


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.

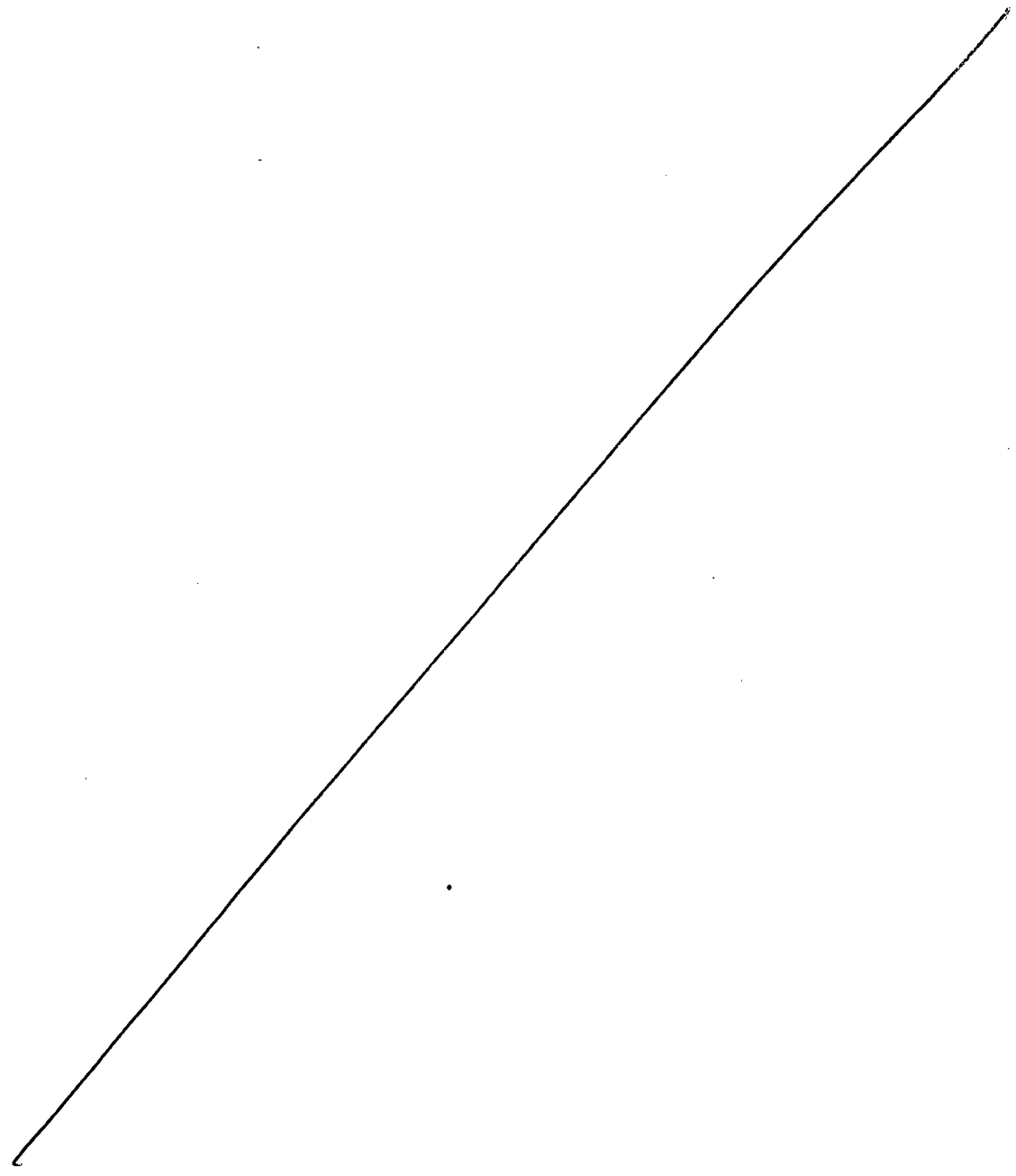


Learned Member (Executive), is on leave.
Therefore, the case is adjourned to 08.08.2022
for the same as before.


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.

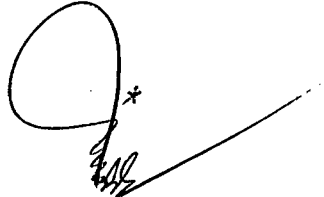


Chairman


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.

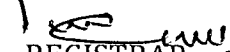

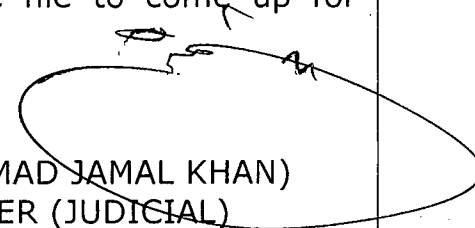

Appellant Deposited
Security Process Fee
26/6/21


Chairman

FORM OF ORDER SHEET

Court of _____

Case No.- 12931 /2020 20

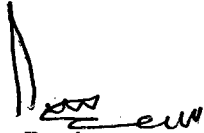
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/10/2020	<p>The appeal resubmitted today by Mr. Masood-ur-Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 28/10/2020</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>

2

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

No. 3020 /S.T,

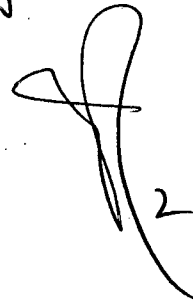
Dt. 21/10/2020


Registrar,
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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

Respected Sir

After removal of objections
Case/appeal is submitted
Once again


26/10/20

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.

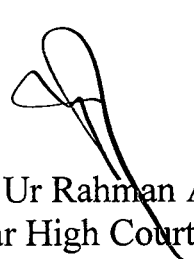
Dear Sir,

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. Alamgir Badshah PST GPS Khunjari Jana Bannu received today i.e. on 06.10.2020 is incomplete on the following score which is returned to the counsel for the appellatant 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. 2851 /S.T.


Dt. 06/10 /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

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

Respected Sir,

After Removal of office objection case is submitted once again, further more PHE Abbottabad Bench is placed on record, while appellatant is rely on Judgment of PHE Bannu Bench which is already in Judgment Annex as E. All annexure is attested by the counsel mark as "C.T.C (Certified To Be True Copy)" sign by appellatant counsel


16/10

(2)

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

Service Appeal No. 12931/2020.

Alamgir Bad Shah

...(Appellant)

Versus.

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

INDEX

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4.	Copy of Advertisement	"A"	7
5.	Copy of writ Petition	"B"	8 - 12
6.	Copy of Court Order	"C"	13 - 24
7.	Copy of Appointment order	"D"	25
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Dated:

30/9/20

Appellant

Alamgir Bad Shah

Through,

Masood Ur Rehman Wazir
Advocate, High Court, Bannu

Cell 03339740590

(1)

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 12931 /2020.

D.O. No. 110.80

Dated 06/10/2020

Alamgir Bad Shah S/O Gul Nawaz Shah PST Teacher posted at GPS
Khujari Jana 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 27/09/2014
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.

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

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 27/09/2014 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

4

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 27/09/2014 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
Alamgir Bad Shah

Through,

Masood Ur Rehman Wazir
Advocate, High Court, Bannu

5

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

Service Appeal No. _____/2020.

Alamgir Bad Shah

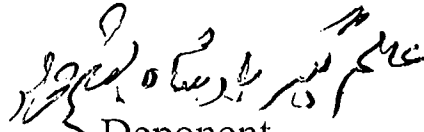
...(Appellant)

Versus.

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


Affidavit

I Alamgir Bad Shah S/O Gul Nawaz Shah PST Teacher posted at GPS Khujari
Jana 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

Alamgir Bad Shah


S. H. KHAN
ADVOCATE
OATH COMMISSIONER BANNU

1-10-2020

6

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

Service Appeal No. _____/2020.

Memo of addresses.

Alamgir Bad Shah S/O Gul Nawaz Shah PST Teacher posted at GPS
Khujari Jana 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
عالمگیر بادشاہ
Alamgir Badshah

Through,

Masood Ur Rehman Wazir
Advocate, High Court, Bannu

تعمیراتی کاموں پر انٹری صوبہ سرحد پٹی ایس ایس ایس کے لئے صرف تربیت یافتہ اور صوبہ سرحد کے سکولٹی مرد اور خواتین امیدواروں سے مقررہ ازسودہ فارموں پر درخواستیں تعلیمی ذریعہ ایس ایس ایس اسناد شناختی کارڈ اور درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔

1۔ ملازمین کو ملازمت سے قبل ہونی چاہیے۔ ناکمل یا ناقص تربیت والی درخواستوں پر غور نہیں کیا جائے گا۔ 2۔ انٹری سے پہلے تمام امیدواروں سے سکریٹ ایک ٹیسٹ لیا جائے گا۔ جو امیدوار ٹیسٹ میں کامیاب ہو جائے صرف وہ انٹری کے لئے اہل ہوگا۔ 3۔ کامیاب امیدواروں میں سے بچے گئے پروگرام کے مطابق صبح 8:30 بجے حاضر ہونے کے لئے کوئی ٹیسٹ نہیں دیا جائے گا۔ 4۔ انٹری کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔

5۔ تقریری حاضری اور سکولٹی اور سکولٹی کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔ 6۔ امیدوار متعلقہ ضلع کا باشندہ ہوگا۔ 7۔ امیدواروں کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔ 8۔ امیدواروں کی عمر 18-33 سال اور خواتین کے لئے 18-40 سال ہونا ضروری ہے۔ 9۔ ایس ایس ایس کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔ 10۔ ایس ایس ایس کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔ 11۔ منظورہ افراد کے لئے مقررہ کردہ ضلع کے مطابق مل اور ملازمتی شرائط پر منظور کیا جائے گا۔ 12۔ ایس ایس ایس کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔ 13۔ ایس ایس ایس کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔ 14۔ ایس ایس ایس کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔ 15۔ ایس ایس ایس کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔ 16۔ ایس ایس ایس کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔ 17۔ ایس ایس ایس کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔ 18۔ ایس ایس ایس کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔ 19۔ ایس ایس ایس کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔ 20۔ ایس ایس ایس کے لئے درخواستی فرم نمبر 02/10/3/99 کے ساتھ درج ذیل شرائط پر منظور کیا جائے گا۔

امتحان میں حاصل کردہ نمبرات x تعلیمی اسناد کے لئے مخصوص کردہ نمبرات۔
امتحان کے کل نمبرات
ہر سناد امتحان کے لئے مقرر کردہ نمبرات ذیل ہونگے۔

میٹرک	30	پی ٹی سی	25	ایف اے / ایف سی	20	بی اے / بی ایس سی	10	ایم اے / ایم سی	10
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تجربہ کے نمبر ایک تا تین سال کے لئے 5 نمبر و سال کے لئے 3 نمبر ایک سال کے لئے 2 نمبر
ہر نمبر اور انٹری مندرجہ ذیل پروگرام کے مطابق ہونگے۔

تاریخ امتحان	تاریخ انٹری	امیدواران برائے امتحان	بمقام ضلعی ہیڈ کوارٹر
02/10/3/99	04/03/99	مردانہ	پشاور، ملاکنڈ، چارسدہ
02/10/3/99	04/03/99	زنانہ	پشاور، ملاکنڈ، چارسدہ
06/03/99	08/03/99	مردانہ	بنوں، ایبٹ آباد، نوشہرہ
06/03/99	08/03/99	مردانہ	مردان، بونیر، سوات، بکی، مانسہرہ
10/03/99	12/03/99	مردانہ	صوابی، کوہاٹ، دیر پائیاں، ڈی، ایڈی خان،
16/03/99	12/03/99	زنانہ	صوابی، کوہاٹ، دیر پائیاں، ڈی، ایڈی خان،
14/03/99	16/03/99	مردانہ	ہری پور، کرک، دیر بالا، ٹانک، کوہستان ایضاً
14/03/99	16/03/99	زنانہ	ہری پور، کرک، دیر بالا، ٹانک، کوہستان ایضاً

غلام مصطفیٰ
ڈائریکٹر تعلیمات پرائمری صوبہ سرحد پشاور۔
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Annex B

JUDGMENT SHEET

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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.

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

W.P. No. 75 of 2003

Amia B
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JUDGMENT

Date of hearing 28-4-2004

Appellant-petitioner (Shaukat Iqbal) by S. Zafer Abbas Zaidi Advocate

Respondents (Govt. of NWFP through Secretary Primary Education Lahore) by Mr. Mahmood Shami Chaudhry, D.A.G. Govt. Mr. Farid Nawaz Khan E.D.O. Bannu

TARIO PARVEZ KHAN, I.- 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.

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EXAMINOR
Peshawar High Court
3/11/04

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

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

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

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

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"In most of the appeals, learned counsel stated at the Bar that the appellants/respondents were duly selected by the relevant Selection Committees of the Government on merits but their appointments have been withheld on account of order of status quo passed by this Court while granting leave to appeal on 17.8.2000. 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 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
High Court
31/11/14

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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

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
31/1/12

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

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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

Supreme Court at that stage when other petitioners were knocking the door of the courts for seeking redress.

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EXAMINING
High Court

3/11/12

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

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

Announced:

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petitioners shall be allocated 25% seats of the available
vacancies. 75% vacancies shall go to the new entrant. This
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Announced:
28.04.2004.

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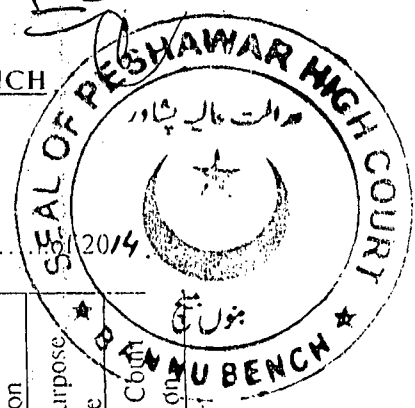
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BEFORE THE PESHAWAR HIGH COURT, BANNU BENCH

JUDICIAL DEPARTMENT
OPENING SHEET FOR CIVIL REVISION



Civil Revision No. 09-B

Original Suit				Civil Appeal				Date of filing petition in High	Value for purpose of jurisdiction	Value for purpose of Court Fee	Amount of Court fee on petition
Instituted		Decided		Instituted		Decided					
Court	Date	Court	Date	Court	Date	Court	Date				
Senior Civil Judge Bannu	25-07-2012	Senior Civil Judge Bannu	20-10-2012	District Judge Bannu	28-11-2012	Add. Distt. Judge - I Bannu	14-12-2013	18-01-2014	Rs. 200/-	Rs. 15/-	Exempted from Court fee

Presented by: Pir. Inam ullah Shah Advocate

Petitioner: (plaintiff) Alamgir Badshah

Respondents (Defendants): Govt. of KPK through Secretary Education etc.

Order of First Court and date: Dismissed the suit, on 20-10-2012

Additional Registrar

Original Claim: Suit for declaration & perpetual-rem-mandatory

Re-Filed Today: injunction in respect of appointment as pty P.T. teacher

Additional Registrar: on 2.5% quota reserved for denied candidates

Claim in Revision: To set aside the Judgments & Decree passed by learned Courts below & to decree the suit filed by the petitioner with cost throughout.

Petition under section 113 of the Civil Procedure Code

CR 09-B2014

Inam ullah Shah
Counsel for petitioner

ATTESTED

EXAMINER
Peshawar High Court
Bannu Bench

IN THE PESHAWAR HIGH COURT BANNU BENCH

Civil Revision No. CR-B/2014

MNO-73-B/14

Alamgir Badshah Son of Gul Nawaz Shah Resident of Pir Khel Kakki, Tehsil
& District Bannu. (Petitioner/Plaintiff)

VERSUS

- 1) Government of K.P.K through Secretary Education K.P.K, Peshawar.
- 2) Director Primary Education, K.P.K, Peshawar.
- 3) District Education Officer (Male) Primary, Bannu.
- 4) Commissioner Bannu Division, Bannu.
- 5) Deputy Commissioner District Bannu.
- 6) Office Superintendent, D.E.O Office, Bannu.
- 7) District Account Officer, Bannu.

..... (Respondents/Defendants)

CIVIL REVISION UNDER SECTION 115 C.P.C AGAINST THE JUDGMENT AND DECREE DATED 20/10/2012 PASSED BY MISS FARYAL ZIA MUFTI LEARNED SENIOR CIVIL JUDGE BANNU, IN CIVIL SUIT NO. 47/1 OF 2011 VIDE WHICH SUIT FILED BY THE PETITIONER WAS DISMISSED, APPEAL AGAINST WHICH WAS ALSO DISMISSED BY AFTAB AFRIDI LEARNED ADDITIONAL DISTRICT JUDGE-1, BANNU VIDE

CR 09-B2014

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

Filed Today
Additional Registrar
18-1-14

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JUDGMENT & DECREE DATED 14/12/2013 IN CIVIL APPEAL
NO. 137/13 OF 2012.

PRAYER: ON ACCEPTANCE OF INSTANT PETITION, THIS HONOURABLE
COURT MAY VERY GRACIOUSLY BE PLEASED TO SET ASIDE
THE JUDGMENTS & DECREE (IMPUGNED HEREIN ABOVE)
AND PASS AN ORDER TO DECREE THE SUIT FILED BY THE
PETITIONER WITH COST THROUGHOUT.

Respectfully Sheweth;

Facts:

- A) That the Petitioner/Plaintiff instituted civil suit No. 47/1 of 2011 against Respondents for declaration and perpetual-cum-mandatory injunction in respect of appointment as PTC/PST teacher in education department on 25 % quota reserved / allocated for affectees / denied candidates of Allama Iqbal Open University, Islamabad, detail of which is fully described in the plaint.
- B) That Respondents No. 1-3 & 5 appeared before the learned trial Court and submitted written statements, however, rest of the Respondents were proceeded ex-parte.
- C) That issues were framed ^{from} the divergent pleadings of the parties, evidence of both the sides were recorded, arguments were advanced and the learned trial Court dismissed the suit filed by the Petitioner vide Judgment & Decree dated 20/10/2012.
- D) That feeling aggrieved from the Judgment & Decree dated 20/10/2012, the Petitioner preferred Civil Appeal No. 137/13 of 2012 before the learned District Judge Bannu, which was

Filed Today
Additional Registrar
18-1-14

CR 09-B2014

ATTESTED
EXAMINER
Bannu High Court

dismissed by learned Additional District Judge-1, Bannu vide his judgment and decree dated 14/12/2013.

- E) That being dissatisfied from the Judgments & Decree (impugned hereinabove) the Petitioner seeks relief from this Honorable Court, inter alia, on the following grounds.

GROUNDS:

- 1) That the Judgments & Decree passed by both the Courts below are manifestly against law and facts, hence untenable.
- 2) That both the Courts below have deviated from the well-settled principles, judicial dictums and law on the subject-matter, hence not maintainable.
- 3) That both the learned Courts below have brushed aside the documentary proof produced by the Petitioner and relied on the oral assertion made from Respondent's side, needs interference of this Honourable Court.
- 4) That findings of learned trial Court on issue No.7 are not in consonance with the available record, on one hand the learned trial Court admitted the fact that the Petitioner appeared in the interview of 1999 as well as in the year 2006 on the basis of denied candidate, but on the other hand decided issue No.7 against the Petitioner, thus committed error, and this aspect of the case was also ignored by learned Appellate Court, needs correction.
- 5) That findings drawn by learned trial Court on issues No. 4, 5 & 6 are also not in consonance, the appointment orders of low score bearer issued by Respondents have wrongly been appreciated and confirmed, as no directions for appointment had been issued by Honourable Peshawar High Court D.I.Khan Bench, rather the same was manipulated and fabricated by the Respondents, furthermore,

Filed Today

Additional Registrar

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CR 09-B2014

ATTESTED

EXAMINER
Peshawar High Court
Bannu Bench

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no documentary proof has been produced by Respondents in this respect. Some of the appointed candidates were at par with the Petitioner, as they only appeared in the interview of 1999 like Petitioner but nowhere mentioned as denied candidates, rather they were low in score than the Petitioner, but this important aspect of the case was ignored by both the learned Courts below.

- 6) That the learned Courts below have wrongly interpreted C.O.C No. 48 of 2010, the Petitioner's plea was different in C.O.C No. 48 of 2010 which has no nexus with the present suit, therefore, that C.O.C has no binding force on the present suit.
- 7) That the controversy of denied candidates of Allama Iqbal Open University Islamabad has already been settled by full Bench of Honourable Peshawar High Court in Writ Petition No. 374/1998, titled as "Barber Elahi & others VS Director of Education Primary Schools NWFP Peshawar & others" vide judgment dated 20/5/2000, in the light of which this Honourable Bench has also decided so many writ petitions vide Judgment dated 28/11/2013 in Writ Petition No. 24-B/2010 titled "Zahid Ullah VS Govt. of NWFP (K.P.K) & others", wherein all those candidates of Allama Iqbal Open University Islamabad have been declared denied candidates who appeared in the interview of 1999 to 2006, and this legal position was brought in the notice of learned Courts below, however, no attention was given to this aspect of the case, thus both the learned Courts below committed gross illegality.
- 8) That both the learned Courts below wrongly drawn their findings on issues No. 1 & 8, because the findings of both the learned Courts below are against the available record.
- 9) That the learned Courts below mis-read and non-read the available record.

Filed Today

Additional Registrar
18/11/14

CR 09-B2014

ATTESTED

EXAMINER
Peshawar High Court
Judicial Bench

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For the aforesaid reasons and others to be stated at the time of arguments, it is, therefore, most humbly prayed that on acceptance of instant petition, this Honorable Court may very graciously be pleased to set-aside the Judgments & Decree (impugned hereinabove) and pass an order to Decree the suit filed by the Petitioner with cost throughout.

Petitioner

Through

Dated: 18/01/2014

Pir Inam Ullah Shah
PIR INAM ULLAH SHAH AHC

Advocate High Court
Bannu

CERTIFICATE

It is to certify that no such like civil revision has ever been moved by the petitioner before any forum and the contents of this petition are true and correct.

Petitioner

Through

Dated: 18/01/2014

Pir Inam Ullah Shah
PIR INAM ULLAH SHAH AHC

Advocate High Court
Bannu

Filed Today
[Signature]
Additional Registrar
18/1/14

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EXAMINER
Bannu High Court
Bannu

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

(Judicial Department)

CR No.09 -B of 2014



JUDGMENT

Date of hearing 14.05.2014

Appellant-Petitioner Alamgir Badshah Ye Gul Khan

Shah By Pir Inamullah Shah Adu and Pir Hamudullah Shah Adu

Respondent Suit By Qudrat Ullah Khan

Qandapur Dist: A. S.

MUHAMMAD DAUD KHAN, J:- Through the

instant revision petition the petitioner, Alamgir Badshah has challenged the judgments and decrees of learned Senior Civil Judge, Bannu dated 20.10.2012 and Additional District Judge-I, Bannu, Dated 14.12.2013, whereby both the courts below have concurrently dismissed the suit of petitioner.

2. Brief but necessary facts of the case giving rise to filing of instant revision petition are

CR 09-B2014

ATTESTED

**EXAMINER
Peshawar High Court
Bannu Bench**

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that petitioner/ plaintiff filed a suit for declaration and perpetual-com-mandatory injunction to the effect that he is holding certificate from Allama Iqbal Open University, Islamabad passed in the year 1996. He appeared in the interview for the post of PTC/PST in the year 1999, but was denied. After decision of august Supreme Court of Pakistan dated 28.05.2002, regarding denied candidates, he again applied for the post of PTC/PST and participated in the interview in the year 2006 under 25% quota of denied candidate, but he was ignored and deprived by not enlisting his name in the said quota. Defendants were summoned, who appeared and contested the suit by submitting their written statement, wherein they raised various factual as well as legal objections. On divergent pleading of the parties as many as eight issues including relief were framed and parties were directed to adduce pro and contra evidence in support of their respective stance, which they did. On conclusion of

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ATTESTED

EXAMINER
Bhawar Jyoti College
Banda Branch

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trial, after hearing arguments of learned counsel for the parties learned trial court vide judgment and decree dated 20.10.2012 dismissed the suit of petitioner/ plaintiff. Appeal filed there against also met the same fate, hence, the instant revision petition.

3. I have heard arguments of learned counsel for the petitioner and Asst. A.G for the state and perused the record with their valuable assistance.

4. Perusal of record divulges that the plaintiff sought issuance of direction to the respondents to enlist his name under 25% quota of the denied candidates. In order to prove his case he produced PW-1, Ijaz Khan Record Clerk EDO office, Bannu, wherein he admitted that in the union council-wise merit list the name of plaintiff exists. The plaintiff appeared himself as PW-2, and reiterated the same facts as narrated in his plaint.

MDA-D

ATTESTED
EXAMINER
Bannu Bench

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(107)

He further stated that he had applied in the year 1999 and his name was placed at S.No.84. He further stated that in the year 2006 he has applied under 25% quota of denied candidates, but he was deprived. Defendants produced Akhter Zaman as DW-1, who also stated that in the list of denied candidates the name of plaintiff did not mention, whereas admitted that in the interview list of the year 1999 and 2006 his name is shown at 84 and 162 respectively. He further admitted that the plaintiff in the year 2006 had secured 39.24 marks, whereas Asal Jan and Akbar Jan having less score than the plaintiff have been appointed. After scanning the record and evidence one could reach to an irresistible conclusion that plaintiff has proved his case and both the courts below have failed to appreciate material documentary as well as oral evidence available on record and thereby committed gross illegality and irregularity. After decision of Hon'ble Supreme Court, of Pakistan,

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ATTESTED

EXAMINER

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when the defendants were preparing the list of denied candidates, it was incumbent upon the defendants to mention the name of plaintiff in the list of denied candidates, in light of directions of Hon'ble Supreme Court, but they deprived him, due to which he could not be appointed, whereas the candidates having less score have succeeded in obtaining their appointment orders.

5. It is pertinent to mention here that after decision of Hon'ble Supreme Court of Pakistan, the controversy of denied candidates who have been deprived, as in the instant case, has already been settled by this Court, whereby thirty three Writ petitions have been decided through single judgment in Writ Petition No. 24-B of 2010, wherein sufficient discussion have been made, hence, it need no further discussion on the subject.

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6. In view of the above, the instant revision petition is allowed, judgments and decrees

ATTESTED

EXAMINER
Midway High Court
Beane Road

29

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of both the courts below are set-aside, resultantly,
suit of petitioner/ plaintiff is decreed and
respondents are directed to enter his name in the list
of 25% quota of denied candidates. No order as to
costs.

Announced
14.05.2014

M. J. Khan
JUDGE

*Miss
27/5/2014*

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Examiner

Peshawar High Court Bannu Bench
Authorised Under Article 82 of
The Qanun-e-Shahadat Order 1988

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OFFICER OF THE DISTRICT EDUCATION OFFICER MALE BANNU

APPOINTMENT ORDER

In compliance with Honorable Peshawar High Court Bannu Bench with CR 09B/014 Judgment dated 14/05/14 and consequent upon the recommendation of the Departmental Requirement Committee the undersigned is pleased to appoint the male PST denied candidate in BPS mentioned against each plus usual allowances as admissible under the existing rules/policy in 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	ALAMGIR BAD SHAH	GUL NAWAZ SHAH	PIR KHEL KAKKI	G.P.S KHUJARI JANA	12	Against Vacant Post

TERMS AND CONDITION

1. His service will be considered regular but without pension and gratuity in term of section -19 of NWFP, civil servant Act, 1973 as amend vide NWFP, civil servant (Amendment) Act, 2005. He will however entitle to contributory Provident fund in such a manner and such rates may be the 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 2000 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.
7. In case of fake certificate and degree the department will take action against him.
8. The appointment of the candidate mentions above will be subject to the condition that they are domicile of Bannu.
9. He will produce Health and fitness certificate from Medical Superintendent concerned before taking over charge.
10. His original certificate /degree should be verified from concerned board or university on his own expenses before release of his pay.
11. No TA/DA etc allowed.

AL HAJ FAZAL SADIQ MANDAV
District Education Officer Male Bannu

Endst No 10696-100 AE -1(M) Pry

Dated 27 /09/14

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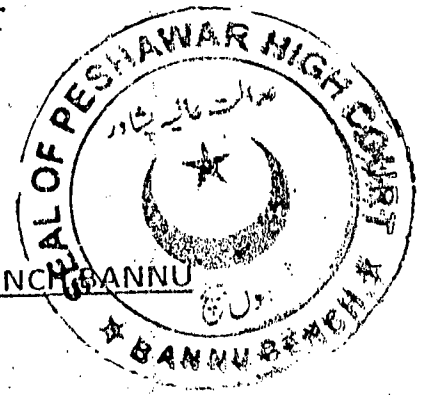
1. Additional Registrar Peshawar High Court Bannu Bench.
2. Director Elementary and Secondary Education KPK Peshawar.
- ✓ 3. District Account Officer Bannu.
4. SDEO (M) Bannu with remarks that his pay may not be drawn until and unless his testimonials or not verified from concerned Board / University.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

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DEPUTY DISTRICT EDUCATION OFFICER

MALE BANNU.

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BEFORE THE PESHAWAR HIGH COURT BANNU BENCH

Writ Petition No. 242-B/2014
with GR

- 1) Farooq Khan Son of Muhammad Arif Khan Resident of Sabo Khel Mandan Bannu.
- 2) Raqiaz Khan Son of Bahadur Sher Khan Resident of Mandeve, District Bannu.
- 3) Ataullah Khan Son of Wali Ayaz Khan Resident of Momeer Kakki, District Bannu.
- 4) Farid Ullah Khan Son of Mir Nawaz Khan Resident of Sikander Bharat, District Bannu.
- 5) Muhammad Tariq Son of Mir Saucad 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, District 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
24-5-14

ATTESTED

27

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
15-5-24

Respectfully Sheweth;

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

ATTESTED

EXAMINER
Peshawar

[Signature]

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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. Hameedullah Shah Adv.

Respondent Country and others By Qudusullah

Jehan Gandapur Adv. AG also Farzand Ali Lupelt.

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

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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

15/11
ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

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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EXAMINER
Peshawar High Court
Bannu Bench

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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

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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

CERTIFIED TO BE TRUE COPY

14/10/2020

Examiner
Peshawar High Court Bannu Bench
Authorized Under Article 67 of
The Qanun-e-Shahadat Ordinance 1984

Handwritten signature and date: 04/05/2016

Azmat Awan

Answer F (33)

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 ایم اے، پی ٹی سی، سی ٹی، بی ایڈ 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 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

31

CTC

کورٹ آف پاکستان نے سائل کے تعیناتی کے حق میں فیصلے کیئے۔ آخر کار DEO بنوں نے 27/09/2014 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، نا انصافی اور رولز ریگولیشن کے خلاف سلوک کر کے مورخہ 27/09/2014 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 01/05/1970 ہے۔ سائل کی عمر تقریباً 50 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: 23/06/2020

عبدالمجید صاحب

سائل عالمگیر بادشاہ PST جی پی ایس شیردل لنڈیڈاک تحصیل و ضلع بنوں

موبائل نمبر: 0334-9143488

10. 712

of sender

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

Rs. 970

Amid

Received a Registered*
addressed to

Date-Stamp

July 20 2020

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

Name of Receiving Officer

Insured for Rs. (in figures)

Weight (in words) Kilo Grams

Insurance fee Rs.

Name and address of sender

Ps. 9
Weight 9 (in words) Kilo Grams
To: [Handwritten Address]

صاحب KPK سروسز انٹرنیشنل

۲۰ منجانب ایڈووکیٹ
مکالمہ بادشاہ نام
صوبائی حکومت

سروسز انٹرنیشنل

پابندی تحریر پر آمیزگی

صاحب سروسز انٹرنیشنل

بغداد
مورخہ
مقدمہ
جرم
تھانہ

مقدمہ مندرجہ بالا عنوان بالا میں اپنی طرف سے واسطے بیروی و جواب دی وکل کاروائی متعلقہ ان مقام پر لکھی گئی ہے
 مسعود الرحمن وزیر اعلیٰ ہونے سے متعلق ہوں 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 تقریر تالیف و فیصلہ پر حلف دینے جو ابدی اور اقبال دعویٰ اور بصورت
 ڈگری لڑانے اجراء اور وصولی پیسہ روپیہ اور غرضی اور درخواست ہر قسم کی تصدیق زراس پر دستخط کرنے کا اختیار ہوگا۔ نیز
 بصورت ڈگری کرانے اجراء اور وصولی پیسہ روپیہ اور غرضی اور درخواست پر قسم کی تصدیق زراس پر دستخط کرنے کا اختیار ہو
 گا۔ نیز بصورت عدم بیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی دائر کرنے اپیل نگرانی و نظر ثانی و بیروی 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
 وپرداختہ بھی منظور قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق وکیل
 صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہوا پیشی
 سے باہر تو وکیل صاحب پابند نہ ہوں گے کہ بیروی مقدمہ مذکور کریں۔ نیز اگر بھی وجہ مثلاً بیماری، مذوری، غلات وغیرہ
 کی وجہ سے غرضی یا مستقبل بیروی مقدمہ نہ کر سکیں تو بھی وکیل صاحب یا اس کے لواحقین کو بقایا فیس (اگر کوئی ہے) ادا
 کرنے پابند نہ ہوں گے اور ادا شدہ فیس کی واپسی کا اقدانہ کرنے کا حق نہیں ہوگا۔ شہون وکالت نامہ سن اور تجھ کروکالت
 نامہ لکھ دیا تاکہ سند رہے۔

المرقوم
العبد
30
ماہ ستمبر
گواہ شدہ
۲۰۰۵
عبد
عالم کریم
عبدالمجید

قیمت
50 روپے


103550



ایڈوکیٹ: محمد کامران خان قاضی عبدالرحمن
بار کونسل ایسوسی ایشن نمبر 2008/1861-1861
رابطہ نمبر: 9137720-0336

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سروس ٹریبیونل گمنام

مخانب: علامہ بدرستاد طارق نورز شمس	دعوی: سروس ایپل
 <p>علامہ بدرستاد طارق نورز شمس</p>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آنگہ

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

آن مقام گمنام کیلئے محمد کامران خان قاضی عبدالرحمن 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 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 ایپل کی برآمدگی اور منسوخی، نیز دائر کرنے ایپل انگریزی 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 قانونی کو اپنے ہمراہ یا اپنے بھائی کے اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور ان کا ساختہ پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دولہ 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: 26/10/2020

المقام بد
بل گمنام

کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔

المقام بد
بل گمنام
محمد کامران خان قاضی عبدالرحمن

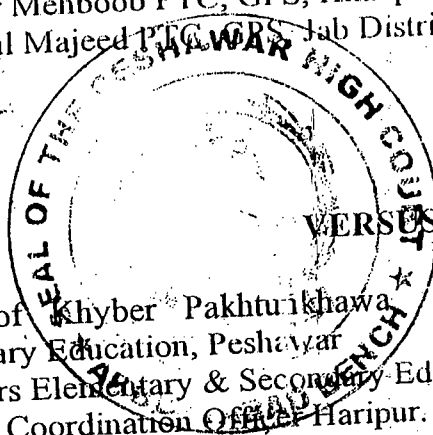
(121) — (B)

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.

...PETITIONERS

-  **VERSUS**
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

1 R
G. Allah
Additional Registrar
Peshawar High Court
Abbottabad Bench
GC-7-20k

2301
NO 6/7/12

Certified to be True Copy

Examiner
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ordns.

26.6.12
ATK

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. G. G. 13
 Additional Registrar
 Patna High Court
 Abbotabad Bench
 G. G. G. 13

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 26.6.13
 Registrar
 Patna High Court
 Abbotabad Bench
 Authorized Under Sec. 75 Act's Ordinance

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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

6-7-2014
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266.13
PESHAWAR HIGH COURT
ADDITIONAL BENCH
Peshawar Bench Sec. 25 Act 1973 Ord. 1973

ABC

130

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. P.ullah
 Additional Registrar
 Peshawar High Court
 Abbottabad Bench
 6-7-2013

Atte

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. P.ullah
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 75 Act 1973

A. Ahmad
R. H. Khan

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 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

[Handwritten 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

...PETITIONERS

[Handwritten signature]

A
G. allelu
Additional Registrar
Peshawa High Court
Abbottabad Bench.
6-7-2012

2012-06-13
Abbottabad Bench
Appointed Under Sec 25 of 1973

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133

AN JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.

JUDICIAL DEPARTMENT

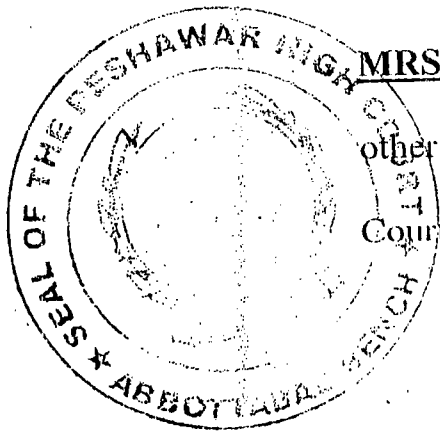
W.P No. 543-A of 2012

JUDGMENT

Date of hearing 13-06-2013.

Appellant(s)/Petitioner (s) Babar Elahi and others by M.B.

Respondent (s) Govt. K.P.K Etc by A.A G (At. Nani 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 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.”

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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Peshawar High Court
Abbottabad Bench
Authorized Under Sec 475 Acts Ord 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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 Peshawar High Court
 Abbottabad Bench
 Authorized Officer


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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

[Signature]

Certified to be True Copy
26.6.13
Probation Bench
Abhinav Bench
Verified under Section 46 of the Act

"A"

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

No.

APPEAL No. 12931 of 20 20

Alamgir Bad Shah

Appellant/Petitioner

Regd

Versus

Court of CPK through Say Edhi Peshawar
RESPONDENT(S)

Notice to Appellant/Petitioner

Alamgir Bad Shah

Coul Nawaz Shah PST Teacher Posted at CPK
Khujaari Jara 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. 12931/2020

Alamgir Badshah

-----APPELLANT

Versus

Govt of KPK and Others

-----RESPONDENTS

S. No	Description	Annexure	Pages
1	Comments		1-3
2	Affidavit		4
3	Authorities		5
4	<i>Decided S.A 19/1/2</i>	<i>A</i>	<i>6-8</i>
5	<i>Appri. orders</i>	<i>B</i>	<i>9</i>
6			
7			

afid
Deponent

①

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KPK PESHAWAR

Service Appeal No. 12931 /2020

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

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

3

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

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

GROUND:

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

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

Respondent No.1
Secretary
Elementary & Secondary Education
KPK Peshawar

Respondent No.2
Director
Elementary & Secondary Education
KPK Peshawar

Respondent No.3
District Education Officer
(Male) Bannu

4

AFFIDAVIT

I Mr. Zahid Ullah Khan Litigation Officer of the office of District Education Officer (Male) Bannu do hereby solemnly declare on oath that all the contents of the para wise comments/Reply in response to service appeal No. 12931/2010 titled Mangir Badsnah 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

all
NAQIB ULLAH KHAN
Advocate
Oath Commissioner
Distt: Court Bannu

AUTHORITY

5

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. 1993/2000 titled as Alamgir Khan vs Govt of KPK.


District Education Officer

1
Male (Bannu)

19/9/2

Appeal No. 191 / 2012

190
08/02/12

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, Jani Khel, Tehsil and district Bannu.
9. Muhammad Umar S/O Sher Bahadar, AT, Govt High School Bhangi Khan Khojerri, Tehsil and district Bannu.

..... Respondents

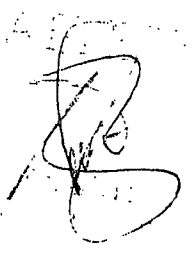
Appeal under section 4 of KPK Service Tribunal Act, 1974 whereby the appellant who possessed high merit As compared to respondents No.6 to 9 as revealed from merit list at annexure 'F' was ignored from appointment on Arabic teacher post and respondents No. 6 to 9 were appointed vide annexure 'A' and 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 othevide annexure 'B'.
2. That the appellant with the following qualification had applied for appointment on Arabic post.
 - a. MA Islamivat

No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	19.08.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO. 191/2012</p> <p style="text-align: center;">(Farhat Ullah-vs- Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:</u></p> <p style="text-align: center;">Counsel for the appellatant (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 appellatant 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 appellatant 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 appellatant were that some posts of the Arabic Teacher were advertized by the official respondents as a result whereof appellatant and private respondents No.6 to 9 applied for the same. That in the merit list, the appellatant 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 Bakhtish Shah
Member
Edl-M. Aamir Nazir,
Member

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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

OFFICER OF THE DISTRICT EDUCATION OFFICER MALE BANNU.

APPOINTMENT ORDER.

In compliance with Honorable Peshawar High Court Bannu Bench with CR 09B/014 Judgment dated 13/05/11 and consequent upon the recommendation of the Departmental Requirement Committee the undersigned is pleased to appoint the male PST denied candidate in BPS mentioned against each plus usual allowances as admissible under the existing rules/policy in 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	ALAMGIR BAD SHAH	GUL NAWAZ SHAH	PIR KHEL KAKKI --	GPS KHUJARI JANA	12	Against Vacant Post

TERMS AND CONDITION

1. His service will be considered regular but without pension and gratuity in term of section -19 of NWFP, civil servant Act, 1973 as amend vide NWFP, civil servant (Amendment) Act, 2005. He will however entitle to contributory Provident fund in such a manner and such rates may be the 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 2000 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.
7. In case of fake certificate and degree the department will take action against him.
8. The appointment of the candidate mentions above will be subject to the condition that they are domicile of Bannu.
9. He will produce Health and fitness certificate from Medical Superintendent concerned before taking over charge.
10. His original certificate /degree should be verified from concerned board or university on his own expenses before release of his pay.
11. No TA/DA etc allowed.

AL HAJ FAZAL SADIQ MANDAV
District Education Officer Male Bannu.

Endst No 10596-100 AE-1(M) Pny
Copy to information.

Dated 27/09/11

1. Additional Registrar Peshawar High Court Bannu Bench.
2. Director Elementary and Secondary Education KPK Peshawar.
- ✓ 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.

DEPUTY DISTRICT EDUCATION OFFICER

MALE BANNU.