

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

**Service Appeal No. 1253/2016**

**BEFORE:** SALAH UD DIN --- MEMBER(J)  
MIAN MUHAMMAD --- MEMBER(E)

**Sabir Ahmad, SPST Government Primary School No. 1, Topi,  
District Swabi..... (Appellant)**

**VERSUS**

1. Province of Khyber Pakhtunkhwa through Secretary to Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Civil Secretariat Peshawar.
  2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
  3. District Education Officer, (Male) Elementary and Secondary Education, District Swabi.
- ..... (Respondents)

**Present:**

ASAD ZEB,  
Advocate

--- For Appellant.

MUHAMMAD JAN,  
District Attorney

--- For respondents.

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Date of Institution.....19.06.2020

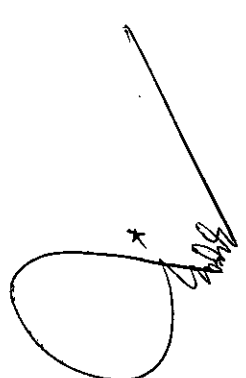
Date of Hearing.....14.09.2022

Date of Decision .....14.09.2022

**JUDGEMENT.**

**MIAN MUHAMMAD, MEMBER(E):-** The appellant has invoked jurisdiction of the Service Tribunal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer that "on acceptance of the instant appeal the respondents may kindly be directed to give due seniority to the appellant since the date of appointment in service i.e. 16.01.1990 instead of 07.09.1993 alongwith all consequential benefits".

02. Brief facts, as per memorandum of appeal, are that the appellant was appointed as Primary School Teacher (untrained) in the respondent department on 09.01.1989 on temporary basis. Services of the appellant were subsequently regularized on 16.01.1990. During his service, the appellant acquired professional educational qualification i.e. M.A, M.Sc (PS), B.ed and PTC. The respondent department circulated tentative revised seniority list of PSTs (2016) wherein the appellant's seniority was reckoned from the date of acquiring PTC i.e. 07.09.1993 though also allegedly given graded pay from the date of appointment but he was not given seniority from the date of his appointment. He therefore, preferred departmental appeal on 18.08.2016 which was not responded within the stipulated period of 90 days, whereafter he filed the instant service appeal in the service Tribunal on 16.12.2016.



03. On admission of the service appeal in preliminary hearing on 23.02.2017, the respondents were put on notice to submit written defense through reply/para-wise comments. Reply/Parawise comments were submitted on 26.04.2017. We have heard learned counsel for the appellant as well as learned District Attorney for the respondents in Divisional Bench and gone through the record thoroughly with their valuable assistance today.

04. Learned counsel for the appellant argued that the respondent department has wrongly considered the seniority of appellant from the date of his acquiring professional qualification i.e. PTC w.e.f. 07.09.1993 and not from the date of regularization of his service w.e.f 16.01.1990. The appellant was granted graded pay from the date of his

appointment, therefore, his seniority is also required to be reckoned from the date of his appointment. He argued that inaction on part of the respondent department to give seniority to the appellant from the date of his appointment i.e. 16.01.1990, is against the provision of Article 4 of the Constitution of Islamic Republic of Pakistan. He further argued that he may be granted seniority from the date of his appointment in service i.e. 16.01.1990 instead of acquiring profession qualification w.e.f. 07.09.1993 with all consequential back benefits, while concluding his arguments.

05. Learned District Attorney on the other hand, contended that due to lack of prescribed professional qualification for the post of PTC, the first appointment of appellant as untrained PTC was purely temporary and upon acquiring the prescribed qualification on 07.09.1993 he became eligible for the post of PTC. His seniority was therefore, correctly reckoned from the date of 07.09.1993. He further argued that the appellant has not arrayed any private person as respondent who now stands senior to the appellant in the impugned seniority list. He contended that regular appointment means an appointment of a duly qualified person in the prescribed manner in accordance with law and rules; the standard which is lacking in the case of appellant. Moreover, after passing the PTC course i.e. 07.09.1993 the appellant was accordingly regularized in service and he was given his due position in seniority list after his regular appointment. He relied on Service Tribunal judgement of 13.06.2016 delivered in service appeal No. 11/2015 of Sanaullah Jan SPST (BS-14) versus Secretary Elementary & Secondary Education and others.

A handwritten signature in black ink, consisting of a large loop and a long, thin stroke extending upwards and to the right. A small star symbol is drawn above the signature.

The service appeal in hand being devoid of any merit may be dismissed, he concluded.

06. It is evident from the record and which is not disputed that the appellant was initially appointed as PTC (untrained) (now PST) on temporary/adhoc basis on fixed pay on 09.01.1989 and his services were later on, regularized on 16.01.1990. It was during service that the appellant acquired the required qualification for the post of PST on 07.09.1993 and as such his seniority was shown in column 16 (Date of taken over charge) against PST post from the date of passing PTC examination, in the tentative revised seniority list of PSTs (2016). The Service Tribunal in its judgement dated 13.06.2016 delivered in service appeal No. 11/2015 titled Sanaullah Jan SPST (BS-14) Versus Secretary Elementary & Secondary Education Khyber Pakhtunkhwa laid down the following principle:-

*“Ordinarily on a post for which a certain special training/ examination is must so such appointment without such course/examination cannot be treated as a regular examination. The admitted position in this case is that the appellant was initially appointed as untrained teacher. He was appointed against a fixed pay. There is no legislation or notification from the respondents side specifying in particular that appointment of the PTC Teacher (appellant) will be regular appointment from the date of their first appointment. The Tribunal is afraid to subscribe the view of the learned counsel for the appellant that in the light of the referred notifications the appellant became regular servant from the date of their first appointment. A regular appointment means an appointment of a duly qualified person in the prescribed manner in accordance with the law and rules which standard is evidently lacking*

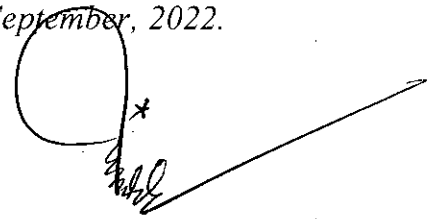
*in case of the appellant. After passing the PTC Course on 24.12.1993 it seems that the appellant was accordingly regularized in service, therefore, he was given his due position in the seniority list after his regular appointment which step is in accordance with the law and rules on the subject."*

07. Similarly, Section 8 (4) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 is relevant to be quoted here which lays down the principle for determining seniority of a civil servant in the following;

*"Seniority in a post, service or cadre to which a Civil Servant is promoted shall take effect from the date of regular appointment to that post."*

08. In view of the foregoing discussion, It can be concluded that as the appellant was appointed as regular PST with effect from the date of passing the basic required qualification for the post of PTC on 07.09.1993 he has therefore rightly been placed in the tentative revised seniority list (2016) from such date. We, therefore, find that the appellant has been treated in accordance with law and relevant rules. The service appeal being devoid of merit, is dismissed. Parties are left to bear their own costs. File be consigned to record room.

09. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 14<sup>th</sup> day of September, 2022.*



(MIAN MUHAMMAD)  
MEMBER (E)



(SALAH UD DIN)  
MEMBER (J)

**ORDER**

14.09.2022

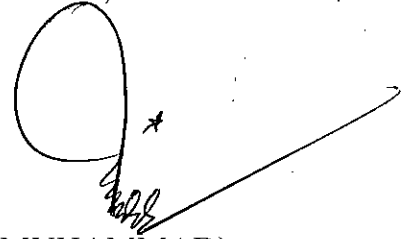
Mr. Asad Zeb, Advocate for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

02. Vide our detailed judgement of today separately placed on file containing (05) pages, It can be concluded that as the appellant was appointed as regular PST with effect from the date of passing the basic required qualification for the post of PTC on 07.09.1993 he has therefore rightly been placed in the tentative revised seniority list (2016) from such date. We, therefore, find that the appellant has been treated in accordance with law and relevant rules. The service appeal being devoid of merit, is dismissed. Parties are left to bear their own costs. File be consigned to record room.

03. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 14<sup>th</sup> day of September, 2022.*



(SALAH UD DIN)  
MEMBER (J)

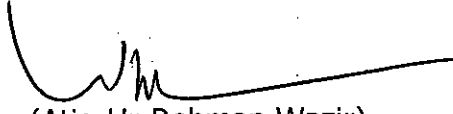


(MIAN MUHAMMAD)  
MEMBER (E)

18.01.2022

Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil, Assistant Advocate General for respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for arguments before the D.B on 11.05.2022.

  
(Atiq-Ur-Rehman Wazir)  
Member (E)

  
Chairman

11.05 2022

Learned counsel for the appellant present. Mr. Naseer-ud-din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant stated that similar nature service appeal No. 147/2022 titled "Ishtiaque Ahmad Versus Government", has already been fixed for arguments on 11.07.2022 and requested that this appeal may also be clubbed with the said appeal. Request is accepted. File to come up for arguments alongwith connected appeal on 11.07.2022 before D.B.

(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

11-7-2022


Due to Holidays of Eid Ul Azha  
the case is adjourned to 14-9-2022

  
Reader

28.06.2021

Junior to counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

The Worthy Chairman is on leave, therefore, the Bench is incomplete. To come up for arguments on 17.09.2021 before the D.B.

  
(Rozina Rehman)  
Member(J)

17.09.2021


Counsel for petitioner present.

Muhammad Rasheed learned D.D.A for respondents present.

Arguments on application heard. Record perused.

Application in hand was filed for restoration of appeal which was dismissed in default on 24.09.2018.

As per record, appeal was dismissed in default on 24.09.2018, whereas, application seeking restoration was filed on 05.10.2018 which is well within time, hence, stands accepted. File stands restored. It be properly registered. This application stands consigned to the record room, copy whereof be placed on original file. To come up for arguments on the main appeal on 18.01.2022 before D.B.

  
(Rozina Rehman)  
Member (J)

  
Chairman





30.03.2021

Appellant present through counsel.

Muhammad Rasheed learned Deputy District Attorney for respondents present.


Former made a request for adjournment. Adjourned. To come up for arguments on 28/06/2021 before D.B.


  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

Continued  
01.04.2021

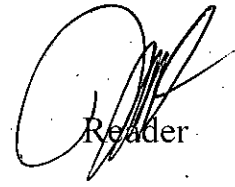
Later on, Jehanzeb Superintendent representative of respondents attended the Tribunal and submitted reply to the application filed by the appellant seeking restoration of main service appeal. To come up for arguments on application on 28/06/2021 before D.B.

  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

22.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 04.08.2020 before D.B.

  
Reader

04.08.2020

Due to summer vacation case to come up for the same on 15.10.2020 before D.B.

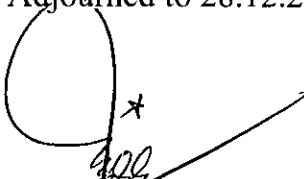
  
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15.10.2020

Nemo for the petitioner present. Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General for respondents is present.

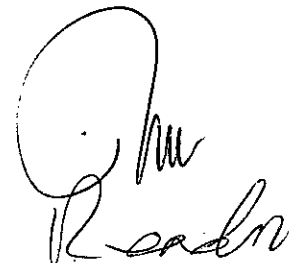
In the preceding two order sheets the case was adjourned on reader note on the ground of Covid-19 as well as summer vacation, therefore appellant be put on notice for the next date.

Adjourned to 28.12.2020 for arguments before D.B.

  
(Mian Muhammad)  
Member (E)

  
(Rozina Rehman)  
Member(J)

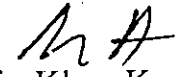
*Due to winter vacation,  
To come up for the same on  
30-03-21-*

  
Reader

24.10.2019


Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant requested for time to file rejoinder. Case to come up for rejoinder and arguments on 03.01.2020 before D.B.


  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

03.01.2020

Learned counsel for the appellant present. Mr. Kabirullah Khattak Additional Advocate General alongwith Mr. Fazle Khaliq ADO for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 09.03.2020 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

09.03.2020

Learned counsel for the petitioner present. Fazal Khaliq ADO representative of the respondent department present. Adjournment requested. Adjourn. To come up for further proceedings/arguments on 22.04.2020 before D.B.

  
Member

  
Member

26.03.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Hayat Khan Assistant Director for the respondents present. To come up for reply/arguments on 27.05.2019 before D.B.



(Hussain Shah)  
Member



(Muhammad Amin Khan khudi)  
Member

27.05.2019

Clerk to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Lawyers' community is on strike. Adjournment requested. Adjourn. To come up for reply and arguments on 30.07.2019 before D.B.



Member



Member

30.07.2019

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 24.10.2019 before D.B.

*Notice be issued to the respondents for the date 24.10.2019*



Member







Member

Form-A

FORM OF ORDER SHEET


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


Appeal's Restoration Application No. 364/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	09.10.2018	<p>The application for restoration of appeal no. 1253/2016 submitted by Mr. Asad Zeb Khan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 9/10/18</p>
2	<del>09.10.2018</del>	<p>This restoration application is entrusted to D. Bench to be put up there on <u>21/10/2018</u></p> <p style="text-align: right;"> CHAIRMAN</p>
14.02.2019		<p>Clerk of counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Due to strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Adjourned to 26.03.2019 for arguments on restoration application before D.B.</p> <p style="text-align: center;">               (HUSSAIN SHAH)              MEMBER         </p> <p style="text-align: center;">               (MUHAMMAD AMIN KHAN KUNDI)              MEMBER         </p>

04.04.2018

Counsel for the appellant and Addl; AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 07.06.2018 before D.B.


  
(Ahmad Hassan)  
Member

  
(M. Hamid Mughal)  
Member

07.06.2018


Appellant in person and Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 01.08.2018 before D.B


  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

01.08.2018

Appellant absent. Learned counsel for the appellant is also absent. However, clerk of the counsel for appellant present and requested for adjournment. Mr. Riaz Ahmad Painsakheil, Assistant AG for the respondents present. Adjourned. To come up for arguments on 24.09.2018 before D.B.

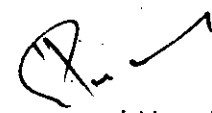
  
(Ahmad Hassan)  
Member (E)

  
(Muhammad Hamid Mughal)  
Member (J)

24.09.2018

Appellant absent. Learned counsel for appellant absent. Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Murad Khan superintendent for respondents present. Case called for several times but no one appeared on behalf of appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member

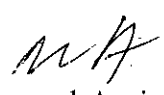
ANNOUNCED.

24.09.2018

29.09.2017

None present on behalf of the appellant. Mr. Ziaullah, Deputy District Attorney for the respondents present. Notice be issued to appellant and his counsel for attendance for 23.11.2017 before D.B.

  
(Gul Zeb Khan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

23.11.2017

Clerk to counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Clerk to counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 01.02.2018 before D.B.


  
(Gul Zeb Khan)  
MEMBER

  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

01.02.2018


Clerk to learned counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Fazle Khaliq, ADO for the respondents present. Due to general strike of the Bar, learned counsel for the appellant is not available today hence, adjourned. To come up for arguments on 04.04.2018 before D.B.

  
(Muhammad Amin Khan Kundi)  
Member (J)

  
(Muhammad Hamid Mughal)  
Member (J)

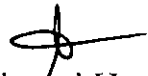
30.03.2017

Appellant with counsel and Mr. Fazali Khaliq (ADO) alongwith Addl: AG for the respondents present. Written reply not submitted. Requested for further adjournment. Request accepted. To come up for written reply/comments on 26.04.2017 before S.B.

  
Chairman

26.04.2017

Counsel for the appellant and Addl: AG for the respondents present. Written reply submitted. To come up for rejoinder and arguments on 10.08.2017 before D.B.

  
(Ahmad Hassan)  
Member

10.08.2017

Clerk of the counsel for appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Clerk of the counsel for appellant seeks adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for rejoinder and arguments on 29.11.2017 before D.B.

  
(Muhammad Amin Khan Kundi)  
Member (J)

  
(Muhammad Hamid Mughal)  
Member (J)



02.02.2017

Appellant in person present. Appellant requested for adjournment. To come up for preliminary hearing on 23.02.2017 before S.B.

  
Chairman

23.02.2017

Counsel for the appellant present. Preliminary arguments heard and case file perused. Appellant appointed as PST on temporary basis on 09.01.1989 and his services were regularized on 16.01.1990. The department circulated seniority list wherein appellant's seniority was reckoned from the date of acquiring PTC i.e 07.09.1993, while he was given graded pay from the date of appointment. The department has not given him seniority from the date of appointment. He preferred departmental appeal on 18.08.2016 which was not responded within the stipulated period hence, the instant service appeal.

Appellant Deposited  
Security & Process Fee

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 30.03.2017 before S.B.

51-5-2

  
(AHMAD HASSAN)  
MEMBER

Form- A  
FORM OF ORDER SHEET

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

Case No. 1253/2016


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21/12/2016	<p style="text-align: center;">The appeal of Mr. Sabir Ahmad resubmitted today by Mr. Asad Zeb Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;">REGISTRAR</p>
2-	<i>28-12-2016</i>	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u><i>17-01-2017</i></u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
17.01.2017		<p style="text-align: center;">Clerk <del>to</del> counsel for the appellant present. Clerk <del>to</del> counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on <u><i>2-2-17</i></u> before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> (AHMAD HASSAN) MEMBER</p>

The appeal of Mr. Sabir Ahmad SPST GPS No.1 Topi Distt. Swabi received today i.e. on 16.12.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellatant.
- 2- Annexures of the appeal may be attested.
- 3- Copy of impugned order/seniority list is not attached with the appeal which may be placed on it.

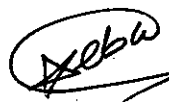
No. 2103 /S.T,

Dt. 16/12 /2016

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Asad Zeb Khan Adv. Pesh.

R/sir, objection slip seen. necessary action has been done. Appeal signed, copies have been attested. Seniority list already annexed.  
Kindly appeal may kindly be fixed before bench.

  
Adv.  
21/12/2016

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,**  
**PESHAWAR**

Service Appeal No: 1253 of 2016

SABIR AHMAD

VERSUS

GOVT: OF KHYBER PAKHTUNKHWA, ETC


**INDEX**

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3	True Copy of appointment letter	A	7
4	True Copy of application	B	8
5	True Copy of seniority list	C	9
6	True copy of service book	D	10-11
7	Wakalat nama		1

Through

*Sabir Ahmad*  
Appellant

Dated: 14/12/2016

  
**ASAD ZEB KHAN**  
Advocate High Court, Peshawar.  
0346-9800565

①

BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. 1253 /2016

**SABIR AHMAD**, SPST, Govt: Primary School No. 1, Topi, District Swabi.  
Appellant

VERSUS

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1297

Dated 16-12-2016

**1. PROVINCE OF KHYBER PAKHTUNKHWA,**

Through Secretary to Govt. of Khyber Pakhtun Khwa,  
Elementary & Secondary Education,  
Civil Secretariat, Peshawar

**2. Director,**

Elementary & Secondary Education,  
Khyber Pakhtunkhwa Peshawar,  
Office Adjacent with Govt: Shaheed Hasnain Sharif Higher Secondary  
School Peshawar City (Old: GHSS No:1 Peshawar City).

**3. District Education Officer,**

(Male) Elementary and Secondary Education, District Swabi.

Respondents

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL  
ACT, 1974 AGAINST THE ACTION AND INACTION OF  
RESPONDENTS, VIDE WHICH THE RESPONDENTS HAVE FAILED  
TO DETERMINE THE SENIORITY OF THE APPELLANT IN  
RESPONSE OF HIS DEPARTMENTAL REPRESENTATION AND  
THEREBY THEY HAVE FAILED TO GIVE SENIORITY TO THE  
APPELLANT SINCE THE DATE OF HIS APPOINTMENT i.e. 16-01-1990.

Filed to-day

Registrar

Prayer:-

- (i) ON ACCEPTANCE OF THE INSTANT APPEAL THE RESPONDENTS MAY KINDLY BE DIRECTED TO GIVE DUE SENIORITY TO THE APPELLANT SINCE DATE OF APPOINTMENT IN SERVICE I.E. 16-01-1990 INSTEAD OF 07-09-1993 ALONG WITH ALL CONSEQUENTIAL RELIEF.

Re-submitted to-day  
and filed.

Registrar  
21-12-16

**Respectfully Sheweth:**

**FACTS:-**

Facts leading to the institution of the instant appeal are as under:-

1. **That** the appellant was appointed in Education Department as Primary School Teacher (PST-UT) on 09.01.1989 on temporary basis and was thereafter regularized on 16-01-1990 and since then serving being a permanent employee imparting education to the students of Primary Classes.

(True copy of appointment letter is attached, marked as "A")

2. **That** the appellant during his service also getting further education which includes professional qualification i.e. M.A, M.Sc (PS), B.Ed, PTC.

3. **That** the respondents while preparing the seniority list of the teaching staff of Elementary and Secondary Education Department, District Swabi, decided that the seniority of the staff/teachers shall be determined/reckoned from the date on which they got professional education. The appellant being suffered by that decision, filed departmental representation dated: 18-08-2016 before the respondent No. 3 and requested for appropriate orders but surprisingly, the respondents issued tentative revised seniority list dated: 05-10-2016 and on the basis of that decision, the appellant's seniority was reckoned from the date of his acquiring PTC i.e. 07-09-1993. It would be relevant to mention that the respondents/department given graded pay to the appellant since his date of appointment.

{True copy of application and fresh seniority list is attached, marked as "B & C"}

4. **That** despite of the departmental representation, the respondents have failed to give seniority to the appellant since the date of appointment i.e. 16-01-1990 and no decision what so ever has been made over the application of appellant, hence present service appeal.

**GROUND:-**

- A. **Because** the inaction of the respondents to determine the seniority of the appellant since the date of appointment in service i.e. 16-01-1990, violates the rights guaranteed and secured to the appellant under the law.
- B. Because inaction of the respondents to give seniority to the appellant since the date of appointment i.e. 16-01-1990 offend the provision of Article 4 of the Constitution to enjoy the protection of law and to be treated in accordance with law which is the inalienable right of every citizen, wherever he may be every other person for the time being with in Pakistan.
- C. Because when the appellant was given increment which has been allowed to untrained teacher since the date of appointment i.e. 16-01-1990 then reckoning seniority since the date of acquiring PTC i.e. 07-09-1993 is bad in the eyes of law.

{True copy of service book is attached, mark as "D"}

- D. **Because** due to the inaction of respondents, the appellant has been deprived from his promotion which is his inalienable right attached to his service, as he completed 25 years of continues service in education department. Hence the inaction of the respondents to give seniority since the date of appointment i.e. 16-01-1990 which is totally against the principles of Natural Justice, fair-play and equity.
- E. Because the action of the respondents while determining the seniority of the teaching staff without adopting proper criteria and codal requirements is against the worthy ruling of the Hon'ble Superior Courts of Pakistan and therefore, the same is illegal practice and such practice adversely effects efficiency of incumbents and also reduces their confidence and faith in public.
- F. Because the appellant had been made victim of discrimination, demerits, partiality and favoritism without any just and reasonable cause thereby offending the fundamental rights of the appellant as provided by the constitution of 1973.

(4)

- G. Because the appellant was condemned unheard, his departmental appeal was not properly adjudicated in the manner as provided by the law. Further no chance of personal hearing was given to the present appellant in order to redress his grievances which shows the malafide of the Respondents, hence needs interference of this Hon'ble Tribunal.
- H. Because the action of the respondents vide which they determined the seniority of the appellant since the date of his acquiring professional qualification i.e. PTC is illegal, illogical, against facts, without jurisdiction and suffering from material irregularity, hence they are untenable and liable to be struck down.
- I. Because the Respondents erroneously exercised their powers against judicial principle, hence, the seniority list issued by respondents in gross violation of law is liable to be set aside.
- J. **That** the appellant crave for leave to add further grounds at the times of oral arguments highlighting further contravention of the law and constitution.

**PRAYER:-**

**It is humbly submitted** that on acceptance of the present appeal, this Hon'ble Tribunal may graciously be pleased to:

- i. **Direct the respondents to give seniority to the appellant since his date of appointment i.e. 16-01-1990 instead of 07-09-1993 along with all consequential relief.**
- ii. **Declare the seniority list issued by the respondents as illegal, unlawful and ineffective over the rights of the appellant.**
- iii. **Any further better relief may also kindly be granted in the circumstances of the appellant's case.**

  
Appellant

Through

Dated: 14/12/2016

  
**ASAD ZEB KHAN**  
Advocate High Court, Peshawar.



5

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,**  
**PESHAWAR**

Service Appeal No: \_\_\_\_\_ of 2016

Sabir Ahmad

VERSUS

Govt: of Khyber Pakhtunkhwa, etc

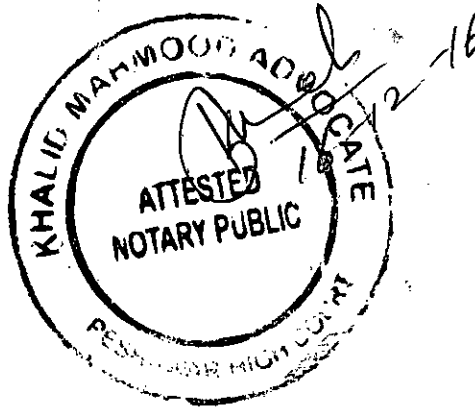
**AFFIDAVIT**

I, **SABIR AHMAD**, SPST, Govt: Primary School No. 1, Topi, District Swabi, do hereby solemnly affirm & declare that the contents of the attached appeal are true and correct to the best of my knowledge & belief & nothing has been concealed or withheld from this Honorable Court.

Identified by

  
**ASAD ZEB KHAN**  
Advocate High Court, Peshawar.

  
Deponent



(6)

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,**  
**PESHAWAR**

Service Appeal No: \_\_\_\_\_ of 2016.

~~Ijaz Ahmad~~ **SABIR Ahmad** **VERSUS** Govt: of Khyber Pakhtunkhwa Peshawar

**MEMO OF ADDRESSES**

**SABIR AHMAD**, SPST, Govt: Primary School No. 1, Topi, District Swabi.  
Appellant

**VERSUS**

**1. PROVINCE OF KHYBER PAKHTUNKHWA,**

Through Secretary to Govt. of Khyber Pakhtun Khwa,  
Elementary & Secondary Education,  
Civil Secretariat, Peshawar

**2. Director,**

Elementary & Secondary Education,  
Khyber Pakhtunkhwa Peshawar.

Office Adjacent with Govt: Shaheed Hasnain Sharif Higher Secondary  
School Peshawar City (Old: GHSS No:1 Peshawar City).

**3. District Education Officer.**

(Male) Elementary and Secondary Education, Swabi

Respondents

Through

*Sabir*  
Appellant

Dated: 14/12/2016

*Asad Zeb Khan*  
**ASAD ZEB KHAN**  
Advocate High Court, Peshawar.

OFFICE OF THE DISTRICT EDUCATION OFFICER(MALE) SWABI.

APPOINTMENT

OFFICE ORDER.

Appointment of the following persons is/are hereby ordered against the Post of PTC on Temporary and adhoc basis @Rs. 500/- /PM Fixed, Plus usual allowances under the rules at the Institutions noted against each Name in the interest of Public Service:-

S.No.	Name & Designation/Address	Posted at	Remarks.
1.	Mr. Shree Khan / Mulla Billa, Vill. / Mulla Billa (Mulla Billa)	Govt. No. 1 Topi.	Appointing vacant post.
2.	Mr. Shree Khan / Mulla Billa, Vill. / Mulla Billa.	Govt. Shaidan, (Maini)	-do-

CONDITION OF APPOINTMENT:-

- 1). His/Their services is/are liable to termination/reversion at any time without any reason being assigned.
- 2). In case of resignation he/they will have to submit One Month's prior notice to the Deptt: or forfeit One month's Pay in lieu thereof to Govt:
- 3). He/They is/are required to produced Health and Age Certificate from Medical Supdt D.H.Q Hospital concerned before taking over-charge.
- 4). Charge-report should be submitted to all concerned.
- 5). He/They should not be allowed to take over-charge if his/their age is/are less than 18 Years or above 30 Years.
- 6). If He/They fails to take over-charge of the post with in 14 days after the issue of these orders the order of appointment shall stand cancelled.
- 7). His/Their Certificates should be checked before handing-over-charge.

(KHALIL-UR-RAHMAN)  
DISTRICT EDUCATION OFFICER,  
(MALE) SWABI.

Endst: No. 221-25 /PTC/TT/Quari/ Dated Swabi the 9/11 /1989

Copy forwarded for information to the:

- 1). Principal/Head Master Govt High/Middle School
- 2). Sub-Divl: Edu: Officer (Male) /
- 3). Candidate Concerned.
- 4). Director of ...

*[Signature]*  
DISTRICT EDUCATION OFFICER,  
(MALE) SWABI.  
**ATTESTED**

APPROX 25/

بخدمت جناب ڈسٹرکٹ آفیسر صاحب، ابتدائی و ثانوی تعلیم (مردانہ) صوابی

**عنوان: درخواست بمراد فراہمی سینیاریٹی از تاریخ تقرری**

جناب عالی!

گزارش ہے۔ کہ سائل مورخہ 16-01-1990 سے محکمہ تعلیم صوابی میں من حیث پرائمری سکول ٹیچر فرائض منصبی نبھا رہا ہے۔ سائل کی تعلیمی قابلیت (M.A., M.Sc (PS) جبکہ پیشہ ورانہ قابلیت B.Ed., PTC ہے۔ سائل کو سنیاریٹی تاریخ تقرری (16-01-1990) کی بجائے 07-09-1993 (PTC پاس کرنے کی تاریخ) سے دیا گیا ہے۔ حالانکہ سائل کو محکمہ تعلیم تاریخ تقرری سے گریڈ ڈپے بھی دیا ہے۔ لیکن نامعلوم وجوہات کے بناء پر سائل کو تاریخ تقرری سے سنیاریٹی سے محروم رکھا گیا ہے۔ نتیجتاً محکمہ تعلیم میں 25 سال مسلسل سروس کے باوجود سائل BPS-15 میں ترقی سے محروم ہے۔ استدعا ہے کہ مذکورہ بالا حقائق کی تناظر میں سائل کو تاریخ تقرری سے سنیاریٹی کا حق دینے کے لئے مناسب احکامات صادر فرمائیں۔ نوازش ہوگی۔

العارض

صابر احمد SPST ، GPS ، نمبر 1 ٹوپی تحصیل ٹوپی ضلع صوابی

موبائل نمبر 0311-9285071

Diary No - 3524

18-08-2016

Shah  
صابر احمد

No: 586 / Dated 18/8/16

Forwarded to the

District Education Officer Swabi جناب عالی!

for necessary actions please. درخواست بمراد فراہمی سینیاریٹی از تاریخ تقرری

Shah  
Head Teacher  
GPS No.1 Topi  
Distt. Swabi

Sub: District Education Officer Swabi  
Ur

RECEIVED

ATTESTED

9

C

TENTATIVE REVISED SENIORITY LIST OF PSTs FOR 2016 , Last Date For Query 05-10-2016

Table with 17 columns: Rev Sen # 2016, Old S. No 2013, Name of Teacher, Father Name, Name of School, Name of own U/C, U/C where presently posted, Tribal, BRS, ion, Qualification, Pro: Qualification, D/O Birth, D/1st Entry to Govt, D/1st Appo: in E & SE deent, D/O passing PTC exam, D/o TOC Against PST post, Column 15 or Column 16 which is earlier. Rows 418-455.

ATTESTED

(10) 10

"D"

1	2	3	4	5	6	7
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment
B-9 (5820-230-10720)						
PST Post vt SPS, POI Tol.	Sub-off.		Rs. 7960/2 Ann.			12/08
Awarded B-12 (3630-260-1430) w.e.f 02/12/2007 Entries R						
Pay Existing in B-09 on 01/12/2007 Rs=6605/p.m 01/12/2007						
Pay Fixed in B-12 on 02/12/2007 Rs=6750/p.m 02/12/2007						
BPS-12 Revised (4355-310-1385) w.e.f 01/07/2008						
Do	Do		Rs 8075/p.m			01/07/2008
Do	Do		Rs 8385/p.m			1/08
Entries Revis due untrained Increment allowed to teacher.						
BPS 07 (750-31-1370)						
Pay on 16-1-90 Rs 750/p.m						
A/Gnc 1-12-90 Rs 781/p.m						
07 (1095-60-1995)						
Pay Revised 1-6-91 Rs-1275/p.m						
Pay fix BPS FA 1-10-91 Rs-1399/p.m (185-72-2265)						
A/Gnc 1-12-92 Rs-1401/p.m						
A/Gnc 1-12-93 Rs 1473/p.m						
3 Ad Inc on B A 1-17-3-94 Rs 1689/p.m						
09 (1605-97-3060)						
Pay Revised 1-6-94 Rs 2284/p.m						
A/Gnc 1-12-94 Rs-2381/p.m						
A/Gnc 1-12-95 Rs 2478/p.m						
A/Gnc 1-12-96 Rs 2575/p.m						

ATTACHED

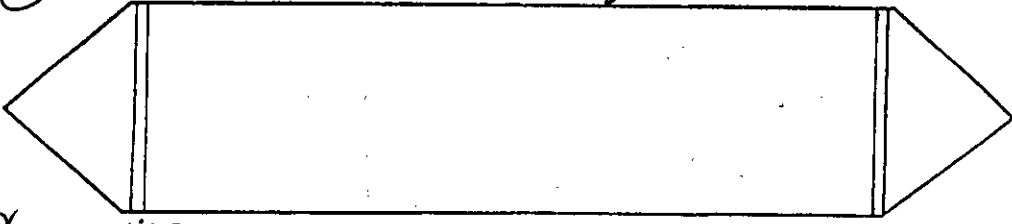
Dr. D.O.  
(E & S) Educ. Dept.  
Tmk

and of the  
Officers  
Station  
1 to 8

10	11	12	13		14	15	
Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Leave		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
				Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	Period Government to which debitable		
30/11/2007	Annual Increment	[Signature]					
02/12/2007	Optim in Annual Increment	[Signature]					
30/11/2008	B-12 Revised	[Signature]					
30/11/2008	A/Guar	[Signature]					
			<p>Consequent upon the approval of competent authority vide Distt. Co-ordination officer Swabi letter No-2607/Dep(S)EA/S+L(2) dated 28-08-08 in pursuance with the NWF P Finance Dept. Notification No FD/SO(CFR)/10-21/2007 dated 26-01-08 Sanction has been accorded to grant of BPS-12 (Renamed as H/Teacher) w.e.f in completion of 10 years or more than 10 years Service/Teaching experience as trained PST/PTC by the EDO (E+S) education Swabi vide his memo No. 1744-G/upgradeation BPS-12/PSTLM) Swabi/TOPI dated 28-08-08</p>				
			<p>[Signature]</p> <p>DY: D.O. (E &amp; S) Edu: (M) Topi</p>				
			<p>Services V. ... 01-12-06</p> <p>30/11/07 from this office record</p>				
			<p>[Signature]</p> <p>DY: D.O. (E &amp; S) Edu: (M) Topi</p>				

TEST

# بعدالت ضریحیوں خواہ سروس ٹرانسپونل لٹاؤ



Petitioner

2 منجانب

صا بر احمد بنام حکومت و رزہ

مورخہ

مقدمہ

دعویٰ

جرم

## باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کارروائی متعلقہ آن مقام لیٹاؤ کیلئے سروس ٹرانسپونل لٹاؤ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک دروپیا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھنڈیا کہ سندر ہے۔

Attested & Accepted by

المرقوم 14 ماہ اکتوبر 2016

Adl.

بمقام شہ

Seal



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No.1253/2016

Mr.Sabir Ahmad SPST GPS No.1 Topi (Swabi.....Appellant


**VERSUS**

1. Secretary E&SE Khyber Pakhtunkhwa Peshawar
2. Director E&SE Khyber Pakhtunkhwa, Peshawar
2. District Education (E&SE) Male Swabi

.....Respondents

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2	Service Tribunal Judgment	A	04-06

  
**DISTRICT EDUCATION OFFICER**  
**(MALE) SWABI**  
Dist: Education Officer  
(Male) Swabi

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No.1253/2016

Mr.Sabir Ahmad SPST GPS No.1 Topi (Swabi.....Appellant

**VERSUS**

1. Secretary E&SE Khyber Pakhtunkhwa Peshawar
2. Director E&SE Khyber Pakhtunkhwa, Peshawar
2. District Education (E&SE) Male Swabi

.....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 01 TO 03**

Respectfully Sheweth,

**PRELIMINARY OBJECTIONS.**

1. That the instant Appeal is badly time barred and not maintainable.
2. That the Appellant has no locus standi or cause of action to file the instant Appeal
3. That the Appellant has not come to the Tribunal with clean hands.
4. That the Appellant concealed the material facts from the Honourable Tribunal.
5. That the Appellant has filed the instant Appeal just to pressurize the respondents.
6. That the Appellant is estopped by his own conduct to file the instant appeal.
7. That, the Appeal is not maintainable in the present form and also in the present circumstances of the issue.
8. That the instant Appeal is against the prevailing laws and rules.

**Facts.**

1. That the appellant admits, he was initially appointed as untrained Primary School Teacher (PST) on 09.01.1989 on purely adhoc, temporary and on fixed pay due to lack of prescribed professional qualification i.e. PTC. He passed PTC examination on 07.09.1993. According to the judgment of this Honourable Tribunal in Service Appeal No.11/2015 dated 13.06.2016. "Ordinarily on post for which a certain special training/examination is must, so such appointment without such course/examination can not be treated as a regular appointment. The admitted position in this case is that the appellant was initially appointed as untrained teacher. He was appointed against a fixed pay. There is no legislation or notification from the respondents side specifying in particular that appointment of the PTC teacher will be regular appointment from the date of their first appointment. A regular appointment means an appointment of a duly qualified person in the prescribed manner in accordance with law and rules which standard is evidently lacking in case of the appellant. After passing the PTC course on 07.09.1993 it seems that appellant was accordingly regularized in service, therefore he was given his due position in seniority list after his regular appointment, which step is in accordance with the law and the rules on the subject. The appeal was dismissed". As the instant appeal is of the same nature, devoid of merits and is liable to be dismissed. (Judgment is annexed as-A).


2. That this para of the appeal relates to the service record/qualification of the appellant.
3. That the decision of the respondent department is per law, rules and policy as discussed in para-1 above in detail.  
The respondent has granted Annual increment for the purpose of financial benefits, which has no relevancy with seniority or regularization of the service from the date of appointment. It is also crystal clear from law, rules concerning seniority which including SS 8 (4) of Civil service act 1973" Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post. **Hence seniority of any civil servant is reckoned from the date of regular appointment.**
4. That the Departmental representation of the appellant was not according to law, rules and policy, hence was not responded by the respondent department. The appellant has no cause of action to file the instant appeal.


### **Grounds.**

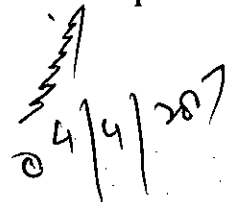
- A. Incorrect, hence denied, there is no legislation or notification from the respondents side specifying in particular that the appointment of the primary school teachers will be regular from the date of their first appointment. Seniority can only be reckoned from the date of regular appointment, which is 07.09.1993.
- B. Incorrect, hence denied, the order passed by the respondents is legal, with jurisdiction, with lawful authority and in accordance to law, rules and Government prevailing policy. Furthermore, no legal or constitutional right of the appellant has been violated by the respondent.
- C. Incorrect, hence denied, the annual increment has only granted for the purpose of financial benefits, which has no relevancy with seniority or regularization of the service from the date of appointment.
- D. Incorrect, hence denied, the appellant has already been treated in accordance with law, rules and policy. No discrimination is made with the appellant, it will be a huge discrimination if the appellant was allowed seniority from the date of his appointment. He was treated alike with his colleagues.
- E. Incorrect, hence denied, the respondents have adopted proper criteria and fulfilled all the codal formalities while determine the seniority of the teaching staff. No legal or constitutional right of the appellant has been violated by the respondent. As per 2016 PLC (CS) 861 the appellant has no right of seniority from the date of appointment.
- F. Incorrect, hence denied, no discrimination, demerits, partiality and favoritism is made from the respondents side. The appellant has been treated in accordance to law, rules and Government prevailing policy. No legal or constitutional right of the appellant has been violated by the respondents.
- G. Incorrect, hence strongly denied, the departmental appeal was devoid of merits, hence question of malafide can not arise.

- H. Incorrect, hence strongly denied, the superior courts have held in so many judgments, that the seniority shall be reckoned from the date of regular appointment, not from the date of adhoc/fixed/contract appointment of the Civil servant. The appointment of the appellant has been made as untrained teacher on fixed pay. Hence the action of the respondents is legal, logical, with facts, with jurisdiction with lawful authority in accordance to law, rules and Government prevailing policy.
- I. Incorrect, hence denied, respondents exercised their powers in accordance with law, rules and policy.
- J. That the respondents seek permission to argue any other points during the hearing of this case in view of the above.

In wake of the above submission, it is requested that this Honourable Service Tribunal may graciously be pleased to dismiss the instant appeal in favour of the respondent department.

  
District Education Officer  
(Male) Swabi  
Distt: Education Officer  
(Male) Swabi


  
Director Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

  
Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

  
Secretary Elementary & Secondary Education  
Department Govt:of KPK

### AFFIDAVIT

We do hereby solemnly affirm and declare on oath that the contents of the comments are true and correct to the best of our knowledge and belief, nothing has been concealed from this Honourable Tribunal.

  
DISTRICT EDUCATION OFFICER  
(MALE) SWABI  
Distt: Education Officer  
(Male) Swabi

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Annexure - A

SERVICE APPEALS NO. 11/2015

Date of institution ... 06.07.2012  
Date of judgment ... 13.06.2016

Sanauallah Jan, Senior Primary School Teacher (BPS-14),  
Govt: Primary School Loya Banda, District Malakand,

... (Appellant)

VERSUS

1. Govt: of Khyber Pakhtunkhwa through Secretary Elementary and Secofndary Education, Peshawar.
2. Director School Elementary and Secondary Education Directorate of Elementary and Education of Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) Elementary and Secondary Education Malakand.

... (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER DATED 31.08.2012 OF DIRECTOR SCHOOL ELEMENTARY AND SECONDARY EDUCATION DIRECTORATE OF ELEMENTARY AND EDUCATION OF KHYBER PAKHTUNKHWA PESHAWAR OR ANY RULE WHEREBY THE SENIORITY CANNOT BE CONSIDERED FROM THE DATE OF APPOINTMENT AS UNTRAINED TEACHER.

Mr. Nazir Ahmad Advocate.  
Mr. Muhammad Jan Government Pleader

.. For appellant.  
.. For respondents

MR. PIR BAKHSI SHAH  
MR. ABDUL LATIF

.. MEMBER (JUDICIAL)  
.. MEMBER (EXECUTIVE)

JUDGMENT

PIR BAKHSI SHAH, MEMBER: Admittedly, the appellant was appointed as untrained PTC Teacher on 29.10.1989 and his name was included in the seniority list of PTC Teachers when he passed PTC examination on 24.12.1993. He has brought this service appeal for the following prayer:-

"That on acceptance of this appeal,

2296/A/KC/SET(M&F)SL/inform dated 31.8.2012 or any order

*Attest*

*[Signature]*

or rule in respect of not considering untrained service towards seniority be set aside, declare discriminatory, arbitrary, void ab-initio and the appellant untrained service w.e.f 01.11.1989 be considered towards seniority, consequent thereof the appellant be given seniority w.e.f 01.11.1989, the (date when the appellant was regularly appointed) with all consequential benefits."

2. Arguments heard and record perused.

3. Learned counsel for the appellant argued that the department has wrongly considered regular appointment of the appellant w.e. from 24.12.1993 the date on which appellant passed his PTC course and his service period as untrained teacher was wrongly ignored which started from 29.10.1979. He submitted that even the first appointment of the appellant on 29.10.1979 was a regular appointment when seen in the light of the Finance Department Notification dated 30.03.2009 and dated 12.10.2009. He submitted that by way of the said notifications the untrained teaching period was excluded only for the purpose of arrears of the increments and allowances but once the graded pay was allowed to the appellant from the date of their first appointment on 29.10.1979 so his seniority cannot be refused to be reckoned from the said date.

4. The appeal was resisted by learned Government Pleader on the ground that the above referred notification were valid to the extent of the graded pay and by no stretch of imagination those could be stretched to include regular appointment of the appellant. He submitted that the appellant was appointed on contract basis, on fixed pay, and he was never regular appointee much less in the prescribed manner in accordance with rules. He further submitted that the subject matter of this appeal is seniority but it is evident that no private respondents who now stands senior to the appellant, have been made party in this appeal. He submitted that being devoid of merits, the appeal may be dismissed.



5. We have heard pro & contra arguments at length and have carefully perused the record. Ordinarily on a post for which a certain special training/examination is must so such appointment without such course/examination cannot be treated as a regular examination. The admitted position in this case is that the appellant was initially appointed as untrained teacher. He was appointed against a fixed pay. There is no legislation or notification from the respondents side specifying in particular that appointment of the PTC Teacher (appellant) will be regular appointment from the date of their first appointment. The Tribunal is afraid to subscribe to the view of the learned counsel for the appellant that in the light of the referred notifications the appellant became regular servant from the date of their first appointment. A regular appointment means an appointment of a duly qualified person in the prescribed manner in accordance with the law and rules which standard is evidently lacking in case of the appellant. After passing the PTC course on 24.12.1993 it seems that the appellant was accordingly regularized in service, therefore, he was given his due position in the seniority list after his regular appointment which step is in accordance with the law and the rules on the subject. In the light of the foregoing discussion, the Tribunal is of the considered view that being devoid of merits, the instant appeal is liable to be dismissed. The same is therefore dismissed. Parties are left to bear their own cost. File be consigned to the record room.

ANNOUNCED  
13.06.2016

The block contains several handwritten marks. On the left, there is a large, dark, circular scribble. In the center, there is a signature that appears to be 'S. S.' with a long, sweeping underline. To the right of the signature, there is another large, dark, horizontal scribble.