


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 off. 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

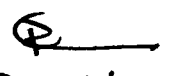
27.08.2022

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

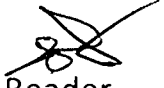
Counsel for the appellant present. Mr. Noor Zaman Khattak,  
District Attorney for respondents present.

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

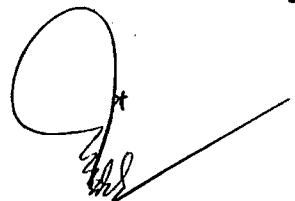
Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

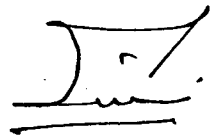
  
Chairman

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.

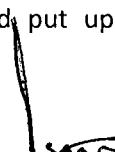

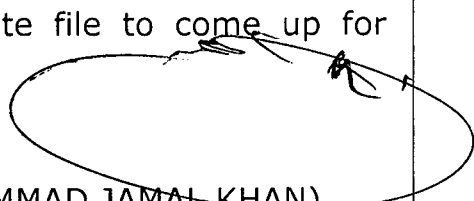

  
Appellant Deposited  
Security & Process Fee  
10/6/21

  
Chairman

## FORM OF ORDER SHEET

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

Case No.- 12937 /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>

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

*Objections NO. 4 & 7 are still stands.  
The appeal is returned to his counsel  
for completion resubmission with 15 docs.*

*NO. 3017 / S.T  
dt. 24/10 / 2020*

*Registrar*

P/S in

after Renewal of  
original appeal is  
submitted as per  
26/10




The joint appeal of M/S Muhmtaz Khan and Zareen Khan received today i.e. on 06 .10.2020 is in complete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Addresses of respondent 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- Annexure-B, C and E of the appeal are illegible which may be replaced by legible/better one.
- 4- Sub-rule- 2 of rule-3 of the appeal rules 1986 requires that every affected civil servant shall prefer the appeal separately. Therefore, the appeal of the above named appellants may be filed separately/individually.
- 5- Annexures of the appeal may be attested.
- 6- Annexures of the appeal may be flagged.
- 7- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent in each appeal may also be submitted.

No. 2850 /S.T

Dt. 06/10 /2020

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Masoodur-Rehman Wazir  
Adv. High Court Bannu

Respected sir,

- 1- Address of Res. nos 5 to 7 are included in memo of address of parties.
- 2- placed on record.
- 3- Annexure are replaced.
- 4- For Zareen separate appeal is filed.
- 5- Annexure is already attested by counsel with Renatt CTC (Certified to Be True Copy).
- 6- annexure are flagged.
- 7- In Murad already submitted 7 copy and for Zareen also submitted 3 copy.

  
16/10

To,

The Registrar,  
KPK Service Tribunal,  
Peshawar .

SUBJECT:

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

Dear Sir,

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

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

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

Dated: 16/10

Masood Ur Rahman Advocate  
Peshawar High Court  
Bannu Bench

*Objections No. 4 & 7 are still stands.  
The appeal is returned to his counsel  
for completion resubmission with 15 days.*

*No. 3017 /S.T*

*dt. 27/10 /2020*

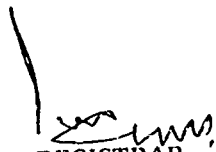
*Registrar*

The joint appeal of M/S Muhmtaz Khan and Zareen Khan received today i.e. on 06/10/2020 is in complete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Addresses of respondent 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- Annexure-B, C and E of the appeal are illegible which may be replaced by legible/better one.
- 4- Sub-rule- 2 of rule-3 of the appeal rules 1986 requires that every affected civil servant shall prefer the appeal separately. Therefore, the appeal of the above named appellants may be filed separately/individually.
- 5- Annexures of the appeal may be attested.
- 6- Annexures of the appeal may be flagged.
- 7- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent in each appeal may also be submitted.

No. 2850 /S.T

DI. 06/10 /2020

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Masoodur-Rehman Wazir  
Adv. High Court Bannu

Respected sir,

- 1- Address of Res. Nos 5 to 7 are included in memo of address of parties.
- 2- placed on record.
- 3- Annexure are replaced.
- 4- For Zareen separate appeal is filed.
- 5- Annexure is already attested by counsel with Penati CTC (Certified to Be True Copy).
- 6- annexure are flagged.
- 7- In Murad already submitted 7 copy and for Zareen also submitted 7 copy. Spare copy.

  
16/10

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

Service Appeal No. 12932/2020.

Mumtaz Khan

...(Appellant)

Versus.

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

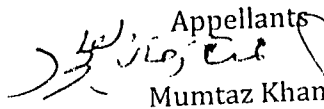
.....Respondents / defendants

**INDEX**

S#	Description of documents	Annexed as	Page(s)
1.	Grounds of Service appeal		1-4
2.	Affidavit		5
3.	Addresses of the parties		6
4.	Copy of Advertisement	"A"	7
5.	Copy of writ Petition	"B"	8-12
6.	Copy of Court Order	"C"	13-25
7.	Copy of Appointment order	"D"	26
8.	Copy of the Judgment of PHC Bannu Bench	"E"	27-33
9.	Copy of service appeals	"F"	34-35
10.	Copy of registry receipts	"G"	36
11.	Wakalatnama		37

Dated:

30/9/20  
26/10/20

Appellants  
  
Mumtaz Khan

Through,

Masood Ur Rehman Wazir  
Advocate, High Court, Bannu

①

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

Service Appeal No. 12932/2020.

Mumtaz Khan S/O Maqsood Jahan PST Teacher posted at GPS  
Azghafar Kaki 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 posted at GPS  
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 29/07/2017**  
**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 PETITIONERS 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  
1999 AND OTHER PST TEACHERS FROM 30/05/2000  
TILL THEIR APPOINTMENT ORDER WHO ARE  
STANDING ON SAME FOOTING HENCE PETITIONERS  
MAY BE GRANTED SENIORITY ARREAR OF PAY AND  
OTHER BACK BENEFIT.

**RESPECTFULLY SHEWETH:**

**NOTE:** That on dated 30/09/2020 appellant prefer appeal before this Honourable Tribunal and on office objection the petitioner prefer separate service appeal to remove office objection.

- 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 29/07/2017 Petitioners are appointed as PTC teachers 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 petitioners 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 appeals & registry receipt are annexed as F, G & H, I).**

**GROUNDS:**

- A) That, petitioners are 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 appellants 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

(4)

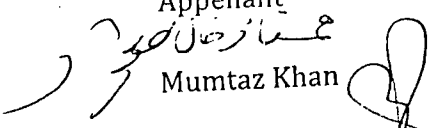
seniority along with other benefits granted to others appointees of 25% quota while refusing to appellants so coming in the ambit of term & condition of civil servant hence this tribunal has got the jurisdiction and appeal of the appellant is with in time.

That, appellant is victim of the discriminatory treatment and it is the for most duty of the Court/Tribunal to save the citizen/employees from discriminatory treatment and decide the fundamental rights granted by the Constitution of Islamic Republic of Pakistan 1973 which is coming in the ambit of this Honourable Tribunal.

It is, therefore, humbly prayed that on acceptance of instant service appeal and appellants may granted seniority, arrear of pay and other back benefits from 30/05/2000 till 29/07/2017 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  
26/10/20

Appellant

  
Mumtaz Khan

Through,

Masood Ur Rehman Wazir  
Advocate, High Court, Bannu



(5)

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

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

Mumtaz Khan.

...(Appellants)

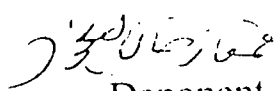
Versus.

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

...Respondents / defendants

**Affidavit**

I Mumtaz Khan S/O Maqsood Jahan PST Teacher posted at GPS Azghafar Kaki District Bannu, do hereby solemnly affirm and declare that the contents of the above noted appeal are true correct and nothing has been kept secret or concealed from this Honourable Court.



Deponent

Mumtaz Khan

6

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

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

**Memo of addresses.**

Mumtaz Khan S/O Maqsood Jahan PST Teacher posted at GPS  
Azghafar Kaki 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 posted at GPS  
Mumir Kaki District Bannu.

.....Respondents / defendants

Dated: 30/9/20  
26/10/20

Appellant

Mumtaz Khan

Through,

Masood Ur Rehman Wazir  
Advocate, High Court, Bannu



Better Copy

6

درخواستیں مطلوب ہیں۔

تعمیراتی امور کے لئے صرف تربیت یافتہ اور سہ ماہیہ کے نگران اور درخواستی امیدواروں سے متعلقہ امور کو سامنے رکھ کر درخواستیں طلبی طور پر اسناد کے ساتھ پیش کرنا ہوں گی۔

1. امیدواروں کی تعداد 73,000 ہے۔ 1999ء تک ملازمین کی تعداد 15,000 ہے۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔

2. امیدواروں کی تعداد 73,000 ہے۔ 1999ء تک ملازمین کی تعداد 15,000 ہے۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔

3. امیدواروں کی تعداد 73,000 ہے۔ 1999ء تک ملازمین کی تعداد 15,000 ہے۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔

4. امیدواروں کی تعداد 73,000 ہے۔ 1999ء تک ملازمین کی تعداد 15,000 ہے۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔

5. امیدواروں کی تعداد 73,000 ہے۔ 1999ء تک ملازمین کی تعداد 15,000 ہے۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔

6. امیدواروں کی تعداد 73,000 ہے۔ 1999ء تک ملازمین کی تعداد 15,000 ہے۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔

7. امیدواروں کی تعداد 73,000 ہے۔ 1999ء تک ملازمین کی تعداد 15,000 ہے۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔

8. امیدواروں کی تعداد 73,000 ہے۔ 1999ء تک ملازمین کی تعداد 15,000 ہے۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔

9. امیدواروں کی تعداد 73,000 ہے۔ 1999ء تک ملازمین کی تعداد 15,000 ہے۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔

10. امیدواروں کی تعداد 73,000 ہے۔ 1999ء تک ملازمین کی تعداد 15,000 ہے۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔ اس لئے ملازمین کی تعداد میں کمی ہوگی۔

etc

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

امتحان کے کل نمبرات

ہر سال امتحان کے لئے مقرر کردہ نمبرات ذیل ہو گئے۔

میزک	پہلی سی	ایف اے ایف سی	بی اے ایف سی	ایچ اے ایف سی
30	25	20	10	10

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

مارش اور انٹریو میں درج ذیل پر درگرام کے مطابق ہو گئے۔

تاریخ نمیت	تاریخ انٹریو امیدواروں برائے اضلاع	مراد	بہتر مقام ضلعی ہیڈ کوارٹر
02/03/99	04/03/99	مراد	پشاور، مالاکنڈ، چارسدہ
06/03/99	04/03/99	مراد	پشاور، مالاکنڈ، چارسدہ
06/03/99	08/03/99	مراد	پشاور، مالاکنڈ، چارسدہ
10/03/99	08/03/99	مراد	پشاور، مالاکنڈ، چارسدہ
16/03/99	12/03/99	مراد	پشاور، مالاکنڈ، چارسدہ
14/03/99	12/03/99	مراد	پشاور، مالاکنڈ، چارسدہ
14/03/99	16/03/99	مراد	پشاور، مالاکنڈ، چارسدہ
14/03/99	16/03/99	مراد	پشاور، مالاکنڈ، چارسدہ

غلام مصطفیٰ

ڈائریکٹر تعلیمات پر انٹرن صوبہ سرحد پشاور۔

فون: 2567188

Besta (GP)

Ames B

(8)

JUDGMENT SHEET

CIF  
af

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.

Amea B CJC  
8

JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT, AIRKAN BENCH  
(JUDICIAL DEPARTMENT)

W.P. No. 15 of 2004

JUDGMENT

Date of hearing 28-4-2004

Appellant-petitioner (Shaukatullah) by S. Zeef Abbas Zaheer Advocate

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

TARIO 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.

*[Handwritten mark]*

EXAMINER  
Peshawar High Court  
3/11/04

Better Copy (9)

CJC

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 Aliama Iqbal Open University should be taken not only equal but at par and if the then policy of the Government was allowed to continue was held to be discriminatory.

3. The Government dissatisfied from the Full Bench judgment of this court filed petition before august Supreme Court of Pakistan as well as certain private individuals and the august Supreme Court upheld the decision of this court vide judgment dated 28.5.2002 and in para 7 of its judgment observed as under:-

"In most of the appeals, learned counsel stated at the Bar that the appellants/respondents were duly selected by the relevant Selection Committees of the Government on merits but their appointments have been withheld on account of order of status quo passed by this Court while granting leave to appeal on 17.8.2000. Since these appeals are being finally disposed of, such selectees subject to academic qualifications shall be immediately appointed to their respective posts as, prima facie, there is no other 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

37/11/11  
3/11/11  
3/11/11



Best Copy

10

GTC

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

3

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

4. We have heard learned counsel for the petitioners and learned Deputy Advocate General who is appearing along with Mr. Farid Nawaz EDO Bannu.

The latter informs that notwithstanding judgment of Full Bench of this Court and the august Supreme Court of Pakistan but now policy for appointment to the post of PTC Teacher has been changed by the Provincial Government and batch wise appointment/consideration has been omitted, thus the petitioners if at all would like to be appointed as 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 approach the High Court or the

EXAMINER  
Peshawar High Court  
3/11/12

Best Copy  
11  
CTC  
A

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

Supreme Court at that 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 petitioners 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 meted out to the petitioners has been tested by the august Supreme Court of Pakistan 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

EXAMINER  
High Court  
Full Bench  
3/11/72

(11)  
etc

(12) Better copy

CCJ

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:

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:  
28.04.2004.

JUDGE

JUDGE

\*Quseem\*

Adil Registrar  
29.4.2004

29/4

Signature

12

CTC

294

13

A m a e

IN THE COURT OF SULTAN HUSSAIN,  
CIVIL JUDGE-V, BANNU.

Civil Suit No: 2011  
Date of Institution: 28-3-2014  
Date of Decision: 28-3-2017

1. Mumtaz Khan S O Maqsood Jan
  2. Zareen Khan Vs Gul Marjan
- R.O Kakki, Tehsil & District, Bannu  
..... (PLAINTIFFS)

854/17 A/G

VERSUS

Provincial Government, Secretary Education through  
Agent Government, Pleader, Bannu etc.  
..... (DEFENDANTS)

SUIT FOR DECLARATION AND INJUNCTION.

JUDGMENT  
28-3-2017

Mumtaz Khan and Zareen Khan are the holders of PST certificates, passed from Allama Iqbal Open University Islamabad in the year 1996. In 1999 vacant posts of PST were advertised. The government policy for recruitment at that time was that 25% was to be filled on district-wise basis and 75% on the basis of union council/batch-wise. At the same time candidates who qualified their PTC from Government Elementary Colleges Institutions were given preference over candidates having similar qualification from Allama Iqbal Open University Islamabad. It so happened that when the vacant posts were advertised in the year 1999.

**ATTESTED**

Copying Agency  
Lower Court Bannu  
29-8-17

28/3/2017

only candidates from Elementary Colleges were given preference and recruited, while candidates having similar qualification from Allama Iqbal Open University Islamabad in spite of their merits were denied for recruitment. This discriminatory policy of the government was challenged in court, and then came the full bench judgment of the august Peshawar High court, through which candidates having similar qualification from Allama Iqbal Open University Islamabad were treated equal and at par with the candidates having similar qualification from Government Elementary Colleges. The judgment was upheld by the august Supreme Court of Pakistan. The candidates of Allama Iqbal Open University Islamabad who suffered in the year 1999 are in the common parlance are called "the effectees of 1999". It was then formulated that 25% recruitment was to be made from such effectees while 75% were to be recruited from new entrants. A number of such effectees were recruited following the above verdicts and decrees and judgments of other courts. Allegedly the present plaintiffs also applied for recruitment in the year 1999; however, they also were dropped solely on the ground of their qualification from Allama Iqbal Open University Islamabad. Plaintiffs are said to have applied from time to time whenever vacancies were advertised however they were discriminated against and

ATTESTED

Copying Agency  
Lower Court Bannu  
29-6-17

28/3/2017



796  
3  
candidates lower on merit list were appointed and plaintiffs were not recruited.

2. Plaintiffs have now prayed for declaration cum injunction to be declared effectees of 1999 as well as to be recruited on the vacant posts of PST on the basis of 25% quota reserved for such effectees.

3. Defendants were summoned, who contested the suit by filing their written statements. Parties recorded their evidence, however, at the last stage issues were not found to have been framed, hence, the following issues were framed at the last stage.

1. Whether plaintiffs have a cause of action? OPP
2. Whether the suit is time-barred? OPD
3. Whether plaintiffs have locus standi? OPP
4. Whether plaintiffs are the Allama Iqbal Open University's effected candidates of 1999? OPP
5. Whether defendants omitted to mention the names of the plaintiffs as "effectees of 1999", in their list prepared during the inquiry for the purpose of actual number of such effectees? OPP
6. Whether defendants recruited candidates left out from the ibid list and plaintiffs were deliberately dropped and discriminated against? OPP
7. Whether defendants recruited candidates lower in merits from the plaintiffs, if so, its effect? OPP

ATTESTED

Copying Agency  
Lower Court Bannu  
29-6-17

28/3/2017

8. Whether the suit is bad for the non-joinder and mis-joinder of parties? OPD
9. Whether plaintiffs are entitled to the decree as prayed for? OPP
10. Relief.

4. Counsel for the parties relied on the evidence already recorded. Pro and contra arguments heard and record perused. On the basis of which issue-wise findings are as under:

ISSUE NO.2

Plaintiffs have sued for declaration-cum-injunction on the ground that they are effectees of 1999, being PST from Allama Iqbal Open University Islamabad, who were declared at par and equal with candidates having similar qualification from Government Elementary Colleges. 25% quota was reserved for such effectees. A number of candidates were recruited on the basis of august High Court Full Bench judgment and judgments and decrees of other courts. The recruitments were made intermittently. They applied from time to time, however, they were not recruited. In the beginning there was a policy that 25% PST teachers were appointed on district basis and 75% were recruited on union council basis. Plaintiffs have the case that effectees lower on the merit list were recruited on 30.12.2010 and 31.12.2010 and plaintiffs were deprived. They have stated that cause of action accrued to them one week

**ATTESTED**

Copying Agency  
Lower Court Bannu  
29-6-17

VM  
28/3/2017

before the defendants refused to recruit them on vacant posts. The suit was instituted on 27.3.2014. Plaintiffs have alleged that defendants appointed candidates from 2005 to 2013 intermittently and plaintiffs were deprived inspite of their applications and entitlement. In effect they have challenged the said orders generally. Plaintiffs feel aggrieved from all such orders. Attorney for the plaintiffs recorded his statement as PW-2 and in cross he admitted that the Education Department, Bannu made recruitments of PST in 2005, 2009, 2012 and 2016 and that they applied for all these vacant posts. He was asked about PW-1, Record Keeper, that through him application forms submitted by plaintiffs were not produced in court; however, he dismissed the suggestion that plaintiffs did not apply for those posts that is why application forms were not produced. Defendants on the other hand, examined, Wajidullah Khan, ADEO, DW-1, however, the crux of his evidence is that plaintiffs are not the effectees of, 1999 and it was only on this ground that they were not appointed. He has not spoken a single word that the suit is time-barred or that the plaintiffs have not applied for recruitments from time to time. Thus, the suggestion to PW-2 that he did not apply in different years or that the application forms were not produced has no sound foundation. In the absence of evidence in rebuttal the plaintiffs' version has to be accepted. Thus, recurring cause of

**ATTESTED**

Copying Agency  
Lower Court Bannu  
29-6-17

28/3/2017

28/3/2017  
W/M

as such they cannot be treated as effectees. Initially the plaintiffs did not show themselves as such effectees and and when finally all the effectees were asked to apply candidates who were otherwise qualified to be recruited defendants submitted that effectees were those plea that plaintiffs are not the effectees of 1999. CP for equal and at par. Defendants in rebuttal have taken the higher courts and both the certificates were declared University Islamabad. This issue was resolved by that they were qualified from Allama Iqbal Open candidates they were not recruited solely on the ground posts of PST in the year 1999. Like many other in 1996. For the first time they competed on the vacant training from Allama Iqbal Open University Islamabad Plaintiffs have the case that they have passed PST

ISSUE NO.4

not time-barred. The issue is decided in the negative. hence, the suit is within the period of limitation and is wrong order gave fresh cause of action to plaintiffs made during the pendency of the suit. Every fresh period from 2005 to 2013. Subsequent orders were also have challenged consecutive orders passed within the by defendant No.2 in his official capacity. Plaintiffs running when they came to know of the orders passed Article 14 of the Limitation Act the limitation will start were not appointed as per their entitlement. Under action accrued to plaintiffs from time to time when they

Copying Agency  
Lower Court Bannu  
29-6-17

ATTESTED

(Signature)

(Signature)

government followed the batch-wise recruitment policy, however, it was done away with and new and old entrants were to be recruited on open merit. As per judgments of the higher courts 25% quota was reserved for the effectees of 1999. The august Peshawar High Court judgment dated 28.4.2004 is relevant for the dispute involved in this case, as similar nature dispute arose in the said case. Relevant para of the said judgment is reproduced for ready reference:

*"The 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 entrants. This 25% is for those who were denied because of holding certificate from Allama Iqbal Open University Islamabad and such 25% would be filled amongst them but on the basis of their own merit separately prepared.*

*8. By the time 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 appointments by the Government, the Government shall relax age as permissible under the law."*

ATTESTED

Copying Agency  
Lower Court Bannu  
29-6-17

28/3/2017

PW-1 has produced list of the effectees of 1999 as EXPW-1/1. He also produced appointments orders of such effectees as EXPW-1/2. The interview list of such candidates is EXPW-1/3. PW-2 is the attorney of plaintiffs, who has stated that since 2004-2005 25% recruitment is made from the effectees of 1999. Plaintiff No.1 in the interview secured 39.60 marks while plaintiff No.2 secured 37.69, however, candidates at serial No.42 to 46 of the merit list obtained marks ranging from 29.61 to 35.51 which is lessor score from the plaintiffs, while candidates at serial No.36 to 40 have lessor score from plaintiff No.1. DW-1 in cross has admitted that as per list EXPW-2/3 candidates at serial No.1 to 3 of the session of 1996 were given scoring (37.60), (37.56), and (37.24) and were appointed in UC Kakki, however, the list of effectees does not contain their names, while plaintiffs admittedly secured 39.60 and 37.69 scores and also belong to UC Kakki, but they were not appointed. Thus, keeping in view the judgment of the august Peshawar High Court dated 28.4.2004, and the evidence on record plaintiffs are indeed the effectees of 1999. The next question is about their merit and the above evidence clearly establishes the fact that candidates lower in merit from the plaintiffs in the same UC were recruited even though their names do not find mention in the list prepared about such effectees. Plaintiffs are suffering

ATTESTED

Copying Agency  
Lower Court Bannu  
29-6-17

28/3/2017

because their names were not mentioned in the effectees' list while the position is that candidates at serial No.1 to 3 were originally not mentioned in the list and were even lower in merit from the plaintiffs but were recruited. This shows the malafide of the defendants that those having high scores were ignored and dropped while those of lower scoring were recruited. This act of the defendants cannot be immunized from the scrutiny of the court and is bound to be declared illegal and dishonest appointments. Plaintiffs are certainly the effectees of 1999 and the issue is decided in the affirmative.

ISSUE NO.5

As held under issue No.4 that plaintiffs as effectees of 1999 were deliberately and without any justification not mentioned in the list of effectees. however, GP for defendants took the plea that those subsequently recruited from the effectees of 1999 having lower score than the plaintiffs had a different batch of 1995 and plaintiffs belong to the batch of 1996. Firstly, this objection has not been raised in the written statement and the rule is that no one can deviate from the stance taken in the pleading and secondly the effectees of 1999 are actually all those who qualified PTC from Allama Iqbal Open University Islamabad and under the policy then in vogue were not treated at par with those who had qualified from Government Elementary Colleges

ATTESTED

Copying Agency  
Lower Court Bannu  
29-6-17

29/3/2017

The admitted position is that the list prepared by defendants of such effectees is not exhaustive and even left over candidates were recruited except the plaintiffs. The Peshawar High Court judgment referred to under issue No.4 above leaves no room for the kind of interpretation made by learned GP and it has categorically held that any other candidates similar to the case of the petitioners in that case were to be allocated 25% seats of the available vacancies and it was further held that "by the time 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 appointments by the government, the government shall relax age as permissible under the law". Plaintiffs have clearly established that not only they were dropped from the list of the effectees but subsequent conduct of the defendant No.2 shows that candidates lower in merits from the plaintiffs were recruited despite the fact that they were not originally mentioned in the list. Plaintiffs have a far better case than the said candidates but without any reason their right was infringed. It is held that plaintiffs were effectees of 1999 but their names were deliberately omitted from the list. hence, the issue is decided in affirmative.

ATTESTED

Copying Agency  
Lower Court Bannu

29-6-17

28/3/2017



ISSUE NO.6

As held above that defendants recruited even those candidates who were not in the original list of the effectees and were also lower in the merit list but still they were appointed and plaintiffs were left out and thus they were discriminated. It is the inviolable right of every citizen to be dealt with in accordance with the law and that no discriminatory treatment should be meted out to persons placed in the similar circumstances. The issue is decided in affirmative.

ISSUE NO.7

Keeping in view the findings given under issues No.4 to 6, the issue is decided in the affirmative.

ISSUE NO.8

Plaintiffs have the case that they are the effectees of 1999 and PW-2 enumerated the names of the candidates who secured lessor score but were appointed. These candidates, however, have not been impleaded in the suit. Plaintiffs have actually challenged the illegal orders of the said candidates made by defendant No.2. The illegal order even in their presence before the court could not have been justified but any person likely to be effected by the decree was required to have been impleaded. Plaintiffs, in essence, do not want to disturb the already recruited persons and pray that in future they should be recruited on vacant posts. Under O.1, R.9 CPC the court can adjudicate the controversy

23  
**ATTESTED**

Copying Agency  
Lower Court Bannu  
21-8-17

28/3/2017

Civil Suit No: 201/1  
Mumtaz Khan etc Vs Provincial Government etc.

24

between the parties before the court. Hence, the issue is decided accordingly.

ISSUES NO.1 & 9

Plaintiffs have, thus, a cause of action and are entitled to the decree to be declared effectees of 1999 and to be recruited on fresh vacant posts. Both the issues are decided accordingly.

RELIEF

Plaintiffs have proved that they are the effectees of 1999 and that they were discriminated against. But those already recruited cannot be disturbed and plaintiffs shall be entitled for recruitment on fresh vacant posts and age relaxation as given to others. The fresh vacancy shall be considered from the date of the decree. The suit is decreed in the above terms. Parties to bear the costs. File be consigned to record room.

ANNOUNCED  
28-3-2017

SULTAN HUSSAIN  
Civil Judge-V, Bannu

28/3/2017

CERTIFICATE

Certified that this judgment consists of 12 (TWELVE) pages. Each page of which was signed and corrected wherever found necessary.

SULTAN HUSSAIN  
Civil Judge-V, Bannu

28/3/2017

- 1- Registration No: 5404
- 2- Date of Presentation of Application 17-6-17
- 3- Date of Receipt of the file 29-6-17
- 4- Date of Preparation of copy 29-6-17
- 5- Date of Delivery of copy 29-6-17
- 6- No. of copies / words 12
- 7- Ordinary Fee 29
- 8- Urgent Fee —
- 9- Total Fee 29
- 10- Signature of copyist B d

**ATTESTED**

Copying Agency  
Lower Court Bannu  
29-6-17

پروٹوکول

25

28-3-19  
11-11-19

- 1- ہتاز خان ولد مقصود خان
- 2- زرین خان ولد گل مرہان

Or  
27/13/1919  
S.C.J. BANNU

854/17  
بنا

- 1- ہدیائی حکومت، سیکرٹری ایجوکیشن ہنزولہ ایکٹ گورنمنٹ پبلڈرینوں
- 2- ڈسٹرکٹ آفیسر قراچہ ایجوکیشن ہنزولہ — مدعا علیہم

"الف" دعویٰ ہمزاد ہندو ڈگری استقراریہ ہدیائی ہنزولہ کے  
 مدعیان نے شمارہ 1999 کی مخصوص کوٹہ کے لئے  
 لینائی PTE پوسٹ پر 25% کی رو سے دوسری لغات  
 شدہ ایسٹوٹان سے برتر حق دیتے ہیں اور PTE  
 پوسٹ پر مدعا علیہم کے ساتھ ساتھ  
 میں آتا ہے کہ ان کے لئے جاری کرے  
 لینا ان کو پابند بنایا جاوے کہ وہ مدعیان کا توڑنا  
 PTE پوسٹ پر جاری کرے ہدیائی و جم برتر حق  
 کے بنیاد پر لینائی کے دقتارے دقتار قرار پھر  
 عدالت عظمیٰ اور عالیہ کے احکامات کے لئے پیدا  
 شدہ حق تسلیم کرے مدعی سے مطابقت قانون  
 سلوٹ کے لئے جبکہ مدعیان کو لغات نہ کرنا  
 اور شمارہ لسٹ ہدیائی ہنزولہ و فراڈ قرار دیکر مدعی کے  
 حقوق پر غیر موثر دما عدم ہونے کے لئے مدعا علیہم مقدمہ

ATTESTED

Copying Agency  
Lower Court Bannu  
29-6-19

"ب" دعویٰ ہمزاد ہندو ڈگری حکمہ دوائی تاقیدی ہدیائی  
 ہنزولہ کے مدعا علیہم کو پابند بنایا جاوے کہ مدعیان سے  
 مطابقت قانون سلوٹ کے لئے برتر حق کے بنیاد پر PTE  
 پوسٹ پر لینائی جاری کرے اور اپنے فراڈ ہنزولہ  
 قانون احکامات عدالت عالیہ، عظمیٰ شمارہ 1999 کے احکامات  
 مدعیان کو PTE پوسٹ پر لینائی کرے مدعا علیہم مقدمہ

RELIEF

Plaintiffs have proved that they are the effectees of 1999 and that they were discriminated against. But those already recruited cannot be disturbed and plaintiffs shall be entitled for recruitment on fresh vacant posts and age relaxation as given to others. The fresh vacancy shall be considered from the date of the decree. The suit decreed in the above terms. Parties to bear the costs. File be consigned to record room.

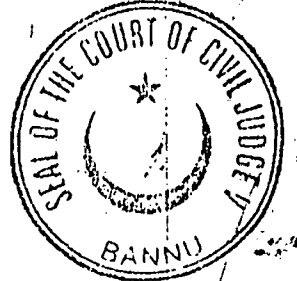
خرچہ نمائش

Civil Judge, Lower Court, Bannu

روپیہ	پیسہ	خرچہ نام	روپیہ	پیسہ	خرچہ نام
		اشامپ عرضی دعوی			ادنامپ عرضی دعوی
		اشامپ مختیار نامہ	350		اشامپ مختیار نامہ
		اشامپ وکالت نامہ			اشامپ وکالت نامہ
		خرچہ گواہان	400		خرچہ گواہان
		متفرق			متفرق
		مہیزان	700		مہیزان

تاریخ 17-3-28 کو بہ ثبت میرے دستخط اور مہر عدالت کے جاری کیا گیا ہے۔

Civil Judge, Lower Court, Bannu



1. Registration No: 5404
2. Date of Presentation of Application: 17-6-17
3. Date of Receipt of the file: 29-6-17
4. Date of Preparation of copy: 29-6-17
5. Date of Delivery of copy: 29-6-17
6. No. of copies / words: 2
7. Ordinary Fee: 4
8. Urgent Fee: \_\_\_\_\_
9. Total Fee: 4
10. Signature of applicant: [Signature]

ATTESTED

Copying Agency  
Lower Court Bannu  
29-6-17

APPOINTMENT ORDER

In compliance with the directions/Judgment of Hon: Civil Judge-I Bannu decision dated: 28-03-2017 and Additional District Judge-II Bannu decision dated: 14 June, 2017 and execution proceeding under process with CJ-XI Bannu issued NBWA of the undersigned, the appointment orders of the below mentioned Male PST candidates are hereby issued conditionally on the basis of denied 1999 quota in BPS mentioned against their names plus usual allowances as admissible under the existing rules/ policy at the schools noted against his name with effect from the date of taking over charge in the best interest of public service subject to the terms /conditions given below.

S.No.	Name	Father Name	U/Council	Place of posting	BPS	Remarks
1-	Mumtaz Khan	Maqsood Jahan	Kakki-I	GPS Azghufar Kakki Bannu	12	Against V/P
2-	Zareen Khan	Gul Merjan	Kakki-I	GPS Shabaz Kakki No1 Bannu.	12	-do-

TERMS & CONDITIONS

1. His/Their service will be considered regular but without pension & gratuity in term of Section-19 of NWFP, civil servant Act, 1973 as amended vide NWFP, civil servant (Amendment) Act, 2005. He will however be entitled to contributory provident Fund in such a manner and such rates may be prescribed by the Government.
2. This appointment order is clearly on conditional basis and will be finally decided after the Judgement of next Higher Court, if otherwise appeal of the Education Department accepted by the next Higher court.
3. His/Their services will be liable to termination on one month's notice from either side, in case of resignation without notice their/ his two mantis's pay/ allowances shall be forfeited to Govt.
4. The appointee should join his post within 15 days after obtaining proper age relaxation from the competent authority. The SDEO(M) Bannu should furnish necessary report to the effect that the candidate has joined the post or otherwise, after 15 days of the issuance of this order, failing which, his/ their order will be treated as cancelled.
5. His/Their services can be terminated at any time, in case his performance is found unsatisfactory during probationary period. In case of misconduct, he will be proceeded against under E&D Rules 2011 & the rules framed from time to time.
6. Charge should not be handed over if age of the candidate is below 18 years or above 35 years as per policy.
7. If the candidate is exceeding from the required age i.e. 35 years, he should obtain proper age relaxation from the competent authority and his pay may not be released till the completion of age relaxation process.
8. In case of fake certificates/ Degree or any other mistake in the said appointment order detected later on the undersigned reserves the right of amendment in the appointment order accordingly.
9. They will not claim the back benefits on the basis of 1999 rights and their inter seniority will be considered from the date of taking over charge under the rules.
10. He /They will produce Health & Fitness certificates from Medical Superintendent concerned before taking over charge.
11. If the above terms & Conditions are acceptable to them, He will receive the charge of the post at the mentioned school & report to Office within 15 days accordingly.
12. No TA/DA etc is allowed.

District Education Officer  
(Male) Bannu

Dated Bannu the 29/07/2017.

Enstt No 8886-92 /AE-I (M) Prv.

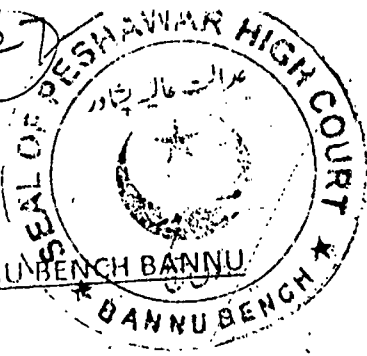
Copy for information & necessary action to:-

- 1- Director Elementary & Secondary Edu: KPK Peshawar.
- 2- Civil Judge No. XI District Bannu.
- 3- SDEO (M) Bannu with the remarks that their pay may not be drawn until & unless his testimonials are not verified on OPSS from concerned Board/University.
- 4- ASDEO(C) concerned.
- 5- District Account officer, Bannu.
- 6- Candidate concerned.

District Education Officer  
(Male) Bannu

Amd E (27)

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

19-5-14

ATTESTED

EXAMINER  
Peshawar High Court  
Bannu Bench

29

17) AKhter Ali Shah Son of Bahader Ali Shah Resident of Machan Khef 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  
19-5-04

Respectfully Sheweth;

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

**ATTESTED**

EXAMINER  
Court  
Bannu Bench

29



**JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT,  
BANNU BENCH.**  
(Judicial Department)

W.P No. 242-B of 2014

Farooq Khan etc Vs Government of Khyber

Pakhtunkhwa etc

**JUDGMENT**

Date of hearing 04/04/2016

Appellant-Petitioner Farooq Khan and others By

Mr. Hamidullah Shah Adv.

Respondent Country and others By Qudratullah

Jehan Gondal Adv. Asst. AG A/o Farzand Ali Syed.

**HAIDER ALI KHAN J.-** Farooq Khan and 16 others

petitioners seek constitutional jurisdiction of this Court praying

that :

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

**ATTESTED**

EXAMINER

Peshawar High Court  
Bannu Bench



30  
-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

10

ATTESTED  
EXAMINER  
Peshawar High Court  
Bannu Bench

31

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

18/2/

**ATTESTED**  
EXAMINER  
Peshawar High Court  
Bannu Bench

32

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 High Court  
Bannu Bench

33

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: 04/04/16*

CERTIFIED TO BE TRUE COPY

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

14/10  
2020

Azmat Awan

(36) Amd F

بخدمت جناب سیکرٹری ایجوکیشن خیبر پختونخواہ پشاور

عنوان: اپیل / بمراد سینارٹی

جناب عالی!

گزارش ہے کہ سائل نے 1995 میں PTC کورس 2010-11 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 بدینتی سے تعینات نہ کیا گیا۔ اور ایلیمنٹری کالجز کے امیدواران جو سائل سے سیشن اور میرٹ اسکور میں کم تھے تعینات کیے گئے۔ اس وقت سیشن وائرپالیسی 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

35

CT

کورٹ آف پاکستان نے سائل کے تعیناتی کے حق میں فیصلے کیے۔ آخر کار DEO بنوں نے 28/07/2017 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 روز ریگولیشن کے خلاف سلوک کر کے مورخہ 28/07/2017 سے تعینات کیا ہے۔ اور 1999 کی سینیاریٹی سے محروم رکھا ہے۔ جبکہ سائل نے سال 1999 میں ٹیسٹ اور انٹرویو پاس کیا تھا اور سال 1999 میں سائل سے کم میرٹ والے امیدواران کو بھرتی کیے تھے۔ ان بھرتی شدہ امیدواروں کو 1999 سے سینیاریٹی مع Benefit دی گئی ہے۔

جناب والا سائل نہایت غریب ہے۔ سائل کا تاریخ پیدائش 11/10/1969 ہے۔ سائل کی عمر تقریباً 48 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 ہے گا۔

مورخہ: 31/05/2020

محمد رفیق گل  
سائل ممتاز خان PST جی پی ایس شیر دل لنڈیڈاک تحصیل و ضلع بنوں

موبائل نمبر: 0333-9742988

No. 644

For Insurance 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  
acknowledgement is due.

35  
MAY 1957  
A  
[Signature]

Received a registered letter addressed to \_\_\_\_\_

Date-Stamp \_\_\_\_\_

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

Insured for Rs. (in figures) \_\_\_\_\_ (in words) \_\_\_\_\_

Insurance fee Rs. \_\_\_\_\_ Ps. \_\_\_\_\_  
Weight \_\_\_\_\_ Kilo \_\_\_\_\_ Grams

Name and address of sender \_\_\_\_\_  
\_\_\_\_\_

9/6

Parcel

قیمت  
50 روپے

103546



ایڈویکٹ: محمد کادیر خان اینڈ ہاؤس پارٹنرز  
بار کونسل/ایسوسی ایشن نمبر: BC-1861/2008  
رابطہ نمبر: 0336-9/37780

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سروس نمبر 103546

منجانب: محترم خان ولد مقصود صاحب	دعویٰ: سروس اسٹیل
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

### باعث تحریر آگہ

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

آن مقام 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 بر حلف دینے جواب دعویٰ اقبال اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کر جانے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ ہونے کے لئے اختیار ہوگا اور صاحب مقرر شدہ کو قوی جملہ مذکورہ باختیارات حاصل ہوں گے اور ان کا استعمال پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو چیز چاہے ہر جانہ التوائے 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 مکمل دیا تاکہ سند رہے

المرقوم:

محمد کادیر خان  
لیے منظور ہے۔

محمد کادیر خان

مقام

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔

محترم خان ولد مقصود صاحب  
محترم خان کلمہ بد



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 12932

Mumtaz 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		6-8
5	ADPT - order		9
6			
7			

  
Deponent

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

Service Appeal No. 12932/2020

Mumtaz Khan 1st BPS 12 ~~at~~ GPS  
Asghar Khan Karki Banni

Appellant

VERSUS

Government of KPK through Secretary E&SE & Others

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

Respectfully Sheweth:

**PRELIMINARY OBJECTION ON APPEAL:**

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

**FACTS**

- 1- That 1<sup>st</sup> para of the appeal is relates to official record of

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

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

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**

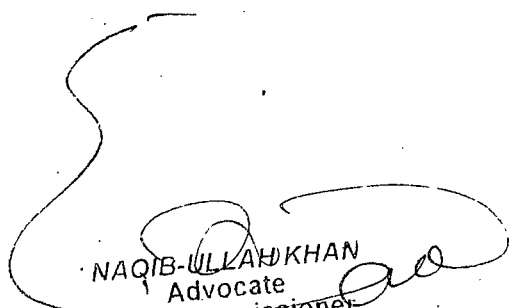
**Respondent No.2**  
**Director**  
**Elementary & Secondary Education**  
**KPK Peshawar**

**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. 12932 /2019 titled Munir vs Govt. of Khyber Pakhtunkhwa are true and correct to best of my knowledge and belief and that nothing has been kept concealed deliberately from this honorable tribunal.

  
Deponent

  
NAQIB-ULLAH KHAN  
Advocate  
Oath Commissioner  
Distt: Court Bannu

AUTHORITY

I do hereby authorized Zahid Ullah Khan Litigation Officer to submit the para wise comments before Honorable service tribunal Peshawar on the behalf of undersigned/respondent, in service appeal No. 12932/20 titled as Munir Azam vs Govt of KPK.

  
District Education Officer

Male (Bannu)

17/9/20

Before the KPK Service Tribunal Peshawar (6)

Appeal No. 191 / 2012

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

..... Appellant

Versus

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

..... Respondents

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

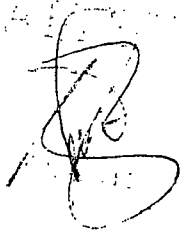
Respectfully Shewith:

The appellant respectfully submits as under:

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

(7)

No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	19.08.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO. 191/2012</p> <p style="text-align: center;">(Farhat Ullah-vs- Govt: of Khyber Pakhtunkhwa through Secretary Elementary &amp; Secondary Education, Peshawar and others)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:</u></p> <p>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 *Sd/- P. Bakhtish Shah*  
19.08.2016 *Member*

*Sd/- M. Aamir Nazki*  
*Member*

Certified to be true copy  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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

APPOINTMENT ORDER

1 A in 19 D

30

In compliance with the directions/Judgment of Hon: Civil Judge-I Bannu decision dated 28-03-2017 and Additional District Judge-II Bannu decision dated: 14 June, 2017 and execution proceeding under process with CJ-XI Bannu issued NBWA of the undersigned, the appointment orders of the below mentioned Male PST candidates are hereby issued conditionally on the basis of denied 1999 quota in BPS mentioned against their names plus usual allowances as admissible under the existing rules/policy at the schools noted against his name with effect from the date of taking over charge in the best interest of public service subject to the terms /conditions given below.

S/No.	Name	Father Name	U/Council	Place of posting	BPS	Remarks
1	Mumtaz Khan	Maqsood Jahan	Kakki-I	GPS Azghafar Kakki Bannu	12	Against P/P
2	Zareen Khan	Gul Merjan	Kakki-I	GPS Shabaz Kakki Nal Bannu	12	-do-

**TERMS & CONDITIONS**


1. His/Their service will be considered regular but without pension & gratuity in term of Section-19 of NWFP, civil servant Act, 1973 as amended vide NWFP, civil servant (Amendment) Act, 2005. He will however be entitled to contributory provident Fund in such a manner and such rates may be prescribed by the Government.
2. This appointment order is clearly on conditional basis and will be finally decided after the judgement of next Higher Court, if otherwise appeal of the Education Department accepted by the next Higher court.
3. His/Their services will be liable to termination on one month's notice from either side, in case of resignation without notice their his two months pay/ allowances shall be forfeited to Govt.
4. The appointee should join his post within 15 days after obtaining proper age relaxation from the competent authority. The SDEO(M) Bannu should furnish necessary report to the effect that the candidate has joined the post or otherwise, after 15 days of the issuance of this order, failing which, his/ their order will be treated as cancelled.
5. His/Their services can be terminated at any time, in case his performance is found unsatisfactory during probationary period. In case of misconduct, he will be proceeded against under E&D Rules 2011 & the rules framed from time to time.
6. Charge should not be handed over if age of the candidate is below 18 years or above 35 years as per policy.
7. If the candidate is exceeding from the required age i.e. 35 years, he should obtain proper age relaxation from the competent authority and his pay may not be released till the completion of age relaxation process.
8. In case of fake certificates/ Degree or any other mistake in the said appointment order detected later on the undersigned reserves the right of amendment in the appointment order accordingly.
9. They will not claim the back benefits on the basis of 1999 rights and their inter seniority will be considered from the date of taking over charge under the rules.
10. They will produce Health & Fitness certificates from Medical Superintendent concerned before taking over charge.
11. If the above terms & Conditions are acceptable to them, He will receive the charge of the post at the mentioned school & report to Office within 15 days accordingly.
12. No TA/DA etc is allowed.

District Education Officer  
(Male) Bannu

Dated Bannu the 29/07/2017.

Enclt No 8886-92 /AE-I (M) P/ry:

- Copy for information & necessary action to:-
1. Director Elementary & Secondary Edu: KPK Peshawar.
  2. Civil Judge No. XI District Bannu.
  3. SDEO (M) Bannu with the remarks that their pay may not be drawn until & unless his testimonials are not verified on OPSS from concerned Board/University.
  4. ASDEO(C) concerned.
  5. District Account officer, Bannu.
  6. Candidate concerned.

  
District Education Officer  
(Male) Bannu 28/7

بجواز  
مورخه  
مقدم  
جرم  
قلم