

20.09.2022

Learned counsel for the appellant present. Mr. Rafiullah, 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 respondent No. 5.

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 & 5 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 and 5 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

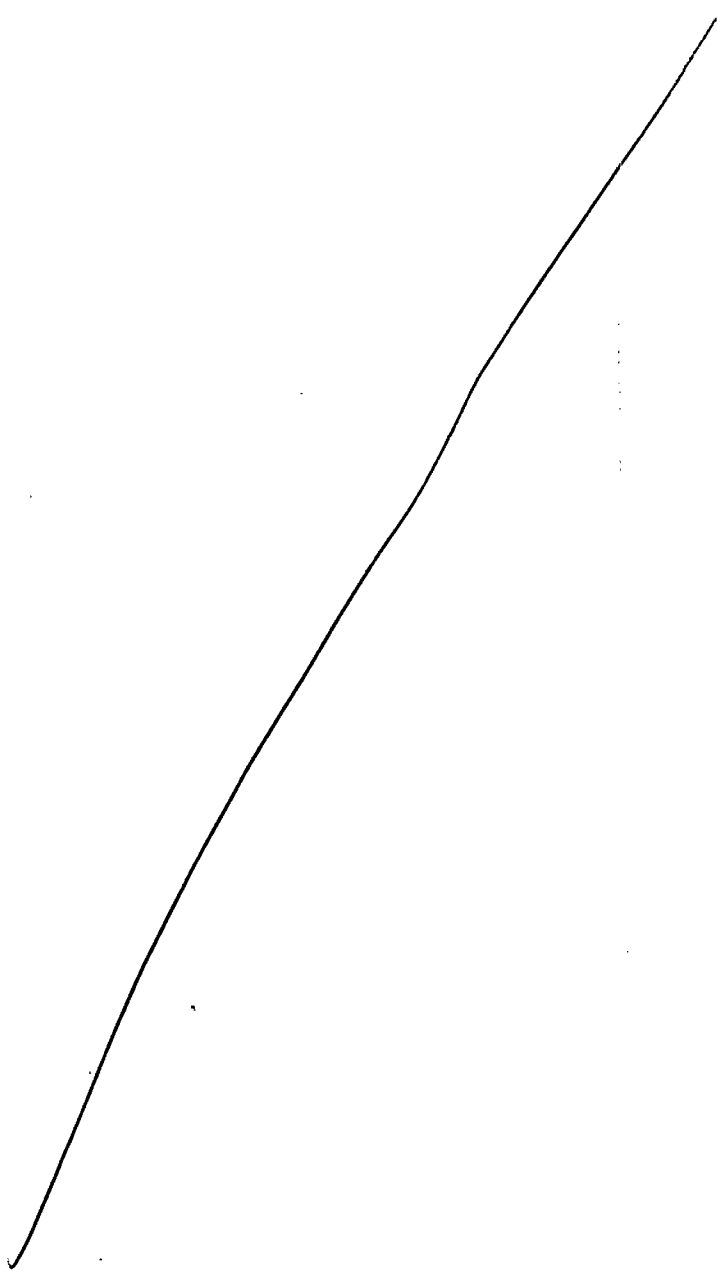
Appellant alongwith his counsel present.

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



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.


(Rozinā 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

6.10.2021

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

70/6/21



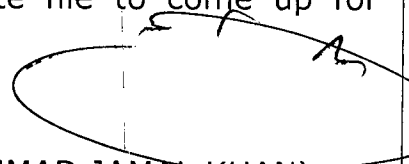


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 12930 /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	<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>

The appeal of Mr. Jahangir Khan PST GPS Muhammad Khan Kakki 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, D 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. 2854 /S.T,

Dt. 06/10 /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

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

Respected Sir,
objection is removed, further more
are annexure is attested as C.T.C
Sign by Counsel (Certified to be
True copy, while same Bench
Judgment is correctly annexed as
F where Abbottabad Judgment document
is placed as removed.

(5)

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

Service Appeal No. 12930 /2020.

Jahangir Khan

...(Appellant)

Versus.

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

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Dated: 30/9/20

Appellant

جہانگیر خان
Jahangir Khan

Through,

Masood Ur Rehman Wazir
Advocate, High Court, Bannu

Cell: 0333 9740590

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

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 12930 /2020.

Entry No. 11078

Dated 06/10/2020

Jahangir Khan S/O Maz Ullah Khan PST Teacher posted at GPS
Muhammad Khan Kakki 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 30/09/2014
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

Re-submitted to -day
and filed.

to-day

Registrar

06/10/2020

2

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 30/09/2014 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

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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 30/09/2014 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

جہانگیر خان
Jahangir Khan

Through,

Masood Ur Rehman Wazir
Advocate, High Court, Bannu



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

Service Appeal No. _____ /2020.

Jahangir Khan

...(Appellant)

Versus.

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


Affidavit

I Jahangir Khan S/O Maz Ullah Khan PST Teacher posted at GPS
Muhammad Khan Kakki 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.

جہانگیر خان

Deponent

Jahangir Khan


SIA
ADVOCATE
OATH ROOM, DISTRICT BANNU

1-10-2020



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

Service Appeal No. _____ /2020.

Memo of addresses.

Jahangir Khan S/O Maz Ullah Khan PST Teacher posted at GPS
Muhammad Khan Kakki 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
Jahangir Khan
Jahangir Khan

Through,

Masood Ur Rehman Wazir
Advocate, High Court, Bannu

ملک تعلیم پر انگریزی و پسرحد بی بی سی اساتذہ کے لئے صرف تربیت یافتہ اور صوبہ سرحد کے سکولوں میں تدریس کرنے والے اساتذہ اور خواتین امیدواروں سے مقررہ ازموذہ فارموں پر درخواستیں تقابلی طور پر اساتذہ شائستگی اور صلاحیت کے ساتھ قبول کے ساتھ مورخہ 23.02.1999 تک مطلوب ہیں جو متعلقہ ذمہ داریوں پر غور نہیں کیا جائے گا۔ ۲۔ انٹریو سے پہلے تمام امیدواروں سے سکریٹ ایک ٹیسٹ لیا جائے گا۔ جو امیدواروں میں کامیاب ہو جائے صرف وہ انٹریو کے لئے اہل ہوگا۔ ۳۔ کامیاب امیدواروں میں دیئے گئے پروگرام کے مطابق صبح 8:30 بجے حاضر ہوجن کے لئے کوئی ٹی اے ڈی اے نہیں دیا جائے گا۔ ۴۔ انٹریو کے لئے کوئی ٹیسٹ نہ لیا جائے۔ ۵۔ تقریری حاضری اور حکومت صوبہ سرحد کے قواعد و ضوابط کے تحت ہوگی۔ ۶۔ امیدوار متعلقہ ضلع کا باشندہ ہو۔ ۷۔ امیدواروں کے لئے درخواست فارم صوبائی سطح پر دستیاب کرنا ضروری ہے۔ بصورت دیگر درخواست مسترد ہوگی۔ ۸۔ امیدواروں کی عمر مورخہ 23.02.99 تک مرد حضرات کے لئے 33-18 سال اور خواتین کے لئے 40-18 سال ہونا ضروری ہے۔ ۹۔ اساتذہ شائستگی کارڈ وغیرہ انٹریو کے وقت پیش کرنا لازمی ہے۔ ۱۰۔ جنٹلی اسناد پیش کرنے والے امیدواروں کے خلاف قانونی کارروائی کی جائیگی۔ ۱۱۔ مفرد افراد کے لئے مقررہ کردہ کے مطابق مل واپار کے لئے اساتذہ شائستگی اور خواتین امیدواروں کی اہم دستیابی کی صورت میں غیر تربیتی یافتہ امیدواروں کی درخواستوں پر غور کیا جائے گا۔ اور ان اضلاع کے سکولوں میں تدریس کرنے والے امیدواروں کی درخواستوں پر غور کیا جائے گا۔ ۱۲۔ پسماندہ علاقہ قاجارتبلی کوہستان کی صورت میں، بلگرام، بوئیر، اپرتنول، کالاڈھا، کورہ والا اور دیگر علاقوں میں امیدواروں کی درخواستوں پر غور کیا جائے گا۔ ۱۳۔ سلیکشن و تقریر یا حکومت کے مندرجہ ذیل مرد و خواتین کے مطابق ہوگی۔ 75 فیصد کے تقریری سچ دائرہ کونسل دائرہ جبکہ 25 فیصد اہل بیٹھ پر کی جاتی ہے۔ تقریر یا کوہستان کے علاوہ تمام اضلاع کا شہری علاقوں میں 50 فیصد ضلعی اور 50 فیصد ناڈن کینی ایسوسی ایشن کی ایسوسی ایشن کارپوریشن جبکہ دیہاتی علاقوں میں 75 فیصد کونسل اور 25 فیصد ضلعی بیٹھ کے حساب سے کے جائیگی۔ متعلقہ یونین کونسل یا کینی میں تربیتی یافتہ افراد نئے کی صورت میں اسامیوں ضلعی بیٹھ کی بنیاد پر کی جائے گی۔ (ضلع کوہستان میں 100 فیصد تقریری یا یونین کونسل کی بنیاد پر کی جاتی ہے۔ دیہی پور پر کی جاتی ہے۔ جس کی نہیں وغیرہ امیدواروں کے ذمہ واجب الادا کی جاتی ہے۔ ۱۶۔ پشاور ہائی کورٹ کے فیصلے کے مطابق سب سے پہلے صوبہ سرحد کے گورنمنٹ ہسٹری کالجوں کے پاس شدہ امیدواروں کو جب کے دوسرے نمبر پر علامہ اقبال اوپن یونیورسٹی اسلام آباد سے پاس شدہ امیدواروں اور خواتین دوسرے کالجوں سے پاس شدہ امیدواروں کو علی الترتیب ترجیح دی جاتی ہے۔ ٹیسٹ اور انٹریو کے مقام پر تین نتائج DEO مردانہ ازانہ پر انگریزی کرے گا۔ درخواست فارم متعلقہ DEO مردانہ وزمانہ پر انگریزی کی دفتر سے ملنے۔ 551 روپے ٹیکس دستیاب ہونگے۔ جس میں استقامتی ٹیکس بھی شامل ہے۔ ہر امیدوار کو دو نمبر نام لکھنے وقت جاری کیا جائے گا۔ نمبرات کی تقسیم مندرجہ ذیل طریقے سے ہوگی۔

امتحان میں حاصل کردہ نمبرات x تعلیمی اسناد کے لئے مخصوص کردہ نمبرات۔

امتحان کے کل نمبرات

ہر اسناد امتحان کے لئے مقرر کردہ نمبرات ذیل ہونگے۔

میزک	بی بی سی	ایف اے ایف سی	بی اے بی ایس سی	ایم اے ایم سی
30	25	20	10	10

تجربہ کے نمبر ایک تا تین سال کے لئے 5 نمبر دو سال کے لئے 3 نمبر ایک سال کے لئے 2 نمبر

۱۷۔ ٹیسٹ اور انٹریو مندرجہ ذیل پروگرام کے مطابق ہونگے۔

تاریخ ٹیسٹ	تاریخ انٹریو	امیدواران برائے اضلاع	بمقام ضلعی ہیڈ کوارٹر
02/03/99	04/03/99	مردانہ	پشاور، ملاکنڈ، چارسدہ
02/03/99	04/03/99	زنانہ	پشاور، ملاکنڈ، چارسدہ
06/03/99	08/03/99	مردانہ	پشاور، ملاکنڈ، چارسدہ
06/03/99	08/03/99	زنانہ	پشاور، ملاکنڈ، چارسدہ
10/03/99	12/03/99	مردانہ	صوابی، کوہاٹ، دیپریا، ڈی، ایلی خان،
16/03/99	12/03/99	زنانہ	صوابی، کوہاٹ، دیپریا، ڈی، ایلی خان،
14/03/99	16/03/99	مردانہ	ہری پور، کرک، دیپریا، ٹانک، کوہستان
14/03/99	16/03/99	زنانہ	ہری پور، لوٹ، دیپریا، ٹانک، کوہستان

تاریخ اور انٹریو کے وقت شائستگی کارڈ لانا لازمی ہے۔

نظام مصدقہ

ڈائریکٹر تعلیمات پر انگریزی صوبہ سرحد پشاور۔

فون: 2567188

8 Better Copy

JUDGMENT SHEET

CJC
J

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.

Amar B
CTG
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: (Shaukat Iqbal + others) by S. Zeef Ahsan Zaidi
Advocate

Respondents: Govt. of NWFP by Muhammad Shauq
through Secretary Primary Chaudhry D. A. G. Dogar
Education, Lahore 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 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/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
3/11/04

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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:-


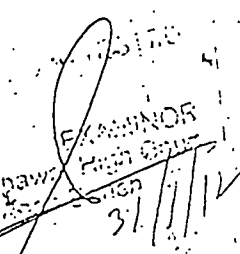
In most of the appeals, learned counsel stated at the Bar that the appellants/respondents were duly selected by the relevant selection committees of the government on merits but their appointments have been withheld on account of order of status quo passed by this Court while granting leave to appeal 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

(9)

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. 37493 (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 17.8.2000. Since these appeals are being finally disposed of, 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



EXAMINOR
31/11/12

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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.

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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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EXAMINOR
Peshawar High Court
3/11/12

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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High Court
Benazir
3/11/74

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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:

12 CTSD

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Announced:
28.04.2004.

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Adm. Registrar
29.4.2004

JUDGE

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IN THE COURT OF OMAR AZMAT KHAN
CIVIL JUDGE-IX, BANNU

Civil Suit No. 22/1 of 2012

Date of institution: 24 /01/2012

Date of Decision: 02 /03/2013

Ishangir Khan s/o Mazz Ullah Khan
R/o Kakki Khas Tehsil & District Bannu

PLAINTIFF

VERSUS

1. Executive District Officer Schools & Literacy Male, Bannu.
2. District Government through District Coordination Officer, Bannu.
3. Commission Bannu Division.
4. Accounts Officer, Bannu.
5. Director Education Department Primary KPK, Peshawar.
6. Government of Khyber Pakhtoonkhwa through Secretary Education, KPK, Peshawar.
7. Office Superintendent BDO Office Schools & Literacy Male, Bannu.

DEFENDANTS

SUIT FOR DECLARATION ETC

JUDGMENT

02 / 03 /2013

This judgment of mine is going to decide a civil suit for declaration and mandatory injunction filed by the plaintiff against defendants.

Brief facts of the case as narrated in the plaint are as under:

The plaintiff contends that he is the permanent resident of Union Council Kakki District Bannu. That the plaintiff passed his B.A and PTC

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Bannu

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examination and in the year 1999 and 2006 appeared in interview for the post of PTC on the basis of 25% quota of the denied candidates of Allama Iqbal Open University. The plaintiff further contends that as per the judgments of superior courts 25% quota was reserved for the candidates, who were denied previously by the defendants for the reason that they passed their PTC examination from Allama Iqbal Open University. Further more that the said candidates were allotted 25% quota by the Superior Courts and it was directed that the PTC from Allama Iqbal Open University be given same weightage, as of any recognized university. He further alleged that he appeared as denied candidate in the interview for PTC Teacher in 1999 and 2006, however the plaintiff was ignored and instead of him, other candidates were selected for the said post.

The defendants were duly summoned; defendants No. 01, 05, 06 & 07 appeared and submitted their written statements. The pleadings of the parties were reduced to the following issues.

Ordn

ISSUES:

1. Whether plaintiff has got cause of action? OPP
2. Whether the instant suit is filed within time? OPP
3. Whether the defendants have appointed the candidates who have not appeared in the test and interview? OPP
4. Whether the candidates who have secured lesser marks than the plaintiff have been appointed by the defendants? OPP
5. Whether the defendants have made appointments against the merit list? OPP
6. Whether the plaintiff has applied in the year 1999 and his name is mentioned in the said list? OPD
7. Whether the plaintiff is entitled to the decree as prayed for? OPP
8. Relief

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Both the parties were given a chance to produce the desired evidence. The evidence was produced. Arguments were heard and record was perused. My issue wise findings are as under:

ISSUE NO. 06:

The plaintiff has alleged in the plaint that he appeared in the test/interview on the basis of 25% quota of the denied candidates of Allama Iqbal Open University. The defendants on the other hand have taken a plea that the name of the plaintiff is not mentioned in the denied list of effectees of 1999. The PW-1 Senior Clerk Education Bannu produced the denied list of 1999 which is ExPW-1/2. The name of the plaintiff is mentioned on S. No. 129. PW-1 in cross examination has stated that the name of the plaintiff is not mentioned in the denied list of 1999. PW-1 is saying two things at the same time. On one hand he is stating that the plaintiff name is mentioned on the S. No. 129 of the denied list while on the same time he is stating that his name is not mentioned in the said list. The defendants produced litigation officer EDO Office, Bannu as DW-1. DW-1 produced a list of the denied candidates which is ExDW-1/1. In the said list the name of the plaintiff is not mentioned. The plaintiff has produced copies of his academic record, which are ExPW-2/1. Plaintiff has produced provisional certificate of PTC Allama Iqbal Open University. The plaintiff has passed PTC from Allama Iqbal Open University. The name of the plaintiff is duly mentioned in the list which is ExPW-1/2. The attendance of the plaintiff is duly marked and his score is also mentioned. It is clear that the plaintiff applied in the year 1999 for the post of PTC Teacher and his name is duly mentioned in the said list. Issue No. 06 is therefore decided in positive.

ISSUES NO. 03, 04 & 05:

The plaintiff has leveled allegation that the defendants have appointed candidates who has secured lesser marks than the plaintiff and that the defendants have made the appointments against the merit list. The merit list of the year 1999 and 2006 are produced which are ExPW-1/2 and

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1/3. The name of the plaintiff is mentioned on S. No. 129 on ExPW-1/2 while on ExPW-1/3 it is mentioned on S. No. 146. The plaintiff has produced appointment orders of various candidates which are ExPW-1/1. The plaintiff has mentioned several names alongwith their scores in the merit list in his statement as PW-2. It is correct that some candidates who have scored less than the plaintiff have been appointed. But it is worth mentioning that the appointing authority is the best judge for assessing and evaluating the skills, knowledge and suitability of a candidate for the post. From mere perusal of merit list the decisions taken by the appointing authority cannot be undone as it is. In view of the discussion above issues No. 03, 04 & 05 are decided accordingly.

ISSUE NO. 02:

The present suit is for declaration and the plaintiff has alleged that the alleged appointments were made by the defendants in the year 2006 and 2009. In the circumstances the cause of action arose to the plaintiff from the date of appointments which is the year 2006 and 2009. On the other hand the defendants have not produced any evidence which could negate the stance of the plaintiff. Limitation for suit of declaration is 06 years. Therefore in the circumstances the suit of the plaintiff is filed within time. Therefore issue No. 02 is hereby decided in positive.

ISSUES NO. 01 & 07:

In view of the discussion above and the evidence produced by the parties, it is establish that the plaintiff appeared in the year 1999 as denied candidate. As per the judgments of the Superior Courts 25% quota is allotted for such candidates. The plaintiff was entitled to be considered for appointment on the basis of 25% quota allocated for such candidates, subject to availability of seats and eligibility of plaintiff for the said post on merit. So far as the contention of the plaintiff regarding cancellation of appointments is concerned, the same cannot be granted for the reason that each appointment is done by the appointing authority who is the best judge. This court cannot undone the

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appointments merely by perusing the merit list. Therefore, issue No. 01 & are hereby decided accordingly.

RELIEF:

As a sequel to my detailed discussion above, 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 affecting the rights of the third party.

Rest of the relief sought by the plaintiff in the plaint is hereby dismissed.

No order as to cost.

Case file be consigned to the record room after its completion.

ANNOUNCED
02-03-2013

[Signature]

OMAR AZMAT KHAN
Civil Judge-IX, Bannu

CERTIFICATE:

Certified that the judgment of mine is consisting upon five (05) pages. Each page has been checked, corrected wherever necessary and then signed by me.

[Signature]

OMAR AZMAT KHAN
Civil Judge-IX, Bannu

CIVIL JUDGE-IX
BANNU

1. Registration No.	1047
2. Date of Filing	16-3-13
3. Date of Judgment	16-3-13
4. Date of Presentation	16-3-12
5. Date of Execution	16-3-12
6. No. of Copies	10
7. Ordinary Fee	
8. Urgent Fee	
9. Total Fee	
10. Signature	<i>[Signature]</i>

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Copying Agency
Lower Court Bannu
16-3-13

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MALE BANNU

DEPUTY DISTRICT EDUCATION OFFICER

[Handwritten Signature]

1. Additional Registrar Postmaster High Court Bannu Bench
2. Director Elementary and Secondary Education KPK Government
3. District Account Officer Bannu
4. SDEO (M) Bannu with remarks that his pay may not be drawn until and unless his testimonials or not verified from concerned Board / University
5. Candidate concerned.

Copy to Information

Encls No 10747-50 A.P. (M) P.Y

Dated 30/09/14

Copying

Lower Court

ATTESTED

AL HAJ FAZAL SAID MANDAW
District Education Officer Male Bannu

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No P.A./D.A etc allowed.
expenses before release of his pay.
10. The original certificate/degree should be verified from concerned board or university on his own taking or change.

9. The candidate of Bannu.
The appointment of the candidate mentioned above will be subject to the condition that they are in case of take certificate and degree the department will take action against him.

8. The appointee are directed to perform his duty in his respective school noted against his name for a minimum period of three year and he will not be transfer from school where appointed.
The candidate should join his post within 15 days of issuance of his order.
from service special ordinance 2013 and the rules framed from time to time.

7. The service can be terminated at any time in case his performance is found on unsatisfactory during probationary period. In case of misconduct he will be proceeded under the KPK removal act.
The appointee shall submit the change report to all concerned.

6. The service will be liable to termination on one month notice from either side, in case of resignation without notice his two months pay allowance shall be forfeited to Govt.
1. His service will be considered regular but without pension and gratuity in term of section 19 of NWFP, civil servant Act, 1975 as amend vide NWFP, civil servant (Amendment) Act, 2007. He will however entitle to gratuity. Provident fund in such a manner and such rates may be determined by the Govt.

TERMS AND CONDITION

S/No	NAME	FATHER	ADDRESS	PLACE OF POSTING	SCALES	REMARKS
1	JAHANGIR KHAN	MAZ ULHAH KHAN	KAKKI KHASS KHAN	GPS MUHAMMAD KHAN KAKKI	12	Against Vacant Post

candidate from the date of taking over charge in the best interest of public service subject to the terms and conditions given below.
plus usual allowances as admissible under the existing rules/policy in the school noted against each candidate.
understand is pleased to appointment the name PST denied candidate in BPS mentioned against each 28/09/14 and consequent upon the recommendation of the Departmental Requirement Committee. In compliance with honorable Postmaster High Court Bannu Bench with CR 254B/013 Judgment dated 28/09/14

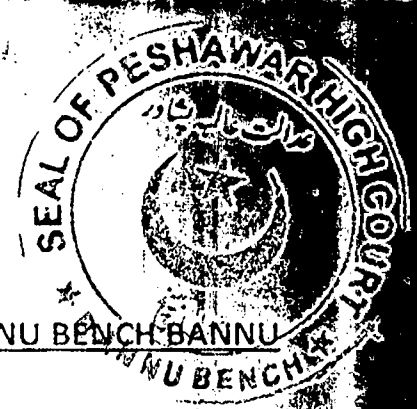
APPOINTMENT ORDER

OFFICER OF THE DISTRICT EDUCATION OFFICER MALE BANNU

[Handwritten Signature]

Annex E

19



BEFORE THE PESHAWAR HIGH COURT BANNU BENCH BANNU

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

20

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
17-5-24

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,

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EXAMINER
Peshawar High Court
Bannu

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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

Khan Gandapur Adv. As a/o 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”

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ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

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- 2 -

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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EXAMINER
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 01/09/200".

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 High Ct
Bannu Ben

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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 and date: 04/5/2016

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar District Court Bannu Bench
Authorized under Rule 87 of
The Qanun-e-Sadarat Ordinance 1984

14/10
2020

Azmat Awan

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Amer F

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 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 بد نیتی سے تعینات نہ کیا گیا۔ اور ایلیمینٹری کالجز کے امیدواران جو سائل سے سیشن اور میرٹ اسکور میں کم تھے تعینات کیے گئے۔ اس وقت سیشن دائر 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 ایلیمینٹری 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 ایلیمینٹری 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

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CTC

کورٹ آف پاکستان نے سائل کے تعیناتی کے حق میں فیصلے کیئے۔ آخر کار DEO بنوں نے 30/09/2014 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 30/09/2014 سے تعینات کیا ہے۔ اور 1999 کی سینیارٹی 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 سینیارٹی مع Benefit دی گئی ہے۔

جناب والا سائل نہایت غریب ہے۔ سائل کا تاریخ پیدائش 19/05/1973 ہے۔ سائل کی عمر تقریباً 47 سال ہے۔ اگر سائل کو 1999 کی سینیارٹی 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 سینیارٹی مع Benefit دیئے جانے کا حکم صادر فرمادیں۔ سائل دعا گور ہے گا۔

مورخہ: 06/06/2020

جہانگیر خان نسیم

سائل جہانگیر خان PST جی ایم پی ایس علی بت خان پیر خیل سکی تحصیل و ضلع بنوں

موبائل نمبر: 0347-9898498

No. 635

For Insured Notices see reverse.
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgment is due.

Received a registered letter
addressed to _____ Date Stamp _____

Write here "letter", "postcard", "packet" or "parcel"
of Receiving Office with the word "insured" before it when necessary.
Insured for Rs. (in figures) _____ (in words) _____

Insurance fee Rs. _____ Ps. _____ (in words) }
Weights } Kilo
Grams

Name and address of sender }

PIA کارپوریشن لمیٹڈ

بعدالت
مورخہ
مقدمہ
جرم
تھانہ

۲۰ ستمبر ۲۰۲۰ء
صوبائی حکومت، سندھ

جسٹس خان

سکرٹری جنرل

باعث تحریر پر آنکھ

مقدمہ مندرجہ بالا عنوان بالا میں اپنی طرف سے دائرہ پیروی و جواب دہی و کل کاروائی متعلقہ مقام بخوبی کیلئے
محور اٹرنل ڈائریکٹر انٹرویو مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی
 کا کمال اختیار ہوگا۔ نیز ویل صاحب پورا رضی نامہ تقریر ثالث فیصلہ پر حلف دینے جو ابدہی اور اقبال دعویٰ اور بصورت
 ڈگری کرانے اجراء اور وصولی چیک، روپیہ اور عرضی اور درخواست ہر قسم کی تصدیق زرا اس پر دستخط کرنے کا اختیار ہوگا۔ نیز
 بصورت ڈگری کرانے اجراء اور وصولی چیک، روپیہ اور عرضی اور درخواست ہر قسم کی تصدیق زرا اس پر دستخط کرنے کا اختیار ہو
 گا۔ نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی دائرہ 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 تقریر 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 بنایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تازہ پیشی مقام دورہ پر ہوا پیشی
 سے باہر تو ویل صاحب پابند نہ ہوں گے کہ پیروی مقدمہ مذکور کریں۔ نیز اگر کسی وجہ مثلاً بیماری، معذوری، علالت وغیرہ
 کی وجہ سے ماضی یا مستقبل میں کوئی عذر ہو تو ویل صاحب پابند نہ ہوں گے کہ اس کی تصدیق یا اقرار لیا جائے (اگر کوئی ہے) اور
 کرنے کا کے پابند ہونگے اور ادا شدہ فیس کی واپسی کا تقاضہ کرنے کا حق نہیں ہوگا۔ مضمون وکالت نامہ سن اور سمجھ کر وکالت
 نامہ لکھ دیا تاکہ سند رہے۔

۲۰۲۰

30 ستمبر

المرقوم

العبد

گواہ شدہ

العبد

جسٹس خان

جسٹس خان

(127)

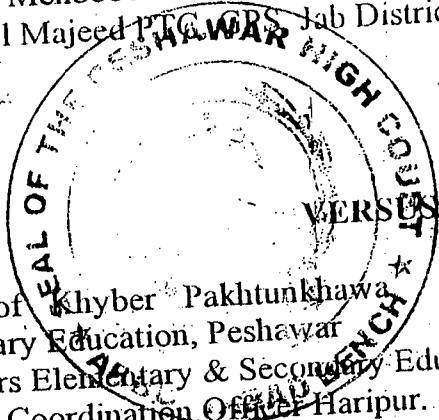
(31)

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

W. P No. 543-A/12012

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.

...PETITIONERS



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. allan
Additional Registrar
Peshawar High Court
Abbottabad Bench
6-7-2012

2301

No 6/7/12

Certified to be True Copy

Examined
Peshawar High Court
Abbottabad Bench
Registration Under Section 73 Acts Ordins.

Handwritten signature

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

E.ullah
Additional Registrar
Festive Bench High Court
Abbottabad Bench
6-7-20h

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26.6.13
Registrar
Festive Bench High Court
Abbottabad Bench
Authorized Under Section 25 Act 1950

R. Khan
Abdullah

129

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 heeded 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
Additional Bench

6-7-2012
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Peshawar High Court
Additional Bench
Authorised Signatory Secy's Office Ord/Hs

AWC

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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. F. Allaha
 Additional Registrar
 Peshawar High Court
 Abbottabad Bench
 6-7-2013

Att

Certified to be True Copy
 26.6.13
 Additional Registrar
 Abbottabad Bench
 Peshawar High Court

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. J. Iqbal
Additional Registrar
Federal High Court
Abbottabad Bench

6-7-2012

26-6-13
Authorized Under Sec 75 Act 1973

[Signature]

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- 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 judice, 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

[Signature]
 ...PETITIONERS
 (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
 Faisalawa, High Court
 Abbottabad Bench
 6-7-2012

2012-06-13
 Abbottabad Bench
 Appointed Under Sec 74 of 1973

...PETITIONERS
[Signature]
[Signature]

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AN JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.

JUDICIAL DEPARTMENT

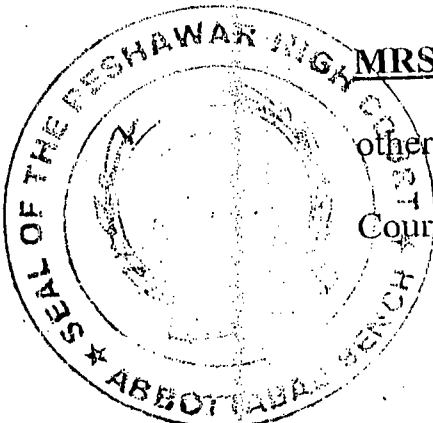
W.P No. 543-A of 2012

JUDGMENT

Date of hearing 13-06-2013.

Appellant(s)/Petitioner (s) Babar Elahi and three *By MS. Rahela original Advo call*

Respondent (s) Govt. K.P.K Etc by A.A G (Mr. Naveez Khan)



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 judice, 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 75 Act 1973


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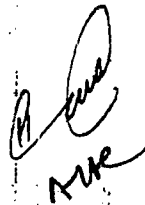
service/appointment of the petitioners were treated from 10.04.2000 on the ground that they are not entitled for arrear prior to 28.04.2003. That the petitioners were dragged into litigation by the respondents from year 2000 up till now and petitioners are entitled for their service from the year 2000 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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 26-13
 Peshawar High Court
 Abbottabad Bench
 Authorized Under Section 17(1) of the
 High Courts (General) Act, 1956


 9

6. Record shows that petitioners were constrained to fall in to long ordeal litigation for their rights 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. JUDGES

Certified to be true copy
26.6.13
Pratap Singh
Abbotabad Bench
Assigned Under Section 6 of the Act

[Signature]

"A"

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

No.

12930

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APPEAL No..... of 20

Jahangir Khan

Appellant/Petitioner

Prop

Versus

Govt. CF kept through Secy Edu Peshawar.

RESPONDENT(S)

Notice to Appellant/Petitioner




✓ Jahangir Khan S/o Maz ulah.
Khan PST Teacher posted at G/S
Muhammad Khan Kakki 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 24/5/2021 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,

2 Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

قیمت 50 روپے	103547			
ایڈوکیٹ: سید کاظم رضا صدیقی صاحب علی		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: 1861/2008-81				
رابطہ نمبر: 9137720-0338				

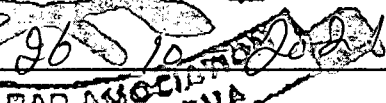
بعدالت جناب: سروس نمبر 103547 پشاور

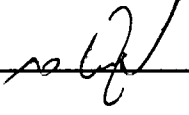
منجانب: جناب سید کاظم رضا صدیقی صاحب علی	دعوی: سروس نمبر 103547
 <p>بناام ترمیمی و عمرانی</p>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
باعت تحریر آنگہ	

عبدالمجید صاحب سلطان بعد و عبد
 جہانگیر رضا صدیقی صاحب علی
 اللہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کاروائی متعلقہ

آن مقام گمنام کے لیے سید کاظم رضا صدیقی صاحب علی کو وکیل 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 کرانے و تقرر ثالث و فیصلہ برحلف دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرانے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل گرانے و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے لقمہ کے اختیار ہوگا اور صاحب مقرر شدہ کو وہی عملہ مذکورہ یا اختیار حاصل ہوں گے اور اس کا پورا پورا اختیار منظور و قبول ہوگا دوران مقدمہ میں جو کوئی چیز جانے اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ 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: 
 العبد المذنب جہانگیر رضا صدیقی صاحب علی

مقام:  کے لیے منظور ہے۔

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 12930/2020

Jahangir Khan-----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	A	6-8
5	Applicant's -	B	9
6			
7			

Jahangir Khan
Deponent

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KPK PESHAWAR

Service Appeal No. 12930 /2020

~~Jahangia Ishaq PS 1999 GDS Manjari~~
Jana Banny

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- 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.

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

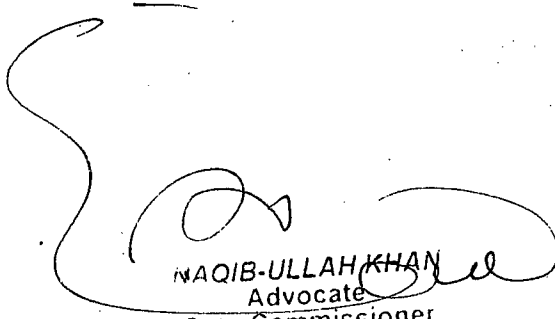
Respondent No.3
District Education Officer
(Male) Bannu

AFFIDAVIT

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. 12930 /2019 titled Zahid Ullah Khan 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

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. ~~19950/2010~~ titled as Jahangir Khan 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, 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)

1	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
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="padding-left: 40px;">“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 *Edy-Pir Bakht Shah*
19.08.2016 *Member*

Edy-M. Azam Nadeem
Member

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

Certified to be true copy
MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

APPOINTMENT ORDER.

In compliance with Honorable Peshawar High Court Bannu Bench with CR 254B/013 Judgment dated 28/04/14 and consequent upon the recommendation of the Departmental Requirement Committee the undersigned is pleased to appointment the male PST denied candidate in DPS mentioned against each plus usual allowances as admissible under the existing rules/policy of the school noted against each candidate from the date of taking over charge in the best interest of public service subject to the terms and condition given below.

S/No	NAME	FATHER NAME	ADDRESS	PLACE OF POSTING	SCALE	REMARKS
1	JAHANGIR KHAN	MAZ ULLAH KHAN	KAKKI KHASS	GPS MUHAMMAD KHAN KAKKI	12	Against Vacant Post

TERMS AND CONDITION

1. His service will be considered regular but without pension and gratuity in term of section 49 of NWFP, civil servant Act, 1975 as amend wide NWFP, civil servant (Amendment) Act, 2005. He will however entitle to contributory Provident fund in such a manner and such rates may be prescribed by the Govt.
2. His service will be liable to termination on one months notice from either side, in case of resignation without notice his two months pay allowance shall be for forfeited to Govt.
3. The appointee shall submit the charge report to all concerned.
4. The service can be terminated at any time in case his performance is found on unsatisfactory during probationary period. In case of misconduct he will be proceeded under the KPK removal from service special ordinance 2009 and the rules framed from time to time.
5. The candidate should join his post within 15 days of issuance of his order.
6. The appointee are directed to perform his duty in his respective school noted against his name for a minimum period of three year and he will not be transfer from school where appointed. In case of fake certificate and degree the department will take action against him.
7. The appointment of the candidate mentions above will be subject to the condition that they are domicile of Bannu.
8. He will produce Health and fitness certificate from Medical Superintendent concerned before taking over charge.
9. His original certificate / degree should be verified from concerned board or university on his own expenses before release of his pay.
10. No TA/DA etc allowed.

3

ZAL HAJ FAZAL SADIQ MANDAW
District Education Officer Male Bannu.

Endst No. 10746-50 AE-1(M) Pky

Dated: 30/09/14

ATTENDED
Copying
Lower Court
27/10/14

1. Copy to information.
2. Additional Registrar Peshawar High Court Bannu Bench.
3. Director Elementary and Secondary Education KPK Peshawar.
4. District Account Officer Bannu.
5. SDEO (M) Bannu with remarks that his pay may not be drawn until and unless his testimonials or not verified from concerned Board / University.
6. Candidate concerned.

DEPUTY DISTRICT EDUCATION OFFICER
MALE BANNU.

6.12.18