

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)

SCANNED  
KPST  
Peshawar


27.06.2022

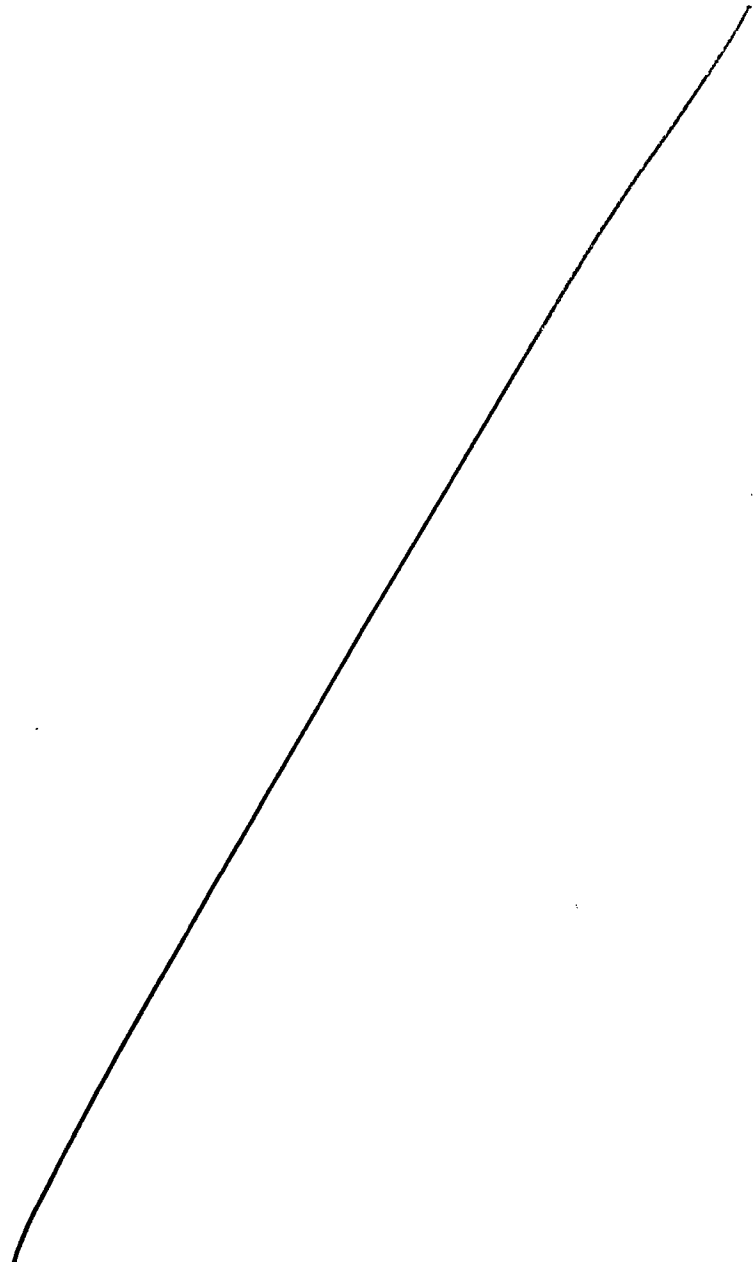
Appellant alongwith his counsel present.

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




06.10.2021

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 respondent 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)

قیمت 50 روپے	103552			
ایڈویٹ: محمد صاحب رضی قاضی علی گڑھ		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل/ایسوسی ایشن نمبر: 1861/8008-B				
رابطہ نمبر: 0336-9137780				

بعدالت جناب: \_\_\_\_\_  
 سید محمد رفیق

منجانب: محمد طارق خان ولد محمد طارق خان	دعویٰ: سید محمد رفیق
 صدر محکمہ عدلیہ و مندرجہ	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

**باعث تحریر آگہ**

محمد طارق خان ولد محمد طارق خان سید محمد رفیق لٹری ڈرگن حملہ کیلئے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام لکھنؤ کے محمد صاحب رضی قاضی علی گڑھ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل گرائی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار و قانونی اوائلیے ہمراہ ہائے بجا بنائے لکھنے کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیار است حاصل ہوں گے اور ان کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دودہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: \_\_\_\_\_

\_\_\_\_\_ مقام \_\_\_\_\_

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

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

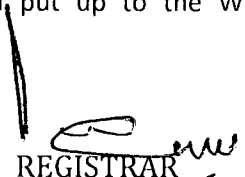



10/6/21

  
Chairman

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 12928 /2020 90


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-	30.11.2020	<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> <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;"> <b>Reader</b></p>

(3)

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

No. 3019 /S.T,

Dt. 21/10 /2020

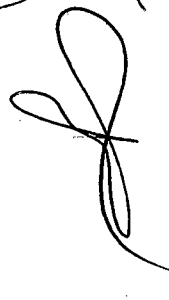
  
Registrar  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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

Respected Sir

After renewal of

of the obtained case is returned  
are 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. Ahmad Jan PST Teacher Madaghrab Landidak 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 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. 2855 /S.T.

Dt. 06/10 /2020.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

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

After Renewal of objection  
Case is submitted  
one again flagged, attempt  
they CTC sign by  
Counsel while admit of Rs 5 to 7  
are included in memo of  
address of power, while Bench  
Bench Judgment is ready and F  
when score judgment is done.  
So send an record

(b)

16/10/20

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

Service Appeal No. 12928/2020.

Mir Ahmad Jan

...(Appellant)

Versus.

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

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Dated: 30/9/2020

Appellant

میر احمد جان  
Mir Ahmad Jan

Through,

Masood Ur Rehman Wazir  
Advocate, High Court, Bannu

①

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

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No. 12927 /2020.

Diary No. 11076  
Dated 06/10/2020

Mir Ahmad Jan S/O Janan PST Teacher posted at Madaghrab Landidak  
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 27/05/2019  
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.

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

Filed to-day

Registrar  
06/10/2020

Resubmitted to -day  
and filed.

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 27/05/2019 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)

**GROUNDS:**

- 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

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 27/05/2019 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: 20/9/20

Appellant

میر احمد جان  
Mir Ahmad Jan

Through,

Masood Ur Rehman Wazir  
Advocate, High Court, Bannu

5

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

Service Appeal No. \_\_\_\_\_/2020.

Mir Ahmad Jan

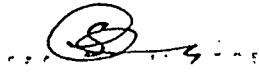
...(Appellant)

Versus.

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

**Affidavit**

I Mir Ahmad Jan S/O Janan PST Teacher posted at Madaghrab Landidak  
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.





Deponent

Mir Ahmad Jan

1-10-2020



6

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

Service Appeal No. \_\_\_\_\_/2020.

**Memo of addresses.**

Mir Ahmad Jan S/O Janan PST Teacher posted at Madaghrab Landidak  
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

میر احمد جان  
Appellant

Mir Ahmad Jan

Through,

Masood Ur Rehman Wazir  
Advocate, High Court, Bannu





Better Copy  
8  
etc  
A

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.

Annex B (8)

**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 (Shaukat Iqbal + others) by S. Zafer Abbas Zaidi Advocate

Respondents (Govt. of NWFP through Secretary Primary Education + others) by Mr. Muhammad Shauq Chaudhry, P.A. of Mr. Farid Nawaz Khan E.D.O. Bannu

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.

*[Handwritten mark]*

EXAMINOR  
Peshawar High Court  
3/11/04

C.T.C  
48

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9

C.T.C  
A

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.

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 28.5.2002 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 17.8.2000. 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 imbaro 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

EXAMINOR  
 High Court  
 Peshawar  
 31/11/12

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CTC  
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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.

4. We have heard learned counsel for the petitioners and learned Deputy Advocate General who is appearing along with Mr. Farid Nawaz EDO 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 P.T.C. Teacher 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 P.T.C. Teachers shall compete on open merit.

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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 approach the High Court or the

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EXAMINER  
Peshawar High Court  
31/11/12

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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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EXAMINER  
High Court  
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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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3. 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

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\*Qasem\*

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2004

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سرکار کے سرپرست

بعدالت جناب سیکرٹری سول جج بنوں 12/12/2017  
میراھدجان ولد جنان سنگھ لکی خاص بنوں - مدعی

3204  
17

بنام

- 1- صوبائی حکومت KPX سیکرٹری تعلیم بزرگ ایجنڈہ گورنمنٹ ہائیڈرو پاور
- 2- ڈسٹرکٹ ایجوکیشن آفیسر بنوں - مدعا علیہ

"الف" دعویٰ برادر ہمدرد ڈگری بوس میں مضمون تم عدالت عالیہ اور عدالت عظمیٰ نے 25% مضمون کو متاثرہ 1999ء فقرہ لیا ہے جسکی رو سے مدعی مضمون کو نہ سے دوسرا ایڈورٹن کی طرح لکھائی بلکہ PTE پوسٹ 1999 لکھائی کا مقدار ہے کیونکہ مدعی نے 1999ء میں PTE پوسٹ سیدہ زینر رو دیا ہے اور 2004 سے سیکرٹری میں 2015 تک مدعا علیہ نے جو ایڈورٹن متاثرہ جہتی لکھے ہیں ان سے ان کا تعلق اور سبب زیادہ ہے بوس و ضم PTE پر لکھائی کا بہتر ہے رکھتا ہے جسے مدعا علیہ نے لکھا متاثرہ 99 ضلوف احکامات عدالت عالیہ و عظمیٰ ہے اور ایسے ایڈورٹن لکھی میں جہتی لکھے ہیں متاثرہ مذکورہ لکھا میں نام درج نہ ہے بوس و ضم لکھا متاثرہ صدر دفتر دروز و مضمون ہے بوس و ضم مدعا علیہ کو حکم دیا جاو کہ وہ مدعی کا توڑ نام PTE لکھنا ہے جاری کرے اسے فالقن ادا کرے قانون ادا کرے

ANNEQ AT MIND  
Judicial Magistrate-1,  
Bannu  
Act 25/13

"ب" دعویٰ برادر ہمدرد ڈگری حکم امتناعی ماری و والی تاملیری بوس مضمون کے مدعا علیہ کو بائیں نام سے کہ وہ مدعی کا توڑ نام PTE لکھنا ہے جاری کرے اسے فالقن ادا کرے قانون ادا کرے احکامات عدالت عالیہ و عظمیٰ کی ہے مدعی سے علیحدگی

"ب"  
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Government Agency  
Bannu  
9.11.10

جناب عالی :- دعویٰ مدعی ذیل ہے

1- یہ سائل اصل لکھنا ہے PTE کورس پاس کردہ ہے

اور مدعا علیحہ کو رجسٹر 1999 میں لکھنیا دائر کر لیا گیا ہے اور اس کے تحت رجسٹریشن کی ہے

۲۔ یہ کہ بعد میں مدعا علیحہ نے عدلیہ اقبال اور نئی یونیورسٹی کی سرنگھیا سے رجوع سے اس کے خلاف مندرجہ عدلیہ کے مختلف مقدمات دائر کیے اور 2004 میں 5/5 کوٹہ آرڈر لکھنیا میں دیا (رجسٹر نیٹے نوٹے)

۳۔ یہ کہ 2004 میں ستمبر 5 تا 2005 تک جب بھی آسامیاں خالی ہو گئی ہیں تو متاثرہ امیدواران کو مدعا علیحہ نے رجسٹر کر رکھا ہے جن میں آسامیاں کی مدعی سے کم مہرک اور اس کے لئے ہے جس میں مدعی نے مدعا علیحہ کو درخواستیں دی ہیں اور انہوں نے خالی آسامیوں کا نام ہونا بیان کر کے رجسٹر کر کے ہے جبکہ مدعی نے کوٹہ میں مدعی سے کم مہرک اور امیدواران

۴۔ یہ کہ مدعا علیحہ نے سنا سے ایما و ہر دائرہ اختیار سے تجاوز کر کے اخصایات عدالت عالیہ و عظمیٰ ایک ضلع قانون لکھنیا کیا ہے جس میں انہوں نے اپنے اپنے افراد کو علیحدہ علیحدہ لکھنیا کر کے ہے اور اس کے لئے مدعی نے ضیق سے بھر پور کا دعویٰ کر کے اور مدعا علیحہ کو ہر ایک کے مدعی کا توڑنا شروع کر کے ہے اور اس کے لئے خرافات بڑے قانون اور اس کے

APRIL 11, 2009  
Judicial Magistrate-1,  
Bannu

۵۔ یہ کہ مدعا علیحہ نے بعض ایسے امیدواران کو لکھنیا کر کے ہے جو لکھنیا میں رجسٹریشن کرتے تھے مہرک والوں کو سہید نظر انداز کر کے ہے جن پر عدالت درخواستوں میں بنا علیحدہ علیحدہ مقدمات دائر کیے گئے تھے جن میں مدعی عدالت انتخاب سے اپنے حقوق کا نفاذ چاہتا ہے

۶۔ یہ کہ متاثرہ مدعیوں کو 18/2/05 کو کم مہرک سکور کے امیدواران کے اور مدعی کو سزا سنائی گئی ہے (محقق) جن کا منسلک ہوا ہے جس کا منسلک منسلک انکشاف ہے (رجسٹر) منسلک ہوا ہے جس میں مدعا علیحہ نے رجسٹر کر کے ہے اور اس کے لئے خرافات بڑے قانون اور اس کے

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لکھنیا اس کے لئے ہے کہ وہ کسی بھی مدعی پر ضلع  
مدعا علیحہ کے لئے ہے کہ وہ کسی بھی مدعی پر ضلع

مدعا علیحہ کے لئے ہے کہ وہ کسی بھی مدعی پر ضلع

لکھنیا اس کے لئے ہے کہ وہ کسی بھی مدعی پر ضلع  
مدعا علیحہ کے لئے ہے کہ وہ کسی بھی مدعی پر ضلع

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IN THE COURT OF MRS. KIRAN SHAUKAT  
CIVIL JUDGE-III, BANNU

SUIT NO.655/1

3204  
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Date of institution : 28-04-2015  
31-10-2017

Date of decision : 12-12-2017

Mir Ahmad Jan S/o Janan  
R/O Kakki Khass, District Bannu.

..... Plaintiff

.. VS ..

1. Provincial government Khyber Pakhtoonkhwa Secretary Education through Agent Government pleader, Bannu.
2. District Education Officer Male, Bannu.

..... Defendants

SUIT FOR DECLARATION, PERMANENT & MANDATORY  
INJUNCTION

JUDGMENT  
12-12-2017

*Kiran*  
12.12.17

1. The instant suit filed by the plaintiff for declaration and permanent injunction. He contended that as per direction of Apex court 25% quota has been reserved for the effectees of Allama Iqbal Open University. That he is entitled to be appointed on said quota. He also contend that in the year 1999 he applied for PTC post advertised by defendants and participated in the test and interview. But he was denied by defendants and they appointed persons on 25% quota who are below in the merits from plaintiff 2004-10-2015. He requested the

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defendants that in the light of judgments of the superior court he is also entitled to be appointed as PTC teacher but they refused hence the instant suit.

2. The defendants were summoned, who appeared and contested the case by filing a written statement wherein they have raised a number of legal as well as factual objections. Divergent pleadings of the parties were reduced into following issues:

ISSUES:

1. Whether plaintiff has got cause of action?
2. Whether the present suit was filed within time?
3. Whether the name of the plaintiff was discriminatedly not included in the denied list of 1999 prepared by the Education department for the affectees of AIOU, Islamabad?
4. Whether the defendants have appointed the candidates whose names were not included in the 25% quota of the affectees of 1999 of AIOU, Islamabad.
5. Whether plaintiff is entitled to the decree, as prayed for?  
Relief.

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3. After framing of the issues, parties were given a fair chance to adduce evidence of their choice, which they availed. I have also heard arguments and gone through the available record. My issue wise findings are as follows:

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ISSUES NO. 03 & 04:

4. These issues are interconnected therefore taken up together for discussion together. Onus of all these issues was on the plaintiff. The main contention of the plaintiff is that as per the judgments of august Peshawar High Court Peshawar and Supreme Court of Pakistan he also falls in the category of denied candidates and he is entitled for appointment on the basis of 25% quota reserve for denied candidates. Plaintiff has claimed that he is being denied appointment despite the fact that many persons whose merit is below then him are already appointed on 25% quota and he has been deprived from his due right.
5. Mr. Ashraf Khan senior clerk education department Bannu appeared as PW-1 and produced the record ExpW-1/1 to ExpW-1/4 respectively. The plaintiff appeared as PW-2 and reiterates his stance as put forth in his plaint. He has produced his academic documents as ExpW-2/1. He added that candidates with less score have been appointed by defendants. He further stated that instead of preparing a list of actual affectees defendants have prepared the list of their blue eyed candidates and have even appointed those candidates who neither appeared in the test nor in interview.
6. While on the other hand defendants denied the stance of plaintiff and stated through representative as DW-1 that name of plaintiff is not available/ included in the list of effectees. Because he is not effectee

*Ashraf*  
12.12.17

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of that order and his score is also less than the others who have been appointed.

7. During cross DW-1 admitted that names of many candidates were not included in effectees list but have been appointed by them as per court decrees.
8. Further admitted that in the light of policy ExDW-1/4 the appointments were session wise. Further stated that plaintiff session is 1995 and he is at S.No. 76 of interview list ExpW-1/2 having score 40-18. He admitted that candidates at S. No. 34 to 47 belongs to U/C Kakki and their merit is less than plaintiff and they have been appointed by them.
9. So needles to mention here that the cross examination of DW-1 speaks volume in itself which solidify the contention/ case of the plaintiff and transpires that/ plaintiff have been denied appointed without any solid ground and was discriminated against. Hence all these issues are decided in positive.

ISSUE NO.02:

10. The instant suit is for declaration and perpetual mandatory injunction. As per the article 120 of Limitation Act 1908 period of limitation for declaratory suit is six years from the date of accrual of cause of action. As per Para No-5 the cause of action accrued to the plaintiff 18-02-2015 prior to the institution of the suit upon out right refusal by the defendants to appoint the plaintiff, therefore the suit is filed well within time. Issue decided in affirmative.

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12.12.17

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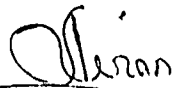
ISSUES NO. 01 & 05:

11. In view of the discussion above and the evidence produced by the parties the plaintiff is entitled to relief that he be considered for the post of PTC on the basis of 25% quota reserved for the candidates for effectees of Allama Iqbal Open University subject to availability of seats and eligibility/ suitability on merit of the plaintiff for the post without effecting the rights of the third party. Both these issued are decided in positive.

RELIEF:


As sequel to my above mentioned finding plaintiff has proved his case hence, he is entitled to the decree as prayed for without effecting right of the third party. Parties are however, left to bear their own cost.

Announced:  
12-12-2017

  
Mrs. Kiran Shaukat  
Civil Judge-III Bannu

CERTIFICATE

Certified that this judgment consist of (05) pages. Every page has been checked and signed by me after making necessary correction.

  
Mrs. Kiran Shaukat  
Civil Judge-III, Bannu

- 1- Registration No. 15PT
- 2- Date of Presentation of Application 15-12-17
- 3- Date of Receipt of the Petition 9-1-18
- 4- Date of Presentation of Affidavit 9-1-18
- 5- Date of Filing of Affidavit 9-1-18
- 6- Name of copyholder
- 7- Ordinary Fee 9/1/18
- 8- Stamp Fee
- 9- Process Fee 5
- 10- Signatures 10/1/18

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Lower Court Bannu  
9/1/18

لیدالت عالیہ کراچی شریف سول جج صاحب ایڈیشن

پرچہ 1 / 655 ر. 3، 31-10-17 (ایسی) 12-12-17

میر احمد جان ولد جناب سکھ لکی خاص بنوں - مدعی

3204  
17

بنام

- 1- صوبائی حکومت KPK سیکرٹری تعلیم بزرگم ایجنڈ گورنمنٹ ایڈریژن
- 2- ڈسٹرکٹ ایجوکیشن آفیسر بنوں - مدعا علیہ

"الف" دعویٰ میر احمد جان کے خلاف عدالت عالیہ کراچی میں مقدمہ نمبر 25/1999ء فیصلہ شدہ ہے۔  
 مدعی نے 25% حصوں کو متاثرہ 1999ء فیصلہ کے تحت لیا ہے جبکہ مدعی نے  
 75% حصوں کو نہ لیا ہے۔ اس کے باوجود اس کی طرح لفظی طور پر PTE  
 1999ء فیصلہ کے مطابق اسے لیا گیا ہے۔ یہ فیصلہ مدعی نے 1999ء میں  
 PTE 1999ء فیصلہ کے خلاف لیا ہے اور اسے 2004ء سے سیکرٹری تعلیم  
 2015ء تک مدعا علیہ نے جو اس دوران متاثرہ جبری لیا ہے  
 ان سے ان کا منہ لیا اور اسے زیادہ ہے۔ مدعی نے PTE  
 فیصلہ کے خلاف عدالت عالیہ کراچی میں مقدمہ نمبر 99/2015ء  
 میں جبری لیا ہے۔ اس کا منہ لیا ہے اور اسے اس دوران لیا  
 ہے۔ مدعی نے اسے زیادہ لیا ہے اور اسے زیادہ لیا ہے۔  
 مدعی نے اسے لیا ہے اور اسے لیا ہے۔ مدعی نے اسے لیا ہے اور اسے لیا ہے۔  
 اسے لیا ہے اور اسے لیا ہے۔ اسے لیا ہے اور اسے لیا ہے۔  
 اسے لیا ہے اور اسے لیا ہے۔ اسے لیا ہے اور اسے لیا ہے۔

ANNE QLI AFRIDI  
 Judicial Magistrate-1,  
 Bannu  
 Act 25/1999

"ب" دعویٰ میر احمد جان کے خلاف عدالت عالیہ کراچی میں مقدمہ نمبر 25/1999ء فیصلہ شدہ ہے۔  
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 1999ء فیصلہ کے مطابق اسے لیا گیا ہے۔ یہ فیصلہ مدعی نے 1999ء میں  
 PTE 1999ء فیصلہ کے خلاف لیا ہے اور اسے 2004ء سے سیکرٹری تعلیم  
 2015ء تک مدعا علیہ نے جو اس دوران متاثرہ جبری لیا ہے  
 ان سے ان کا منہ لیا اور اسے زیادہ ہے۔ مدعی نے PTE  
 فیصلہ کے خلاف عدالت عالیہ کراچی میں مقدمہ نمبر 99/2015ء  
 میں جبری لیا ہے۔ اس کا منہ لیا ہے اور اسے اس دوران لیا  
 ہے۔ مدعی نے اسے زیادہ لیا ہے اور اسے زیادہ لیا ہے۔  
 مدعی نے اسے لیا ہے اور اسے لیا ہے۔ مدعی نے اسے لیا ہے اور اسے لیا ہے۔  
 اسے لیا ہے اور اسے لیا ہے۔ اسے لیا ہے اور اسے لیا ہے۔

Akran  
 Civil Judge-III, Bannu

ATTESTED) - - دعویٰ مدعی ذیل ہے

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 Lower Court Bannu  
 9-1-17

1- یہ سائل اعلیٰ لکھی گئی ہے PTE کورس پاس کر رہے

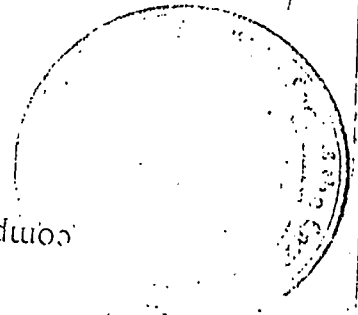
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ATTESTED

Alman  
CIVIL JUDGE (S) BANGALURU



Parties present as before.  
Arguments heard and file perused.  
Vide judgment of today consisting of five (05) pages placed on file. plaintiff has proved his case hence, entitled to the decree as prayed for without effecting right of the third party. Parties are however, left to bear their own cost.  
Case file be consigned to the record room after its completion.

OS 26  
29-12-2017

Shri Bannu  
herby authorized to  
in case file

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BANNU

Outside Miryan Gate Bannu, Khyber Pakhtunkhwa, Pakistan

Email: bannuedu@yahoo.com

Phone: & Fax: 0928-660005

Annex D

CIG

APPOINTMENT ORDER.

In light of minutes of the meeting held on 24/05/2019 in connection with implementation of the judgment of Learned Additional District Judge on 06-06-2018 and in response to execution proceedings initiated in the subject case in the learned court of civil judge NOIV Bannu dated 20-06-2019 and the revision petition pending before the Additional Registrar Bannu Bench till to date therefore the degree holder is conditionally appointed against the post of PST BPS-12 subject to final disposal of the pending Civil Revision before the PII Bannu Bench with terms and conditions given below.

S.NO	Name & Father's Name	Union Council	Placel of Posting	BPS	Remarks
1.	Mir Ahmad Jan S/O Janan	Kakki	GPS Madaghrab Landidak	12	AA Post

Terms & Conditions:

1. The appointment order is clearly on conditional basis subject to final disposal of Civil Revision.
2. If inquiry committee passed any adverse remarks against the eligibility or the instant appointment order then the recommendations so framed will get finality if constituted by the Govt vide this office request issued under Letter NO. 6803 Dated 27-05-2019.
3. His services will be liable to termination on one month's notice from either side, in case of resignation with out notice his one month's pay & allowances shall be forfeited in favour of Govt.
4. His services can be terminated at any time; in case his performance is found unsatisfactory during probationary period. In case of misconduct he will be proceeded under E&D Rules 2011 & the rules framed from time to time.
5. Charge should not be handed over if age of the candidate is below 18 years or above 35 years as per new Govt Policy.
6. In case of any fake document certificates, Domicile, NIC or any other mistake in the said appointment order detected later on, the undersigned reserves the right of amendment in the appointment order accordingly.
7. In case the candidate has provided fake/fabricated documents information then his order will be with drawn from the date of issue, he will have to deposit all the salaries in favor of Govt.
8. His degrees/certificates and testimonials will be verified *by this office*, however if verification charges are involved then the appointee concerned will bear himself.
9. He will produce Health & Fitness certificates from Medical Superintendent DHQ Hospital Bannu before taking over charge.
10. In case the High court justify the appointment order then seniority will be reckoned from the date of appointment.
11. The Drawing & Disbursing Officer concerned should check his original documents before taking over charge and also pay the monthly salary to original person/ concerned Govt Servant each month otherwise he will be responsible for any wrong drawl.
12. If the above terms and conditions are accepted to him then he should join the post and submit their charge report within 15 days positively.
13. NO TA/DA is admissible.

--sd/--

District Education Officer  
(Male) Bannu

Dated: Banru the, 27 / 05 / 2019

Endst. No: 6952-59

Copy for information to the:

1. Director, Elementary & Secondary Education KPK Peshawar.
2. Registrar Peshawar High Court Bannu Bench
3. Civil Judge NO.IV /Execution Court Bannu.
4. Deputy Commissioner Bannu.
5. District Accounts Officer, Bannu.
6. SD/O(M) Bannu with the remarks that his pay shall be released by the undersigned after due course of procedure.
7. Medical Superintehdent DHQ Hospital Bannu.
8. Official Concerned.
9. Office copy

District Education Officer  
(Male) Bannu

Amer E (22)



BEFORE THE PESHAWAR HIGH COURT BANNU BENCH

Writ Petition No. 242-B/2014  
with 92

- 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.

Filed Today  
Additional Registrar  
29-5-14

**ATTESTED**  
EXAMINER  
Peshawar High Court  
Bannu Bench



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2

- 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  
17-5-04

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 High Court  
Bannu Bench

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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 Shahi Adv.

Respondent Country and others By Qudusullah

Jehan Gandomi Adv. A/c of Farzand Ali Supdt.

**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**

EXAMINER  
Peshawar High Court  
Bannu Bench

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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

ATTESTED

EX. JUDGE

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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Peshawar

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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  
EXAMINER  
Peshawar H  
Banc

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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**

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

14/10  
222

Azmat Awan

29

Anna F

بخدمت جناب سیکرٹری ایجوکیشن خیبر پختونخواہ پشاور

عنوان: اپیل / بمراد سیناری

جناب عالی!

گزارش ہے کہ سائل نے 1995 میں PTC کورس علامہ اقبال اوپن یونیورسٹی اسلام آباد سے پاس کیا ہے اور بی 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 بینچ اور سپریم

کورٹ آف پاکستان نے سائل کے تعیناتی کے حق میں فیصلے کیے۔ آخر کار DEO بنوں نے 27/05/2019 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، ناانصافی اور رولز ریگولیشن کے خلاف سلوک کر کے مورخہ 27/05/2019 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 03/03/1976 ہے۔ سائل کی عمر تقریباً 43 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

صبر احمد خان، سیکرٹری  
سائل میر احمد جان PST جی پی ایس مد اعراب لنڈیڈاک تحصیل و ضلع بنوں

موبائل نمبر: 0332-9768291



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of sender

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9-6

بذات  
مورثہ  
مقدمہ  
جرم  
تھانہ

KPK  
صاحب  
سرس ٹریسٹ  
سید احمد رضا

بذات  
مورثہ  
مقدمہ  
جرم  
تھانہ

سرس ٹریسٹ  
باعت تحریر آنکھ

سرس ٹریسٹ

مقدمہ مندرجہ بالا بعنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ ان مقام ~~کے~~ کیلئے  
مسعود الرحمن صاحب ٹریسٹ ہوں مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی  
کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ تقررت ثالثہ فیصلہ پر حلف دینے جو ابذہی 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 ایک 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  
پر پرداختہ بھی منظور قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہر باندہ 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، علالت وغیرہ  
کی وجہ سے عارضی یا مستقبل پیروی مقدمہ نہ کر سکیں تو بھی وکیل صاحب یا اس کے لواحقین کو بقایا فیس (اگر کوئی ہے) ادا  
کرنے کا پابند ہوگا اور ادا شدہ فیس کی واپسی کا تقاضا کرنے کا حق نہیں ہوگا۔ منہ وکالت نامہ سن اور تہہ کروکالت  
نامہ لکھنا یا تاکہ سند رہے۔

سرس ٹریسٹ

العبد

۲۰۲۶ء

العبد

30 ماہ ستمبر

گواہ شدہ

المرقوم

العبد

سید احمد رضا

سید احمد رضا

(127)

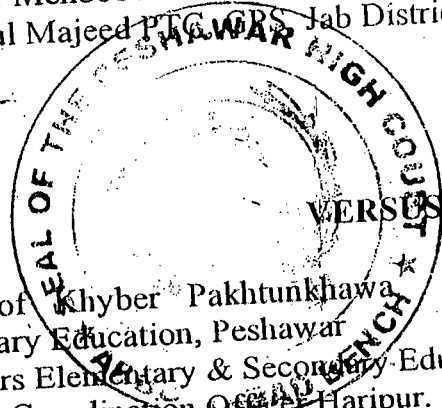
*(Signature)*

**BEFORE THE PESHAWAR HIGH COURT,**  
**ABBOTTABAD BENCH**

W. P No. 543-A/2012

1. Babar Ellahi, PTC, GPS Noor Pur, District Haripur.
2. Arif Mehmood PTC, GPS, Chitti Dhaki District Haripur.
3. Tahir Mehboob PTC, GPS, Khanpur District Haripur.
4. Abdul Majeed PTC, GPS, Jab District Haripur.

...PETITIONER S



1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar
2. Directors Elementary & Secondary Education Peshawar.
3. District Coordination Officer Haripur.
4. Executive District Officer, Elementary & Secondary Education Haripur.
5. Deputy District Officer, Elementary Education, Haripur.

...RESPONDENTS

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

Respectfully Sheweth: -

FILED TODAY

The brief facts leading to the present writ petition are as under;

1. That prior here to petitioners filed writ petition No. 205/2011, for declaration that verification of their service and fixation in their service books may kindly be considered from the year 2000 instead of

*g. allah*  
Additional Registrar  
Peshawar High Court  
Abbottabad Bench  
6-7-2012

2301  
No 6/7/12

Certified to be True Copy

Examiner  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Section 75 Acts Ordms.

*(Signature)*  
ATC

28/04/2003. Attested copy of writ petition alongwith all the relevant annexures are annexed as Annexure "A" to "G".

2. That on 29/03/2011, Honourable Court directed the respondents to verify their service books according to law. Attested copy of order dated 29/03/2012 in writ petitioner No. 205/2011 is attached as Annexure "H".
3. That on 15/05/2012, respondent No. 4, issued order vide Endst No. 5427-35 and ordered that the service of the petitioner may be treated from 10/04/2000. Copy of order/ letter dated 15/05/2012 is annexed as Annexure "I".
4. That in the letter/ order dated 15/05/2012, it was mentioned in note two that there service should be fixed from 10/04/2000 instead of 28/04/2003 on presumptive basis and in Para No. 1 of note it was mentioned they are not entitled for arrears prior to be 28/04/2003, due to reason that they have not performed their duties from 10/04/2000 to 28/04/2003.
5. That this fact was ignored by the respondents that petitioners were dragged into litigation by the respondents from 2000 uptill now and petitioners were

TODAY

*G.ullah*  
 Additional Registrar  
 Peshwar High Court  
 Abbottabad Bench  
 6-7-20h

Certified to be True Copy  
 26.6.13  
 Registrar  
 Peshwar High Court  
 Abbottabad Bench  
 (Amendment Under Section 25 Acts Ordinance)

*R. Khan*  
*Att. Secy*

entitled for their service from the year 2000 but due to the fault of respondents they were inducted into the service from the year 2003.

6. That the respondents moved an application before respondents that they are entitled for their salary/arrear from 10/04/2000 to 28/04/2003 but respondent heald no attention towards the grievance of the petitioners. Copy of application is attached as Annexure "J".
7. That service books of the petitioners were verified and fixed from the year 2000. Copies of extracts of service book are attached as Annexure "K".
8. That feeling aggrieved of the above, the petitioner has come this Honourable Court with the instant petition, inter-alia, on the following grounds:-

### GROUNDS

- a. That the impugned act of respondents is illegal, unlawful, without lawful authority, arbitrary, perverse and is against the principle of natural justice and of no legal effect on the rights of petitioner.

TODAY

*K. Gulab*  
Additional Registrar  
Peshawar High Court  
Abdullah Bench

6-7-2014  
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266.13  
Peshawar High Court  
Abdullah Bench  
Government of Punjab, Sec. 25 Act 1950 Ord. 193

*P. Ahmad*  
AHC

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b. That, it is against the natural justice that the petitioners were constrained to fall into a long ordeal of litigation for their rights since 1998 and after all petitioners were succeeded on 14/06/2007 and once again petitioners were aggrieved by the act of the respondents for non verifying of their services from the Year 2000, and petitioners were again dragged into the litigation and after that an order was issued in favour of the petitioners on 15/05/2012 on the basis of order of this Honourable Court and in the order dated 15/05/2012 another un-logical para mentioned that they are not entitled for their salary since 10/04/2000 to 28/04/2003 and according to para No. 2 their salary may be fixed since 10/04/2000 instead of 28/04/2003. That the para No.1 is totally contradictory.

c. That the respondents ignored the fact that petitioners were fully entitled for the service since 2000 but their wrong discriminatory action petitioners were deprived from their legal right and they could not be in service since the year 2000.

TODAY

*K. J. Allal*  
 Additional Registrar  
 Peshawar High Court  
 Abbottabad Bench  
 6-7-2013

*Att*

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 26.6.13  
 Additional Registrar  
 Peshawar High Court  
 Abbottabad Bench

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d. That by the act of respondents, petitioners were not in service from the year 2000 to 2003 but according to the order dated 15/05/2012 if their salary was fixed from 10/04/2000 instead of from 28/04/2003 so they are fully entitled for their arrears/salary and they could be deprived from their legal right.

e. That act of respondents is against the vires of Constitution of Islamic Republic of Pakistan and petitioners are fully entitled for their back salary and the para No. 4 in the Note of the order dated 15/05/2012 is totally against the law, illegal, without jurisdiction and without lawful authority and is against the natural justice.

f. That the act of respondents is based on malafide and discriminatory towards the petitioners.

g. There is no speedy, adequate and efficacious remedy available to the petitioners, except the instant writ petition.

h. That court fee stamp paper worth Rs. 500/- is attached.

FILED TODAY

*K. H. W. J. J.*  
Additional Registrar  
Peshawar High Court  
Abbottabad Bench

6-7-2013

Certified to be true copy  
26-6-13  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Sec 275 Act 1973

*A. H. J.*

132

i. That addresses of the parties given in the heading is correct.

j. That the other points shall be urged at the time of arguments.

It is, therefore, humbly prayed that on acceptance of instant writ petition the act of respondents for non payment of their arrears/ salary from the year 2000 to 2003 may kindly be declared illegal, unlawful, without lawful authority, malafide, against the natural justice, capricious, corum non iudice, and respondents be kindly directed to release the salary /arrears of the petitioners from the year 10/04/2000 to 28/04/2003 with immediate effect. Any other relief deemed fit and proper in the circumstances of the case.

**INTERIM RELIEF:**

It is further prayed that to the extent of para No.1 of Note in order dated 15/05/2012 may kindly be suspended and salary /arrears of the petitioners from 10/04/2000 to 28/04/2003 may kindly be released forthwith.

Dated \_\_\_\_\_/2012

Through

.....PETITIONERS  
*[Signature]*  
(RAHEELA MUGHAL)  
Advocate High court Abbottabad

**VERIFICATION:**

*Verified that the contents of foregoing writ petition are true and correct to the best of my knowledge and belief and that nothing material has been concealed therein.*

FILED TODAY

*[Signature]*  
Additional Registrar  
Peshawar High Court  
Abbottabad Bench  
6-7-2012

2012 JUL 6 13  
Abbottabad Bench  
Regd. Under Sec 74 of 1973 Act

...PETITIONERS

*[Signature]*  
*[Signature]*



133

A JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT,  
ABBOTTABAD BENCH.

JUDICIAL DEPARTMENT

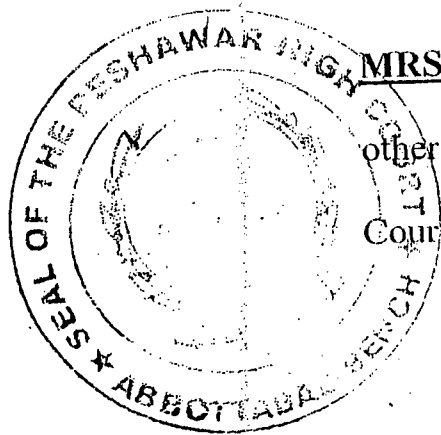
W.P No. 543-A of 2012

JUDGMENT

Date of hearing 13-06-2013.

Appellant(s)/Petitioner (s) Babar Elahi and 3 others by Mrs. Rabeela original Advocate

Respondent (s) Govt. S.P.H Etc by A.A. Khan Nani Khan Sidi



MRS. IRSHAD QAISER, J:- Babar Elahi and three other petitioners seek the Constitutional jurisdiction of this Court praying that;

“The act of respondents for nonpayment of their arrears/salary from the year 2000 to 2003 may kindly be declared illegal, unlawful, without lawful authority, malafide, against the natural justice, capricious, corum non iudice, and respondents be kindly directed to release the salary/arrears of the petitioners form the year 10.04.2000 to 28.04.2003 with immediate effect.”

2. As per contents of the petition, petitioners filed writ petition No.205/2011 for declaration to verify the service of the petitioners with effect from 10.04.2000 to 2003. That on 29.03.2011, this Court directed the respondents to verify their service books according to law. That on 15.05.2012 EDO (respondent No4) issued order vide Endst No.5427-35 dated 15.05.2012 vide which the

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26.6.13  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Sec 275, Act 16 of 1973


*[Handwritten signature]*  
8

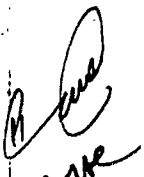
service/appointment of the petitioners were treated from 10.04.2000 on the ground that they are not entitled for arrear prior to 28.04.2003. That the petitioners were dragged into litigation by the respondents from year 2000 up till now and petitioners are entitled for their service from the year 2000 but due to their default the petitioners were inducted in to service from the year 2003. That service books of the petitioners were verified and fixed from the year 2000. Respondents have submitted their comments.

3. Arguments heard and record perused with the assistance of learned counsel for the parties.

4. In their comments the respondents have admitted the issuance of letter Endst. No.5427-35 dated 15.05.2012 and in response to para No.5 of writ petition they stated that in compliance with the judgment of this Court, the service of the petitioners were regularized with effect from 10.04.2000 except the salary due to the reason that they are not performing of duty during this period.

5. It appears from the record that on the basis of above letter the following entries were made in the service books of the petitioners "consequent" upon the judgment of the Peshawar High Court Abbottabad Bench dated 10.05.2011 issued vide Endst No.5427-35 dated 15.05.2012, the date of appointment is 10.04.2000 instead of 28.04.2003.

  
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 Peshawar High Court  
 Abbottabad Bench  
 Mujibuddin Khan, Secy to Bench

  
 MKR  
 9

(135)

6. Record shows that petitioners were constrained to fall in to long ordeal litigation for their right, since 1998 and after struggle, the respondents issued order dated 15.5.2012 on the basis of order of this Court. But that order is contradictory and confusing because in main order it is stated that their appointment be treated w.e.f 10.04.2000 while subsequently three paras in the shape of note were added. In para No.1 it is stated that they are not entitled for arrear prior to 28.04.2003 due to reason that they have not performed their duties w.e.f 10.04.2000 to 28.04.2003 while in Para No.2 it is mentioned that their salaries should be fixed w.e.f 10.04.2000 instead of 28.4.2003 on presumption basis.

7. If the date of appointment of petitioners are considered from 10.04.2010, their salary was also fixed from 10.04.2000 instead of from 28.04.2003, then they are fully entitled for their arrears/back salary and the act of respondents is against the viries of constitution. Thus, para No.1 of note of order dated 15.05.2012 is deleted being illegal, against the law and natural justice.

8. Keeping in view the circumstances stated hereinabove, the writ petition is admitted and allowed.

**Announced:**  
**13.06.2013**

SD. JUDGE

*[Handwritten signature]*

Certified to be true Copy  
26.6.13  
Presiding Bench  
Abbotabad Bench  
Witnessed Under Section 44 of the Act

"A"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

No.

PB

APPEAL No.....19927..... of 20 20

Mrs Ahmad Jan

Appellant/Petitioner

Versus

Progd

Govt. CF KPk through Secy Edu Peshawar  
RESPONDENT(S)

Notice to Appellant/Petitioner

Mrs Ahmad Jan s/o

Janan PST Teacher Posted at  
Madaghyab Landidate Tehsil & Distt. Bannu

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 24/2/2021 at 9: am.

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.



Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 12928/2020

Miss Ahmad Jan

APPELLANT

Versus

Govt of KPK and Others

RESPONDENTS

S. No	Description	Annexure	Pages
1	Comments		1-3
2	Affidavit		4
3	Authorities		5
4	Decision S. Appeal no 19/12	A	6-8
5	Appointment order	B	19-
6			
7			

*atish*  
Deponent

(1)

**BEFORE THE HONOURABLE SERVICE TRIBUNAL**  
**KPK PESHAWAR**

Service Appeal No. 12928/2020

Mir Ahmad jam Pst BPS 12 at GPS

Madeqshab Landidax Bannu

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 1<sup>st</sup> para of the appeal is relates to official record of Advertisement 14 the year 1999 the R.No.3, however, the appellant was not appointed in the year 1999 as PTC Teacher by the Deptt.

(2)

- 2- Incorrect: As per advertisement the terms and conditions vide No.16, in the order dated February 1999, 1<sup>st</sup> 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**

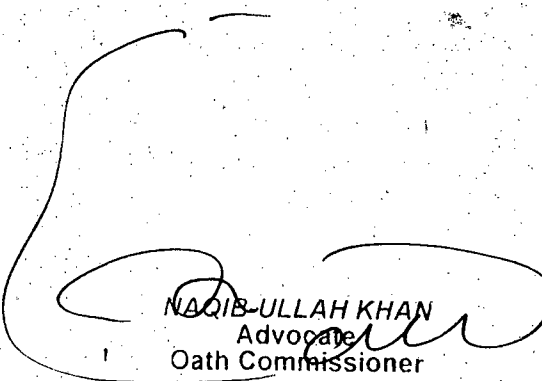


AFFIDAVIT

(4)

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. 12928 /2010 titled Mr Ahmad Jan 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.


*Zahid*  
Deponent

  
NAQIB-ULLAH KHAN  
Advocate  
Oath Commissioner  
Distt: Court Bannu

5

AUTHORITY

I do hereby 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. 12928/200 titled as Mis Ahmadjan vs Govt of KPK.

  
District Education Officer

Male (Bannu)

19/9/22

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, 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

No	Date of order proceeding s	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 &amp; 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 19.08.2016  
Edl-Pir Bakht Shah  
Member  
Edl-M. Aamir Noor,  
Member

Certified to be true copy  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

1200  
06-10-16  
06-10-16  
06-10-16

**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BANNU**

Outside Miryan Gate Bannu, Khyber Pakhtunkhwa, Pakistan

Email: bannuedu@yahoo.com

Phone: & Fax: 0922-660005

*Ahmad*

**APPOINTMENT ORDER**

In light of minutes of the meeting held on 24/03/2019 in connection with implementation of the judgment of Learned Additional District Judge on 06-06-2018 and in response to execution proceeding initiated in the subject case in the learned court of civil judge NOIV Bannu dated 20-06-2019 and the revision petition pending before the Additional Registrar Bannu Bench till to date therefore the decree holder is conditionally appointed against the post of PST BPS-12 subject to final disposal of the pending Civil Revision before the PHC Bannu Bench with terms and conditions given below.

S.NO	Name & Father's Name	Union Council	Place of Posting	BPS	Remarks
	Mir Ahmad Jan S/O Janan	Kakki	GPS Madaghrab Landidak	12	AV Post

**Terms & Conditions:**

1. The appointment order is clearly on conditional basis subject to final disposal of Civil Revision.
2. If inquiry committee passed any adverse remarks against the eligibility or the instant appointment order then the recommendations so framed will get finality if constituted by the Govt vide this office request issued under Extra NO, 6803 Dated 27-05-2019.
3. His services will be liable to termination on one month's notice from either side in case of resignation with 15 days notice; his one month's pay & allowances shall be forfeited in favour of Govt.
4. His services can be terminated at any time; in case his performance is found unsatisfactory during probationary period. In case of misconduct he will be proceeded under E&D Rules 2011 & the rules framed from time to time.
5. Charge should not be handed over if age of the candidate is below 18 years or above 35 years as per new Govt Policy.
6. In case of any fake document, certificates, Domicile, NIC or any other mistake in the said appointment order detected later on, the undersigned reserves the right of amendment in the appointment order accordingly.
7. In case the candidate has provided fake/fabricated documents information then his order will be withdrawn from the date of issue, he will have to deposit all the salaries in favor of Govt.
8. His degrees/certificates and testimonials will be verified *by this office*, however if verification charges are involved then the appointee concerned will bear himself.
9. He will produce Health & Fitness certificates from Medical Superintendent DHQ Hospital Bannu before taking over charge.
10. In case the High court justify the appointment order then seniority will be reckoned from the date of appointment.
11. The Drawing & Disbursing Officer concerned should check his original documents before taking over charge and also pay the monthly salary to original person/ concerned Govt. Servant each month otherwise he will be responsible for any wrong drawl.
12. If the above terms and conditions are accepted to him then he should join the post and submit there copy to report within 15 days positively.
13. NO TA/DA is admissible.

---sd/---

District Education Officer  
(Male) Bannu

Dated: Bannu the, 27 / 05 / 2019

Endst. No: 6952-59.

Copy for information to the:

1. Director, Elementary & Secondary Education KPK Peshawar.
2. Registrar Peshawar High Court Bannu Bench
3. Civil Judge NO. IV / Execution Court Bannu.
4. Deputy Commissioner, Bannu.
5. District Accounts Officer, Bannu.
6. SDI, O(M) Bannu with the remarks that his pay shall be released by the undersigned after due course of procedure.
7. Medical Superintendent DHQ Hospital Bannu.
8. Official Concerned.
9. Office copy

District Education Officer  
(Male) Bannu