اس وقت سیشن وائز پالیسی تھی۔ جو 25% ضلع میرٹ اور 75% یونین کونسل کی بنیاد پر بھرتیاں کی جاتی تھیں۔ سیشن اور میرٹ کے لحاظ سے سائل تعیناتی کا حقدار تھا۔ لیکن سائل کو اس وجہ سے نظر انداز کیا گیا کہ سائل نے پی ٹی سی کورس علامہ اقبال اوپن یونیورسٹی اسلام آباد سے پاس کیا تھا اور اس طرح علامہ اقبال یونیورسٹی سے PTC کورس کے پاس شدہ امیدواران کو تعیناتی سے محروم رکھا گیا۔ اور ایلیمنٹری کالجز سے PTC کورس کے پاس شدہ امیدواران جو سائل سے سیشن میں کم اور Low میرٹ اسکور تھے۔ سال 1999 میں تعینات کئے گئے اور سائل کی ڈگری ماننے سے انکار کیا، جس پر عدالت عالیہ اور عدالت عظمیٰ نے DEO بنوں کے احکامات کو امتیازی سلوک قرار دے کر سائل اور دوسرے امیدواران کو پچیس فیصد کوٹہ دیا اور علامہ اقبال اوپن یونیورسٹی اور ایلیمنٹری کالجز کی ڈگریاں مساوی قرار دی۔ سائل نے پچیس فیصد کوٹہ کے تحت DEO بنوں کو تعیناتی کے لیے بار بار درخواست دی لیکن سائل پر اس طرح وقت گزارا کہ آج اور کل ہم آپ کو تعینات کر رہے ہیں۔ آخر سائل نے مجبور ہو کر عدالت سے رجوع کیا۔ عدالت سول کورٹ، سیشن کورٹ، پشاور ہائی کورٹ، بنوں بیچ اور سپریم

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ATC

کورٹ آف پاکستان نے سائل کے تعیناتی کے حق میں فیصلے کیئے۔ آخر کار DEO بنوں نے 18/04/2009 کو سائل کو PST پوسٹ پر تعینات کرنے کا حکم صادر فرمایا۔

جناب والا سائل کو عدالت عالیہ و عظمیٰ نے سال 1999 میں ٹیسٹ اور انٹرویو پاس کرنے، میرٹ پر پورا اترنے اور تعینات کرنے کے حقوق دیے ہیں۔ لیکن DEO صاحب بنوں نے سائل کے ساتھ دوبارہ دھوکہ، فراڈ، نا انصافی اور رولز ریگولیشن کے خلاف سلوک کر کے مورخہ 18/04/2009 سے تعینات کیا ہے۔ اور 1999 کی سینیاریٹی سے محروم رکھا ہے۔ جبکہ سائل نے سال 1999 میں ٹیسٹ اور انٹرویو پاس کیا تھا اور سال 1999 میں سائل سے کم میرٹ والے امیدواران کو بھرتی کیے تھے۔ ان بھرتی شدہ امیدواروں کو 1999 سے سینیاریٹی مع Benefit دی گئی ہے۔

جناب والا سائل نہایت غریب ہے۔ سائل کا تاریخ پیدائش 11/10/1973 ہے۔ سائل کی عمر تقریباً 47 سال ہے۔ اگر سائل کو 1999 کی سینیاریٹی سے محروم رکھا گیا تو ہمیشہ کے لیے سائل پر ترقی کے دروازے بند ہو جائیں گے۔ لہذا سال 1999 میں بھرتی شدہ دیگر امیدواروں کی طرح سائل کو بھی 1999 سے اپنا سینیاریٹی مع Benefit دیئے جانے کا حکم صادر فرمادیں۔ سائل دعا گو رہے گا۔

مورخہ: 31/05/2020

عسرت اللہ خان بھٹو

سائل قسمت اللہ خان PET جی ایم ایس پیر خیل لکھی تحصیل و ضلع بنوں

موبائل نمبر: 0334-8809148

65

RGL37439116

Notice see reverse of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is due.

29
Rs
Pa
Amd
15
605

Received a registered
addressed to

Date Stamp

Write here "letter", "postcard", "packet" or "parcel"
with the word "insured" before it when necessary.

Signature of Receiving Officer

Insured for Rs. (in figures)

(in words)

insured

Insurance fee Rs.

Weight (in words)

Kilo
Grams

Name and
address

Handwritten signature and scribbles

امدادات KPIK سروسز کے لیے درخواست

۲۰ مئی

بنام صاحبان کی حکومت و ممبران

محمد شادان

مورخہ

مقدمہ

جرم

تھانہ

باعث تحریر آنکہ

مسکون ٹریڈنگ

مقدمہ مندرجہ بالا عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقان مقام بنفول کیلئے
 محدود امرٹس ریزروڈ روڈ کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی
 کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو رائسی نامہ تقرر ثالث و فیصلہ پر حلف دینے جو اب دہی اور اقبال دعویٰ اور بصورت
 ڈگری کرانے اجراء اور وصولی چیک، روپیہ اور عرضی اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا۔ نیز
 بصورت ڈگری کرانے اجراء اور وصولی چیک، روپیہ اور عرضی اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہو
 گا۔ نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے
 کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے کسی اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا
 کوئی اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور بالا اختیارات حاصل ہوں گے اور اس کا ساختہ
 و پرداختہ بھی منظور قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق وکیل
 صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا پیشی
 سے باہر تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مقدمہ مذکور کریں۔ نیز اگر بھی وجہ مثلاً بیماری، معذوری، غلامت وغیرہ
 کی وجہ سے عارضی یا مستقبل پیروی مقدمہ نہ کر سکیں تو بھی وکیل صاحب یا اس کے ادا حقین کو بتایا فیس (اگر کوئی ہے) ادا
 کرنے کا پابند نہ ہوگا اور ادا شدہ فیس کی واپسی کا تقاضا کرنے کا حق نہیں ہوگا۔ منضمون وکالت نامہ سن اور سمجھ کر وکالت
 نامہ لکھ دیا تاکہ سند رہے۔

المرقوم
 العبد
 3 ماہ ستمبر
 گواہ شدہ
 ۲۰۲۰ء
 العبد
 محمد شادان
 قسیدت الہیہ لعل فرید

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 12927/2020

Dismatullah

-----APPELLANT

Versus

Govt of KPK and Others-----

-----RESPONDENTS

S. No	Description	Annexure	Pages
1	Comments		1-3
2	Affidavit		4
3	Authorities		5
4	Decided S.A. 19/12		6-8
5			9-10
6			
7			

atd
Deponent

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BEFORE THE HONOURABLE SERVICE TRIBUNAL
KPK PESHAWAR

Service Appeal No. 12927/2020

Qismat ullah Khan Pst BPS12 at SPS Syed Ali
Ghosa Baka Khel

Appellant

VERSUS

Government of KPK through Secretary E&SE & Others

Joint Parawise reply on behalf of the Respondents No. 1 to 3.

Respectfully Sheweth:

PRELIMINARY OBJECTION ON APPEAL:

- 1- That service appeal of the appellant is not maintainable in its present form.
- 2- That the appellant has got no cause of action to lodge the instant appeal.
- 3- That the appellant is not entitled for the arrears/ back benefits as the appellant has not been appointed in the year 1999.
- 4- That the appellant has tried to conceal the material facts from this Honorable Tribunal as he has not performed a single day official duty of the said period before his appointment.
- 5- That since the appellant was not appointed in the year 1999, therefore the question of his back benefits etc would also not arise.
- 6- That the instant appeal filed by the appellant is extremely suffering from material as well as factual defects.
- 7- That the appellant is legally and lawfully bound to abide by the terms and conditions of the appointment order issued to him and thereafter, the appellant has made compliance of the said appointment letter.
- 8- That such like service appeals have been dismissed by this Honorable Service Tribunal.
- 9- That the appellant by filing the instant appeal is going to waste the precious time of this Honorable Tribunal as well as the Govt: Functionary body.
- 10- That the instant service appeal would definitely violate the terms and conditions of service/ appointment order of the appellant.
- 11- That the appeal of the appellant is badly barred by the Law and Limitation.

FACTS

- 1- That 1st para of the appeal is relates to official record of

(2)

- 2- Incorrect: As per advertisement the terms and conditions vide No.16, in the order dated February 1999, 1st priority was to be given to elementary colleges diploma / Certificate holders and then AIOU and others for appointment of PST/ PTC. Copy of Advertisement has already been "Annexed as A" in the main service appeal.
- 3- That the instant para of the appeal pertains to the record of Apex Court verdicts, however, the appellant is not entitled to the relief as claimed by him in his service appeal. Since the appellant was not appointed to the post of PTC/PST in the year 1999, hence, the appellant's seniority would also not arise. Reference is made to appeal No. 191/2012 titled Farhatullah V/S Govt of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar announced by this Honorable Tribunal dated 19-08-2016, wherein, the same question of law and fact has been resolved by this Honorable Tribunal. (Attached as Annexure "A")
- 4- Correct: that the Respondent Department in reference of court decree and directions appointed the appellant to the post of PST in B-12, however, the terms and conditions of the said appointment order are very much clear and transparent as the appointment order of the appellant has been made and ordered with immediate effect. Anti-dating appointments are not possible to be made as per prevailing rules and policy of the Govt. According to clause/condition No. 10 of the appointment order of the appellant it has been vividly mentioned that if the above terms and conditions of the appointment are acceptable to the appellant then he should assume the charge of the post and report to office within 15 days accordingly. (Attached as Annexure B)

However, this Honorable Service Tribunal has set aside numerous identical nature of appeals wherein, the appellants were seeking anti-dating seniority of their service after when their appointments had been made in compliance and reference of the court judgments. Since the appellant was not appointed in the year 1999, therefore, the question of his seniority would also not arise and even illegal in terms of the above made submissions by the Deptt.

3

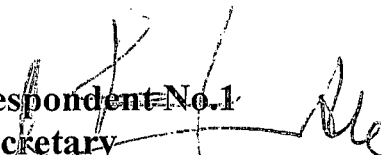
appellant and appeal is altogether different and separate than that of the respondents No.5 to 7.

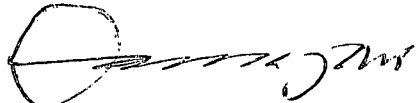
- 6- That the para pertains to the personal record of appellant, however, the appellant is not an aggrieved person and is not entitled to the relief claimed by him.


GROUND:

- (A) That incorrect and not admitted. The respondents are duty bound to act in accordance of rules and law and the material facts in field.
- (B) That the para is not admitted and is incorrect: the appellant is not legally and lawfully entitled to be granted back benefits cum seniority of his service after his appointment order in light of court directions. Again, on plain reading of all the courts decree and judgments no where it has been mentioned that the appellant be also granted / entitled the back benefits as well as seniority. The facts and circumstances of the present appellant and appeal is altogether different and separate than that of the respondents No.5 to 7
- (C) That incorrect: As explained in the above para.
- (D) That incorrect: That since the appellant was not appointed back in the year 1999 but was appointed in reference of below learned court decree in 2015, hence, question of his seniority cum financial benefits would not arise.
- (E) That no indiscrimination or ill treatment has ever been made or exercised with the appellant by the respondents.

It is therefore, humbly prayed that the para wise reply in response to service appeal of the appellant may be accepted and appeal of the appellant may kindly be set aside with heavy cost throughout.


Respondent No.1
Secretary
Elementary & Secondary Education
KPK Peshawar


Respondent No.2
Director
Elementary & Secondary Education
KPK Peshawar

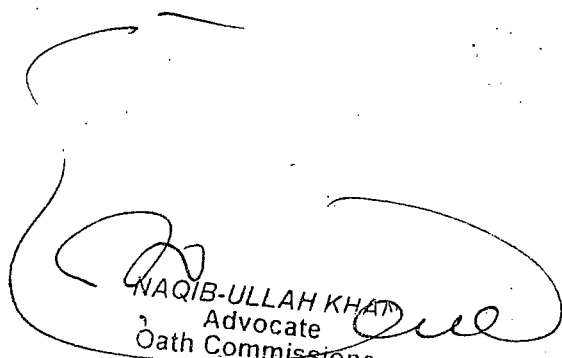

Respondent No.3
District Education Officer
(Male) Bannu

4

AFFIDAVIT

I Mr. Zahid Ullah Khan Litigation Officer of the office of District Education Officer (Male) Bannu do hereby solemnly declare on oath that all the contents of the para wise comments/Reply in response to service appeal No. 12927/2019 titled Gusmatullah VS Govt. of Khyber Pakhtunkhwa are true and correct to best of my knowledge and belief and that nothing has been kept concealed deliberately from this honorable tribunal.


Deponent


NAQIB-ULLAH KHAN
Advocate
Oath Commissioner
Distt: Court Bannu

5

AUTHORITY

I do here by authorized Zahid Ullah Khan Litigation Officer to submit the para wise comments before Honorable service tribunal Peshawar on the behalf of undersigned/respondent, in service appeal No. 12927/2021 titled as Dismat ullah vs Govt of KPK.

Zahid Ullah Khan
District Education Officer

1
Male (Bannu)

17/9/21

Appeal No. 191 /2012

Farhat Ullah, AT, Govt. High School Koti Sadat District Bannu

..... Appellant

Versus

1. Government of KPK through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary and Secondary Education Peshawar.
3. Executive District officer, District Bannu.
4. District co-ordination officer, District Bannu.
5. Departmental selection committee, Elementary and Secondary Education Peshawar.
6. Amir Sabir Shah S/O Amir Yousaf Shah, AT, Govt. High School Jan killa, Tehsil and District Bannu.
7. Asad Ullah Khan s/O Shams-ul-Islam, AT, Govt High School Bezin Khel, Tehsil and district Bannu.
8. Nisar Khan S/O Jehan Sardar, AT, Govt High School, Jan Killa, Tehsil and district Bannu.
9. Muhammad Umar S/O Sher Bahadar, AT, Govt High School Bhangi Khan Khojerri, Tehsil and district Bannu.

..... Respondents

Appeal under section 4 of KPK Service Tribunal Act, 1974 whereby the appellant who possessed high merit As compared to respondents No.6 to 9 as revealed from merit list at annexure 'F' was ignored from appointment on Arabic teacher post and respondents No. 6 to 9 were appointed vide annexure 'A' and the appellant was also deprived from seniority over them.

Respectfully Shewith:

The appellant respectfully submits as under:

1. That the respondent No.2 had advertised Arabic teacher Posts and other vide annexure 'B'.
2. That the appellant with the following qualification had applied for appointment on Arabic post.
 - a. MA Islamivat

(7)

No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	19.08.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO. 191/2012</p> <p style="text-align: center;">(Farhat Ullah-vs- Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:</u></p> <p style="text-align: center;">Counsel for the appellant (Mr. Aslam Khan Khattak, Advocate) and Mr. Usman Ghani, Senior GP for official respondents present.</p> <p>2. The following prayer has been made by the appellant in this appeal as:-</p> <p style="text-align: center;">“It is therefore, prayed that on acceptance of appeal, the official respondents may be directed to issue the appointment order of appellant on at post from 05.04.1999 with all back benefits and also he may be declared senior to respondents No.6 to 9 in the seniority list of Arabic Teachers to meet the ends of justice”.</p> <p>3. The facts narrated by learned counsel for the appellant were that some posts of the Arabic Teacher were advertized by the official respondents as a result whereof appellant and private respondents No.6 to 9 applied for the same. That in the merit list, the appellant scored higher</p>

position than the private respondents but objection was raised on testimonial of the appellant for which reason he was not appointed. That finally, proved to be an invalid objection. That private respondents were appointed in the year 1999 whereas the appellant was finally appointed in the year 2011 on the order of the Hon'able High Court and thus the appellant suffered financially as well as in seniority, hence this appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

4. Arguments heard and record perused.

5. A careful perusal of the record reveals that the appellant, to seek the relief, went before the learned Civil Court which round of litigation culminated into the judgment dated 02.11.2010 of the Hon'able High Court, D.I Khan Bench vide which the respondents were directed to appoint the petitioner against the vacant post. Consequently, the appellant was appointed vide order dated 24.02.2011. The above situation clearly shows that at the relevant time the appellant was not a Civil Servant therefore, his prayer on this count cannot be treated to be from a Civil Servant and competent. Since the appellant was not appointed in the year 1999, therefore, the question of his seniority would also not arise. The Tribunal is of the considered view that there is no merit in this appeal, the same is, therefore, dismissed. Parties are left to bear their own cost. File be consigned to the record room.

Announced *Sd/- P. Bakhtish Shah*
19.08.2016 *Member*

Sd/- M. Aamir Nazki
Member

Certified to be true copy
MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

1280
06-10-16
06-10-16
06-10-16

①

A. M. D.

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY
EDUCATION, BANNU

18

APPOINTMENT ORDER

In compliance of Honourable Supreme court of Pakistan Judgment Dated 28/5/2002 & Honourable Peshawar High Court Circuit bench at D.I. Khan, Judgment Dated 28/4/2004 & consequent upon the recommendation of the Departmental Requirement committee, & after obtaining proper age relaxation from the competent authority, the undersigned is pleased to appoint the following PTC Male denied candidates AIOU 1999 from the merit list in BPS-7 plus usual allowances as admissible under the existing rules/ policy in the schools noted against each candidates with effect from date of taking over charge in the best interest of public service subject to the terms/ conditions below.

S /No	Name	Father's Name	Address	Place of Posting	Remarks
1	Mehar Gul	Muhammad Sadiq	Nurar	GPS Amandi Ayub	V/Post
2	Faridullah Shah	Ghaffar Ali	Nurar	GPS Masoori Gul Badan	V/Post
3	Gul Daud Khan	Khan-Zaman	Nurar	GPS Rasool Zaman Mandew	V/Post
4	Abdur Rehman Shah	Gul Ahmad Shah	Zarger Mama Khel	GPS Hassan Khel Khagaki	V/Post
5	Sifatullah	Mir Sarwar Jan	Zarger Mama Khel	GPS Nawaz Zarger Mama Khel	V/Post
6	Shah Niaz Khan	Mumriz Khan	Zarger Mama Khel	GMPS Muhammad Shakoor Mandew	V/Post
7	Azmat Ali	Latif Khan	Mitta Khel	GPS Shahbaz Azmat Khel No.2	V/Post
8	Irfanullah	Abdul Ghafar	Mitta Khel	GPS Manak Khel Nazir Din	V/Post
9	Sheraz Ali	Muhammad Ayub	Laudidak	GPS Hayat Khan	V/Post
10	Faridullah	Amandullah	Laudidak	GPS Amiradad Khan Khawaja mad	V/Post
11	Qadir Khan	Qasim Khan	Laudidak	GPS Ismail Khel	V/Post
12	Qismatullah Khan	Mir Fawaz Khan Mir Farooq Khan	Kakki	GPS Ghora Baka Khel Syed Ali	V/Post
13	Sadiq Ali	Muhammad Rehman	Kakki	GPS Gumber Khass	V/Post
14	Mir Akhtar	Mir Afzal	Kakki	GPS Dodi Khel Domel	V/Post
15	Sarwar Ali Shah	Gul Jahan Shah	Shamsi Khel	GPS Latif Beghal Khel	V/Post
16	Tareq	Gul Nawaz	Jhandu Khel	GPS Jhandu Khel No.2	V/Post

The appointment order of Mr. Muhammad Farooq S/O Mir Afsar & Muhammad Aslam S/O Sher Ali (overage candidates) will be issued after obtaining relaxation in upper age limit from the competent authority with in a week time from the date of issuance of this appointment order.

TERMS & CONDITIONS

His/Their service will be considered regular but without pension & gratuity in term of Section-19 of NWFP, civil servant Act, 1973 as amended vide NWFP, civil servant (Amendment) Act, 2005. He will however be entitled to contributory provident Fund in such a manner and such rates may be prescribed by the Govt.

His/Their services will be liable to termination on one month's notice from either side, in case of resignation without notice their his two months pay/ allowances shall be forfeited to Govt.

The appointee should submit their charge report to all concerned.

His/Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct they will be proceeded against under the NWFP removal from service Special ordinance 2000 & the rules framed from time to time.

The candidates should join their post with in 15 days on or after issue of this order. The head of the institution concerned should furnish a certificate to the effect that the candidate has joined the post or

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CTC. Q

Charge should not be handed over if age of the candidate is below 18 years or above 35 years as per policy.

The appointees are directed to perform their/ his duties in their/ his respective school noted against their names for a minimum period of three years & they will not be transferred from school where appointed.

In case of fake certificates/ Degree or other any mistake detected later on the undersigned reserves the right of amendment in the appointment order accordingly. The appointment of the candidates mentioned above will be subject to the conditions that they are the domicile of Bannu.

They/He will produce Health & Fitness certificates from Medical Superintendent concerned before taking over charge.

No TADA, etc is allowed

جاوید کینیڈا
تاریخ پانچواں جون 2009ء

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY
EDUCATION, BANNU.

Dated Bannu the 18/04/2009

13043-55

1/AE-1/Pry (M) App: PTC/PST

Copy For information & necessary action to:-

- 1. To District Nazim Bannu
- 2. The District Coordination Officer Banpu
- 3. Director Schools & Literacy NWFP, Peshawar.
- 4. Dy. DO (M) with the remarks that their pay may not be drawn until & unless their testimonials are not verified from concerned Board/University.
- 5. District Account officer, Bannu.
- 6. Candidate concerned.
- 7. Regional Director Information Department, Bannu.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY
EDUCATION, BANNU

Executive District Officer
Elementary & Secy. Education
BANNU