

14.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 09.06.2022 for the same as before.

9.6.22

Proper OP is on table, therefore the case is adjourned for same on 29.8.22



Reader.



29.08.2022

Bench is incomplete, therefore, case is adjourned to 21.11.2022 for the same as before.




Reader




21st Nov, 2022

Lawyers on general strike today.

To come up for arguments on 17.1.2023 before D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

27.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 23.08.2021 for the same as before.

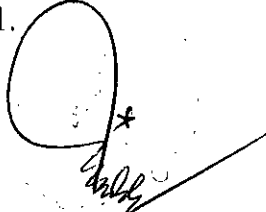

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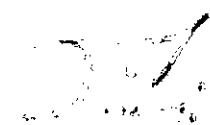
23.08.2021

Appellant with counsel present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Touseef Ur Rehman, ADEO for respondents present.

Learned AAG sought time for arguments. Adjourned. To come up for arguments before the D.B on 22.11.2021.




(MIAN MUHAMMAD)
Member(E)


(SALAH-UD-DIN)
Member(J)

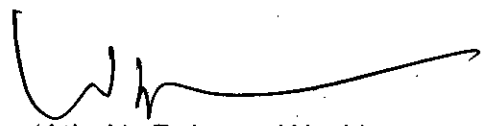
22.11.2021

Nemo for the appellant.

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

Appellant/counsel be put on notice for 14.03.2022 for arguments before D.B.




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

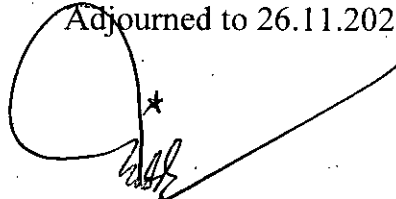

(Rozina Rehman)
Member (J)

24.09.2020

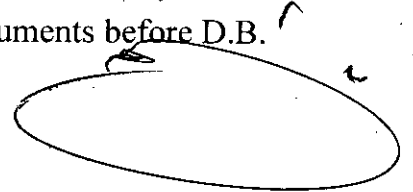
Appellant in person alongwith his counsel Mr Imran Khan, Advocate is present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Arshad Ali, ADEO for respondents is present.

Junior to counsel for the appellant submitted that his senior counsel has indisposed of today and requested for adjournment.

Adjourned to 26.11.2020 for arguments before D.B.



(Mian Muhammad)
Member (E)

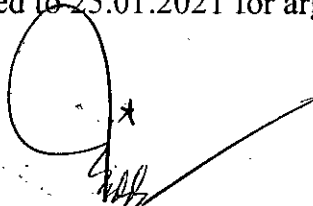


(Muhammad Jamal)
Member(J)

26.11.2020

Appellant in person present: Addl: AG for respondents present.

Once again the request for adjournment is made on account of indisposition of learned counsel. As a last chance adjourned to 25.01.2021 for arguments before D.B.



(Mian Muhammad)
Member (E)



Chairman

25.01.2021

Appellant in person and Addl. AG for the respondents present.

Former requests for adjournment due to engagement of his counsel in a family bereavement. On the last date of hearing, the proceedings in the instant case were adjourned but as a last chance. The request of appellant is, therefore, acceded to ~~but~~ on payment of costs of Rs. 1000/- (One thousand only). Adjourned to 27.04.2021 for hearing before the D.B.



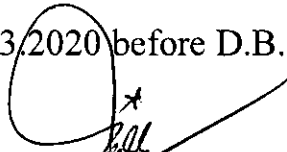
(Atiqur Rehman Wazir)
Member(E)



Chairman

13.02.2020

Appellant present. Junior to counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Arshid Ali ADO present. Junior to counsel for the appellant seeks adjournment with the request that the instant service appeal may be clubbed with other identical nature service appeal fixed on 31.03.2020. Adjourned To come up for arguments alongwith identical nature service appeals, on 31.03/2020 before D.B.


Member


Member

31.03.2020


Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 29.06.2020 before D.B.




Reader

29.06.2020

Due to COVID19, the case is adjourned to 24.09.2020 for the same as before.



Reader



05.08.2019


Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Arshid Ali ADO Litigation present. Learned counsel for the appellant seeks adjournment to furnish rejoinder. Adjourn. To come up for rejoinder and arguments on 28.10.2019 before D.B.


Member


Member

28.10.2019


Appellant with counsel present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 13.12.2019 before D.B.



Member


Member

13.12.2019

Lawyers are on strike as per the decision of All Pakistan Joint Lawyers Action Committee. Adjourn. To come up for further proceedings/arguments on 13.02.2020 before D.B


Member


Member

28.01.2019

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Arshed Ali, ADO for the respondents present. Written reply on behalf of respondents submitted. The appeal is assigned to D.B-II for rejoinder and arguments for 17.04.2019.

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

17.04.2019

Appellant alongwith his counsel and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Arshed Ali, ADO for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 12.06.2019 for rejoinder and arguments before D.B.

(HUSSAIN SHAH)
MEMBER

(M. AMIN KHAN KUNDI)
MEMBER

12.06.2019

Appellant alongwith counsel and Addl. AG for the respondents present.

Learned counsel for the appellant requests for time to provide judgments passed by Honourable High Court in C.R Nos. 493-P, 593-P, 544-P and 579-P of 2015 decided on 14.03.2016 and 30.06.2017. May do so positively on the next date of hearing.

Adjourned to 05.08.2019 for arguments before the D.B.

Member

Chairman

594/2018

04.12.2018

Counsel alongwith appellant present.

Learned counsel for appellant contends that the appellant was appointed on 31.08.1995 as C.T by the respondent department while his services were terminated on 26.06.1997 under political pressure. On 20.09.2012, an Act was promulgated for the purpose of granting relief to the Government Servants Sacked under political consideration. In view of provisions of the Act, the appellant was re-appointed on 21.08.2017 although after protracted litigation against the respondents. It was, however, mentioned in the above notification that the appointment was with immediate effect. The appellant there-after submitted a departmental appeal requesting therein for grant of seniority and back benefits from the date of termination order i.e. 26.06.1997.

Section 5 of the afore noted Act required that a Sacked employee appointed under the Act was not entitled to any claim of seniority, promotion or other back benefits. On the other hand, the claim of the appellant for grant of seniority from the date of the Act i.e. 20.09.2012, is a proposition calling for admission of instant appeal for regular hearing. Admit. The appellant is directed to deposit security and process fee within 10 days. Notices be issued to the respondents for 28.01.2019 for reply/comments before S.B.

Appellant Deposited
Security & Process Fee

2



Chairman



13.07.2018

Appellant in person present and requested for adjournment. Adjourned. To come up for preliminary hearing on 01.08.2018 before S.B.

MA
(Muhammad Amin Kundi)
Member

01.08.2018

Neither appellant nor his counsel present. Case to come up for preliminary hearing on 12.09.2018 before S.B.

D

D
Chairman

11.09.2018

Since 12th September 2018 has been declared as public holiday, by the Provincial Government on account of 1st Mukharram-ul-Haram, therefore the case is adjourned to 18.10.2018 for further proceedings before S.B.

[Handwritten signature]

[Handwritten signature]
Chairman

P-15
[Handwritten mark]

18.10.2018

Appellant in person present and seeks adjournment. Learned counsel for the appellant is not in attendance. Adjourn. To come up for preliminary hearing on 04.12.2018 before S.B

[Handwritten signature]
Member

Form-A

FORM OF ORDERSHEET

Court of _____

Case No. 594/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	30/04/2018	<p>The appeal of Mr. Hayat-ur-Rehman resubmitted today by Mr. Ibad-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;"><i>[Signature]</i> REGISTRAR 30/4/18</p>
2	15/05/18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23/05/18</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
	23.05.2018	<p>Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 13.07.2018 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> (Muhammad Amin Khan Kundi) Member</p>

The appeal of Mr. Hayat-ur-Rehman CT GHS Din Bahar Colony Peshawar received today i.e. on 19.04.2018 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal may be flagged.
- 3- Affidavit be got attested by the Commissioner.

No. 839 /S.T,

Dt. 19/4 /2018.

I. Q. S. W.
REGISTRAR 19/4/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ibad-ur-Rehman Adv. Pesh.

Objection has been removed. Re-submitted
Please.

I. Q. S. W.
28/4/2018

BEFORE THE HONOURABLE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 594 /2018

Hayat Ur Rahman (CT),

Appellant

Versus

1- Government of Khyber Pakhtunkhwa & others

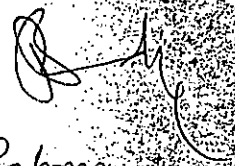
Respondents

INDEX

s.#	Description of documents	Annex	Page
1.	Appeal with Affidavit		1-5
2.	Copy of Appointment order dt:31-08-1995	A	6
3.	Copy of Federal Ordinance 2010	B	7-9
4.	Copy of Act 2012	C	10-11
5.	Copy of Seniority/Merit List	D	12-13
6.	Copy of Minutes	E	14
7.	Copy of Appointment order dt: 21-09-2017	F	15
8.	Copy Departmental Appeal	G	16
9.	Wakalatnama		17

Appellant

Through


Ibadur Rahman
Advocate
Peshawar

Dated: 19/4/2018

03005932832

(1)

BEFORE THE HONOURABLE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO: _____/2018

Hayat Ur Rahman (CT), Government High School
Din Bahar Colony Peshawar.

Appellant

Versus

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

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974 FOR DIRECTING THE RESPONDENTS TO GIVE SENIORITY TO THE APPELLANT WEF 10/10/2012 OR FROM THE DATE WHEN THE APPELLANT WAS ELIGIBLE BUT WRONGLY BEEN DEPRIVED FROM APPOINTMENT BY THE SELECTION COMMITTEE. AGAINST WHICH THE APPELLANT FILED A PROPER DEPARTMENTAL APPEAL ON 21-12-2017 AND NO RESPONSE FROM THE RESPONDENTS.

Respectfully sheweth.

Appellant submits as under :-

- 1- That after completion of all the codal formalities. the appellant was appointed as CT Teacher vide order dated 31/8/1995. (Annex:-A)
- 2- That the appellant was performing his duties so efficiently and dedicatedly and to the entire satisfaction of his superiors but due to change of political government, unfortunately, the appellant's services alongwith many others were dispensed with by the newly government.

- 3- That the appellant made so many efforts for the re-instatement of his service but in vain.
- 4- That in 2010, the Federal government issued an Ordinance vide which all the sacked employees appointed during 1994-96 and terminated from service during 1996-1998 were re-instated with many other facilities. Similarly, the provincial governments were also requested to make legislation for the re-instatement of such employees. (Copy of the Ordinance is attached as Annex:- B).
- 5- That the Federal government issued the ordinance for the re-instatement of sacked employees in the year 2010 and the Sindh government re-instated all the sacked employees through an administrative order. The matter of re-instatement of sacked employees was lingering on in the Province of Khyber Pakhtunkhwa and at last the Provincial Govt. of Khyber Pakhtunkhwa passed an Act in 2012 namely Sacked Employees Act, 2012. (Copy attached as Annex:-C).
- 6- That here an other injustice was made with the employees of war affected province of Khyber Pakhtunkhwa as the employees of Khyber Pakhtunkhwa were to be re-appointed instead of re-instatement as was ordered by the Federal Government.
- 7- That even then, soon after getting the knowledge of the said Act, the appellant duly filed an application on 10-10-2012 which was duly processed and was placed before the Committee constituted for the said purpose.
- 8- That the said committee on mala fide basis and without any legal justification, rejected the application of the appellant. (Copy of the merit list is attached as Annex:- D).

9- That being aggrieved by the conduct of the Respondents, the appellant approached a court of law who was kind enough to declare that the appellant is duly qualified to be appointed as per sacked employees Act. of 2012.

10- That against the said orders of the Honourable court, the Respondents also approached the Law Department for sanction to file a CPLA before the Honourable Supreme Court of Pakistan, but during the scrutiny of the case file, the Law Department declared the same as unfit case for filing of CPLA before the honourable Apex court. (Annex:- E).

11- That at last the Respondent No. 3 issued appointment order dated 21/9/2017 but the same was issued with immediate effect and not from the date when the appellant become eligible for appointment. (Copy of the order is attached as Annex:- F).

12- That the appellant duly filed a Departmental Appeal before the Respondent No. 3 which was duly entered in the daily Diary of the office as No. 3954 dated 21/12/2017. (Copy attached as Annex:- G).

13- That after the lapse of statutory 90 days no reply what so ever was communicated to the appellant, hence, the appellant has left with no option but to approach this honourable tribunal on the following grounds amongst others :-

GROUNDS:-

A- That the conduct of the respondents is illegal, biased, based on mala fide and unjustified.

B- That the issuance of the appointment order with immediate effect is tantamount to penalizing the appellant without any fault on the part of the appellant.

43

- C- That that the appellant has been deprived from his due right as enshrined in the Constitution of Islamic Republic of Pakistan.
- D- That the appellant has been deprived from his livelihood without any justification.
- E- That the conduct of the respondents is highly discriminatory as many employees of the same nature were duly appointed during this period but the same was denied to the appellant.
- F- That the conduct/act of the respondents towards the appellant is harsh arbitrary and bad in law and on facts.
- G- That the appellant be allowed to add any other grounds at the time of arguments.

It is, therefore, humbly prayed that on acceptance of the appellant the respondents are directed to issue appointment order of the appellant with effect from the date when the Act for re-appointment of sacked employees was passed or from the date when the selection committee illegally rejected the application of the appellant.

Any other remedy deem proper in the matter, not specifically asked for, may also please be given with costs.

Hayat

Appellant

Through:

Behi

IBADUR RAHMAN
Advocate High Court
127-Sarhad Mansion
Peshawar.

Dated. ____/04/2018

BEFORE THE HONORUABLE K.P SERVICE TRIBUNAL PESHAWAR

Appeal No. _____/2018

Hayat Ur Rahman

Versus

Education Deptt:

AFFIDAVIT.

I, Hayat Ur Rahman d/o Maab, CT Teacher, Government High School, Din Bahar Colony (Appellant) do hereby solemnly affirm and declare on oath that contents of the annexed Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this honourable tribunal.



DEPONENT

CNIC. 17101-6139732-9

APPOINTMENT

Appointment of the following person(s) is hereby ordered against the post of CT on temporary & adhoc basis at Rs. 1500/- fixed plus usual allowances as admissible under the rules in BPS-1(9) (Rs; xxxxxxx) at the Institution noted against each name.

S/No:	Name, Qualification & Address	Posted at	Remarks
1.	Hayatur Rehman S/O Maab G.T. Road Peshawar.	GHS Chagher Matti Peshawar.	Against vacant CT post.

TERMS & CONDITIONS

1. His/Her appointment is purely temporary & liable to termination any time without assigning reasons or notice.
2. In case of resignation he/she will have to submit one month's prior notice to the Deptt; or forfeit one month's pay in lieu thereof to the Govt;.
3. He/She is required to produce health & age certificate from the Medical authority concerned before taking over charge provided he/she is not in Govt; service.
4. He/She should not be allowed to take over charge if his/her age is less than 18 years or above 25 years.
5. His/Her apptt; is subject to further condition that he/she is domiciled of PAF.
6. His/Her antecedents forms should be obtained duly verified by the local police authorities & submit to this office together with application for apptt; on prescribed form & under taking declaration of moveable & immovable property for record in this office.
7. All original educational character & domicile certificates should be thoroughly checked before handing over charge, if necessary, it should be verified from the Institutions concerned.
8. If he/she fails to take over charge of the post within a week of the receipt of this order the offer of apptt; shall stand cancelled.
9. Chagereports should be submitted to all concerned.
10. No TA/DA etc is allowed.
11. He/she should be given test in Nazira Quran & Pakistan Studies & result intimated to this office.

(SHAH-I-ROOM KHAN)
DIVL: DIRECTOR OF EDUCATION (S)
PESHAWAR DIVN: PESHAWAR
2005

E dst; No: 64204-9 / Dated 31-8-2005

Copy to the; -

1. DEC(M)&(F) Secy; Peshawar.
2. DAO Charsadda./ Nowshera.
3. Headmaster/Headmistress. GHS Chagher Natti Peshawar.
4. Candidate concerned.
5. Supdt; B; Branch.
6. P/File.

Jehanzeb/
Yousaf

for Divl; Director of Education (S)
Peshawar Division Peshawar



Annex "B" B



The Sacked Employees' (Reinstatement) Ordinance, 2010

An Ordinance to provide relief to persons in corporation service or autonomous or semi-autonomous bodies or in Government service who were dismissed, removed or terminated from service

[Gazette of Pakistan, Extraordinary, Part I,
5th February, 2010]

No.2(1)/2009-Pub., dated 5-2-2010.--The following Ordinance promulgated by the President is hereby published for general information:--

Whereas it is expedient for the purpose of providing relief to persons who were appointed in a corporation service or autonomous or semi-autonomous bodies or in Government service during the period from the 1st day of November, 1993 to the 30th day of November, 1996 and were dismissed, removed or terminated from service during the period from the 1st day of November, 1996, to the 31st day of December, 1998;

And, whereas the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:--

1. Short title, extent and commencement.---(1) This Ordinance may be called the Sacked Employees' (Reinstatement) Ordinance, 2010.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.--In this Ordinance unless there is anything repugnant in the subject Or context,---

(a) "person in corporation service" means a person who was appointed in a corporation, organization or autonomous or semi-autonomous body, established by or under a Federal law or owned or controlled by the Federal Government, during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed or terminated from service or given forced golden handshake during the period from the 1st day of November, 1996 to the 31st day of December, 1998 (both days inclusive);

(b) "person in Government service" means a person who was appointed and was a member of the civil service of the Federation or held a civil . post in connection with affairs of the Federation in a Ministry, Division or department during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed or terminated from service or given forced golden handshake during the period from the 1st day of November, 1996 to the 31st day of December, 1998 (both days inclusive);

Attest
Body

(c) "Review Board" means the Review Board established under section 4; and

(d) "Secretary" includes an Additional Secretary.

3. Reinstatement of employees.--Notwithstanding anything contained in any law for the time being in force, judgment of any Tribunal or a Court including the Supreme Court and the High Court, contract or terms and conditions of service, all persons appointed in corporation or Government service, during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and dismissed, removed or terminated or given forced golden handshake during the period from the 1st day of November, 1996 to 31st day of December, 1998 (both days inclusive) shall be reinstated immediately in service on one scale higher to their substantive scale of the post at the time of termination of service and report for duty to the respective departments or organizations:

Provided that in case of change in scale or structure of any post or cadre by the competent authority after the 31st day of December, 1998, the persons in corporation or Government service on reinstatement shall be placed on, one scale higher than the revised or existing scale of the post:

Provided further that any person in corporation or Government service who was dismissed, removed or terminated from service on account of closure of organization or whose organization ceased to exist before the 13th February, 2009, or absence from duty, misappropriation, of Government money or stock or medical unfitness may prefer petition to the Review Board as provided in section 5.

4. Establishment of Review Board.--There is hereby established a Review Board to review the cases of persons in corporation or Government service who were dismissed, removed or terminated from service on account of closure of organization, absence from duty, misappropriation of Government money or stock or medical unfitness. The Review Board shall consist of Secretary, Law and Justice Division and Secretary, Establishment Division to be headed by a retired Judge of the Supreme Court or of a High Court to be appointed by the Federal Government.

5. Petition to the Review Board.--(1) Any person in corporation or Government Service who was dismissed, removed or terminated from service on account of closure of organization, absence from duty, misappropriation of Government money or stock or medical unfitness may within sixty days of the commencement of this Ordinance, prefer petition for review of the order of dismissal, removal or termination from service to the Review Board which shall decide the case within thirty days of its first hearing. The Review Board may, on consideration of review petition and any other relevant material, confirm, set aside, vary or modify the order.

(2) The order of the Review Board passed on the review petition shall be final and shall not be called in question in any Court, Authority or Tribunal.

(3) In dealing with cases under this Ordinance the Board shall have power to regulate its own procedure.

6. Reinstatement of contract employees.--(1) A person in corporation or Government service who held the post on contract against a regular post and his

Additional Secretary

(10)

(9)

contract was extended at least once and he was subsequently dismissed, removed or terminated from service shall be reinstated immediately and adjusted against regular post.

(2) person in corporation or Government service appointed on contract against a temporary post and who was dismissed, removed or terminated before the completion of his contract period shall be reinstated immediately for the remaining portion of his contract.

7. **Reinstatement of golden handshake employees.**---Persons in corporation or Government Service who were given forced golden hand shake shall be reinstated immediately subject to reimbursement of all monetary benefits received by them as a result of forced golden handshake.

8. **Creation of supernumerary post.**---Where due to non-availability of sanctioned posts or an equivalent- scale post in corporation or Government service, the Secretary of the respective Ministry, Division, head of the department or corporation or organization shall immediately create supernumerary posts to accommodate the reinstated employees and such arrangement shall continue till the availability of regular posts are made available.

9. **Manner and mode of payment of compensation on reinstatement.**---On reinstatement in service each employee in corporation or Government service shall be paid compensation equal to three years emoluments of the pay scale in which he would be placed and the emoluments shall be paid to him in the following manner, namely:---

(a) first installment equal to twelve months emoluments on reinstatement;

(b) second installment equal to twelve months emoluments on the 1st day of January, 2010; and

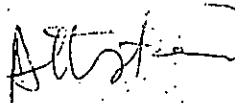

(c) third installment equal to twelve months emoluments on the 1st day of January, 2011.

10. **Reinstated employees not to claim other service benefits.**---Any person in corporation or Government service who is reinstated under this Ordinance shall not be entitled to claim seniority or arrears of pay or other service benefits save as provided in this Ordinance and shall be required on reinstatement to submit a surety bond in the form specified for the purpose.

11. **Ordinance to override other laws.**---The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in any judgment of any Tribunal or Court including Supreme Court and High Court.

12. **Power to make rules.**---The Federal Government may make rules to carry out the purposes of this Ordinance.

13. **Repeal.**---The Sacked Employees (Reinstatement) Ordinance, 2009 (XXIII of 2009) is hereby repealed.

Attst. 




Amended
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10

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 20TH SEPTEMBER, 2012.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 20th September, 2012.

No. PA/Khyber Pakhtunkhwa/Bills/2012/G077.—The Khyber Pakhtunkhwa Sacked Employees (Appointment) Bill, 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 10th September, 2012 and assented to by the Governor of the Khyber Pakhtunkhwa on 17th September, 2012 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA SACKED EMPLOYEES (APPOINTMENT) ACT, 2012

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

(first published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa (Extraordinary), dated the 20th September, 2012)

AN
ACT

to provide relief to those sacked employees in the Government service, who were dismissed, removed or terminated from service, by appointing them into the Government service

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on various grounds;

WHEREAS the Federal Government has also given relief to the sacked employees by enactment;

Attest
[Signature]

10-A

(10)

(10) 11A-A

149 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 20th SEPTEMBER, 2012

- 9. Act to override other laws.— Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.
- 10. Power to make rules.— Government may make rules for carrying out the purpose of this Act.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar.

1797
21-2-2013

Handwritten signature/initials

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4. Age relaxation.— The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.

5. Sacked employees shall not be entitled to claim seniority and other back benefits.— A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

6. Preference on the basis of age.— On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.

7. Procedure for appointment.— (1) A sacked employee, may file an application, to the concerned Department within a period of thirty days from the date of commencement of this Act, for his appointment in the said Department:

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted in the prescribed manner, for appointment.

Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(4) The concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. Removal of difficulties.— If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act, as may appear to him to be necessary for the purpose of removing the difficulty.

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.

(Signature)

(Signature)

10

11A-A

- 9. Act to override other laws. — Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.
- 10. Power to make rules. — Government may make rules for carrying out the purpose of this Act.

BY ORDER OF MR. SPEAKER

PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(AMANULLAH)
Secretary

Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by the Manager,
Staty. & Puj. Dept., Khyber Pakhtunkhwa, Peshawar.

1797

21-2-2013

[Handwritten signature]

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19

Annex

FINAL SENIORITY/MERIT LIST OF SACKED EMPLOYEES C.T (MALE) DURING 1996-1998

1	2	3	4	5	6	7	8	9	10	11	12	13	14
S/No	Name of Sacked Employee	Father's Name	CNIC No.	District / Agency of Domicile	Nomenclature of the post with BPS	Acad: Qualif:	Prof: Qualif:	Date of Passing Prof: Qualif:	DOB	Date of 1st Appointment	Date of termination	School	Remarks
1	Uzgs	Abdul Malik	17301-7370816-9	Peshawar	C.T 09	MA	CT	31/03/2001	01/10/1966	10/03/1996	26/06/1997	GMS Yousaf Khel	
2	Laif Ahmad	Shah Wali	17301-0182658-7	Peshawar	C.T 09	MA	CT	05/11/1999	15/06/1966	20/09/1995	13/02/1997	GMS Muhammad Noor Kalay	
3	Qaiser Khan	Khushal Khan	17301-0182658-7	Peshawar	C.T 09	BA	CT	31/03/1998	01/06/1967	31/03/1995	13/02/1997	GHS Hasan Gari	
4	Ilaf Hussain	All Akbar	17301-1503721-1	Peshawar	S.V 09	MA	CT	07/10/1998	05/02/1968	08/05/1995	26/06/1997	GHS Regi	
5	Shakeel Ahmad	Ilukhar Ahmad	17301-1575300-3	Peshawar	CT 09	BSC	CT	07/10/1998	29/09/1968	25/04/1996	13/02/1997	GHS Gul Bahar	
6	Abdul Wahid	Mughal Khan	17301-1200209-5	Peshawar	C.T 09	MA	CT	13/05/1997	01/03/1969	04/11/1996	26/06/1997	GHS Chaghar Marri	
3	Muhammad Shoab Khan	Moh Saifur Khan	17301-1500295-9	Peshawar	C.T 09	BA	CT	05/11/1999	01/01/1970	15/02/1995	08/02/1995	GHS Regi	
	Langir Khan	Abdul Hanan	17301-8601812-3	Peshawar	C.T 09	MA	CT	05/11/1999	13/01/1970	05/07/1996	06/12/1997	GHS Tehkal	
10	Ghulam Murtaza	Gul Rehman	17301-7664499-3	Peshawar	C.T 09	MA	CT	25/04/2000	01/06/1970	13/12/1995	13/02/1997	GHS Gulshan Rahman Col.	
11	Fazal Malik	Rahim Jan	17301-7142024-5	Peshawar	C.T 09	BA	CT	27/02/1998	12/10/1970	13/02/1995	13/02/1997	GHS NO.1 City	
12	Muhammad Ishaq	Moh Umer	17301-1303679-7	Peshawar	C.T 09	BA	CT	31/03/1998	15/11/1970	19/10/1995	30/06/1997	GHS Badaber	
13	Hayat ur Rehman	Maaab	17101-6139732-9	Peshawar	C.T 09	MA	CT	05/11/1999	15/08/1971	31/09/1995	13/02/1997	GHS Umar Payan	
14	Abdul Sharf	Moh Karim	17301-4988093-9	Peshawar	C.T 09	BA	CT		02/02/1972	25/10/1996	22/04/1997	GHS Shahi Bala	
15	Aliab Ahmad Khan	Mushaq Ahmad	17301-1572010-7	Peshawar	C.T 09	MA	CT	13-5-97	12/07/1972	19-11-1994	30/09/1996	GHS Sherdad	
16	Saeed u Rehman	Habib U Rehman	17301-1624299-3	Peshawar	C.T 09	BA	CT		08/10/1972	23/05/1996	03/01/1997	GHS Majid Khel Nowshera	
17	Aurangzeb Khan	Mushaq Ahmad	17301-1630474-5	Peshawar	C.T 09	MA	CT	31/12/2009	03/01/1973	04/04/1996	13/02/1997	GHS Maryam Zai	
18	Muhammad Hassan Khan	Saida Khan	17301-9265516-1	Peshawar	C.T 09	MA	CT		07/01/1973	26/07/1994	15/06/1997	GHS Tehkal	

Handwritten signatures and initials, including a large 'D' and 'New' written vertically.

Administrative stamps and handwritten notes at the top of the page, including 'GHS No. 1', 'Recd', and 'SAGI'.

13

FINAL SENIORITY/MERIT LIST OF SACKED EMPLOYEES C.T (MALE) DURING 1996-1998

Sl No	Name of Sacked Employee	Father's Name	CNIC No.	District / Agency of Domicile	Nomenclature of the post with BPS	Acad. Quali.	Prof. Quali.	Date of Passing Prof. Qual.	DOB	Date of Appointment	Date of termination	School	Remarks
15	Jan Muhammad	Haji Gul Baz	17301-1522451-3	Peshawar	C.T 09	MA	CT	27/02/1998	07/01/1973	17/11/1994	13/2/1997	GHS GulBahar	
20	Fathuminnullah	Umar Daraz	17301-1351240-7	Peshawar	C.T 09	MA	CT	31/05/2003	11/12/1973	28/03/1996	19/06/1997	GHS Ade Zai	U/S 1/99
21	S Ziaullah shah	S Noor Ali		Peshawar	C.T 09	MA	CT	31/01/1997	01/01/1974	31/8/1995		GHS Hasan Gari	
22	Bakhtiar Khan	Yara Khan	17301-1359550-1	Peshawar	C.T 09	BA	CT	06/06/2011	14/3/1974	27/10/1996	13/2/1997	GMS Regi Lama	
23	Noor-ul-Amin	Rooh-ul-Amin	17301-08235322-1	Peshawar	C.T 09	MA	CT	25/04/2000	12/04/1974	27/10/1996		GHS Daag	
24	Ibrar Ahmad	Moh Chaman	17301-1310003-5	Peshawar	C.T 09	BSC	CT	31/03/2001	15/04/1974	11/08/1996	26/8/1997	GHS Barbar	
25	Shabir Ahmad	Ghulam Khan	17301-2243181-9	Peshawar	C.T 09	MA	CT	31/12/2009	15/2/1975	22/04/1997	25/06/1997	GMS Palagi	
26	Mirikhar Hussain	Habib Jan	17301-6312676-5	Peshawar	C.T 09	MA	CT	31/05/2003	03/03/1975	31/10/1996	15/05/1997	GHS Rasheed Gari	
27	Sardar Hussain	Najam Ud Din	17301-12448487-0	Peshawar	C.T 09	BSC	CT	31/03/1998	04/04/1975	12/11/1995	13/2/1997	GHS Kaga Wala	U/S 1/99
29	Nas-ro-Minallah	Inyat Ullah	17301-0479083-1	Peshawar	C.T 09	FA	CT	13/05/1997	30/4/1975	28/03/96	13/05/1997	GHS Bela Baramad Khel	
30	Zawar Hussain	Habib Ullah	17301-7120825-1	Peshawar	C.T 09	M.S.C	CT	31/03/2002	14/6/1976	31/10/1996	13/02/1997	GMS Asia Park	
31	S. Abdul Qahar	H. Hasham Khan		Peshawar	C.T 09	FA	CT		22/01/1977	31/10/1996	30/12/1997	GHS Azakhel Mattani	U/S 1/99
32	Zai Ullah Jan	Liqat Ullah Jan	17301-8244143-3	Peshawar	C.T 09	BSC	CT	03/04/2009	04/04/1976	14/11/1996	26/6/1997	GMS Landi Arbab	

All the cancelled forms S No 1 to S No 32 are signed for approval of the Government of their professional qualifications in the file of the Government of Peshawar dated 2019.

[Signature]
16/11/19

Anneex E



CR NO.600-P/2015 ASGHAR ALI AND OTHERS VS GOVT. OF KHYBER PAKHTUNKHWA AND OTHERS ALONGWITH CR NOS. 543-P, 544-P, 579-P, 613-P OF 2015 AND CR NO.290-P OF 2016.

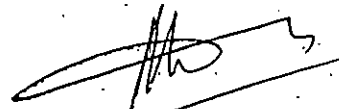
A meeting of the Scrutiny Committee was held on 18-08-2017 at 14:00 hours in the office of Secretary Law Department under his Chairmanship being Convener of the Committee in order to determine the fitness of the subject case for filing of appeal / CPLA in the proper forum. Additional Advocate General (Mr Rab Nawaz Khan) was also present during the meeting being representative of Advocate General Khyber Pakhtunkhwa. List of participants is annexed.

2. The meeting started with the recitation from the Holy Quran and thereafter Convener of the Committee invited the representative of E&SE Department to apprise the Committee about the background of the case which he did accordingly.

3. During discussion it was noticed by the committee that Revision Petition and connected Petitions are allowed; the impugned judgments of the appellate Court are set aside and the judgments and decrees passed by the learned trial Court are restored with directions to respondents to consider those petitioners eligible for their reinstatement who have obtained their professional qualification after their removal from service and provide three years time for acquiring the prescribed qualification to those petitioners who have not acquired the same yet.

DECISION:-

4. Hence in view of above explained legal and factual position of the case it was decided with consensus that the subject case is a not fit case for filing of appeal / CPLA in the Supreme Court of Pakistan.


(Deputy Solicitor)

2

District Education Officer (Male) Peshawar

PH/Fax No. 091-93319337, 9225397,
E-mail deomalepeshawar@gmail.com

Annex



APPOINTMENT

In compliance of judgements dated 14-03-2016 & 30-06-2017 passed by the Honorable Peshawar High Court Peshawar in C.R Nos. 493-P, 543-P, 544-P, 579-P of 2015 appointments of the following candidates under Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 is hereby ordered on regular basis against the post of CT (General) in BPS-15 (Rs.16120-1330-56020) @ Rs. 16120/- in Teaching Cadre on terms and conditions given below with immediate effect:-

S.No	Name	Father Name	CNIC#	Name of School	Remarks
1.	Aurangzeb Khan	Mushtaq Ahmad	17301-1630474-5	GMS Sufaid Dheri	Against Vacant Post
2.	Fazli Malik	Rahim Jan	17301-7142024-5	GHSS No.1 Pesahwar Cantt	Against Vacant Post
3.	Bakhtiar Khan	Yara Khan	17301-1359580-1	GHS Kafoor Dheri	Against Vacant Post
4.	Ibrar Ahmed	Muhammad Chaman Khan	17301-1310003-5	GMS Kafoor Dheri	Against Vacant Post
5.	Aziz Ul Haq	Muhammad Naeem	17301-3356600-1	GMS Pajagi	Against Vacant Post
6.	Allaf Hussain	Ali Akbar Khan	17301-1503721-1	GHS Hakim Khan Kalay	Against Vacant Post
7.	Hayat Ur Rahman	Maab	17301-6139732-9	GHS Din Bahar Colony	Against Vacant Post
3.	Jehangir Khan	Abdul hanan	17301-8601812-3	GHSS Sufaid Sung	Against Vacant Post

Terms & Conditions

- The candidates lacking the requisite qualification for above mentioned post shall acquire the requisite qualification within three years of the issuance of this appointment order as per constitutional directions failing which their appointment order shall stand cancelled.
- no TADA is allowed.
- Charge reports should be submitted to all concerned.
- Appointment is subject to the condition that the certificates/documents shall be verified from the concerned authorities and anyone found producing bogus certificates or degrees his appointment shall be cancelled forthwith and he will be reported to the concerned law enforcement agencies for appropriate action.
- Their services are liable to termination on one month prior notice from resignation without notice their one month pay shall be forfeited to the Government.
- Pay shall not be drawn until and unless a certificate issued by this office that his documents are verified.
- They will be on probation for period of one year extendable to another year.

Health & Age Certificate should be produced from the Medical Superintendent before taking over charge.

10. They will be governed by such Rules and Regulations as may be issued from time to time by the Government.

11. Their services shall be terminated at any time in case their performance is found unsatisfactory during their service period. In case of misconduct, they shall be proceeded under the relevant rules & regulations announced from time to time.

12. According to section 5 of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012 they shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

13. Errors and omissions will be acceptable within the specified period.

Note:

Appointment order shall be verified by the concerned Drawing and Disbursing Officers personally from the office of the undersigned before handing over charge to the official.


(JADDI KHAN KHALIL)
DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

En. Ist: No. 6067-75

Dated Peshawar the 21/9 2017

Copy forwarded for information to:

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. FS to the Secretary to Govt: Khyber Pakhtunkhwa E&SE Department.
3. Deputy Commissioner, Peshawar.
4. PA to the Director E&SE, Khyber Pakhtunkhwa, Peshawar.
5. Principals/Headmasters concerned.
6. PA to District Education Officer (Male) Peshawar.
7. Cashier Local Office.
8. Officials Concerned.
9. M/File.


Deputy District Education Officer
(Male) Peshawar

c f 7

To

The District Education Officer
District Peshawar

Annex 6

(16)

Subject: Appeal for Seniority and back benefit

Sir,

The purpose of this appeal is to document

that I was a C.T. teacher in the year 1995 at G.H.S. Sattan Peshawar city. But I was terminated from the service in the year 1997 due to political ground by the Govt. On 21/9/2017, I was reinstated due to the act passed by the Govt.

Now I was am working as C.T. teacher at G.H.S. Dimbahar Colony Peshawar city.

I request you to kindly consider my service and back benefit and allow seniority from the date of my first appointment that is from 1996 and on word.

21/12/17

Hayat

Yours obediently
Hayat ur Rehman
C.T.

Recd
21-12-2017

No 3954

G.H.S. Dimbahar
Colony Peshawar
03439118334

Signature

بعدالت صاحبہ KPK کروس ٹریڈنگ لیسٹڈ

17

Appeal No 2018

2 جناب امیر اس

بنام گورنمنٹ

صاحبہ الرٹیلنگ

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لیسٹڈ کیلئے عبدالرٹیلنگ، عمران خان، ڈسٹرکٹ جج خان امیر اس
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ 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 کاروائی 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 باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواخذہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا اوکالت نامہ لکھ دیا کہ سند ہے۔

2018

ماہ اپریل

17

المرقوم

کے لئے منظور ہے۔

بمقام لیسٹڈ

Accepted

Signature

Signature

Accepted

امیر اس

"B"

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

No.

Appeal No. 596 of 20/8.

M. Haseemullah Khan Appellant/Petitioner

Versus

Secretary, F&S Education, Peshawar Respondent

Respondent No. 1

Notice to: Secretary, F&S Education, Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 23-12-2018 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 6th

Day of Dec 2018.

10/12

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

Appeal No. 594 of 20 18.

Mr. Husein-ul-Rodman Appellant/Petitioner

Versus

Govt of KP through EO & Collection Respondent

Respondent No. 2

Notice to:

Director, EO & Collection, KP, Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 28-1-2019 at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 6th

Day of Dec 20 18.

10/12

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

Appeal No. 594 of 20 18.

Mrs. Hafsa ul-Rahman Appellant/Petitioner

Versus

Director of Education, Peshawar Respondent

Respondent No. 3

Notice to:

Distt. Education Officer (Male)
Eds Section, Peshawar.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 28-1-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated.....

Given under my hand and the seal of this Court, at Peshawar this 6th.....

Day of Dec.....20 18.

Received
Am A
10/12/18

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

SERVICE APPEAL NO.594/2018

Hayat Ur Rahman

V/S

Education Department

REPLY ON BEHALF OF RESPONDENT No.1 to 3.

Respectively Sheweth:

The Respondent submits below:

PRELIMINARY OBJECTIONS:

1. That the Appellant has got no cause of action /locus standi.
2. That the Appellant has concealed material facts from this Hon,ble Tribunal.
3. That the Appellant has been estopped by his own conduct to file the instant appeal before this Hon'ble Tribunal.
4. That the instant Appeal is badly time barred.
5. That the instant Appeal is not maintainable in its present form.
6. That the instant Appeal is bad for mis- joinder and non- joinder for the necessary parties.
7. That the Appellant has not come with clean hands to this Hon'ble Tribunal.
8. That the instant Appeal is barred by law.
9. That the Appellant does not fall within the ambit of aggrieved person.

ON FACTS.


1. That in reply to Para No.1, it is submitted that the Appellant was Sacked Employee and the Supreme Court of Pakistan recently passed judgment date 11-10-2018 regarding the Sacked Employee which is annexed as Annex: A.
2. That in reply to Para No.2, it is submitted that the Appellant and others colleagues of the Appellant were appointed against the law and rules and recently the Supreme Court passed judgment which already annexed A because the Appellant and his other colleagues did not fulfill the said criteria which is mentioned the said judgment.
3. That in reply to Para No.3, it is submitted the appellant did not fulfill the formalities of the said post.
4. That Para No.4 is pertains to record.
5. That the reply of Para No.5 has already been given in the above Para.
6. That Para No.6 is incorrect and misleading the competent authority acted according to law and rules.
7. That Para No.7 pertains to record.
8. That in reply to Para No.8, it is submitted that the competent authority is bond to act upon the existing law and rules.
9. That in reply to Para No. 9 the Supreme Court of Pakistan issue judgment which is already annexed with the instant reply as annexed A and in light of that judgment the appellant does not fulfilled the legal formalities for the said post.

- 10. That Para No.10, it is submitted that the respondents are bonds to follow the law.
- 11. That in reply to Para No.11, it is submitted that the respondent acted according to law and rules.
- 12. That Para No.12, misleading. The appointment of the appellant terms and condition no. 12 is clear " according to section -v of Khyber Pakhtunkhwa Sacked Employees (Appointment) act 2012 they shall not the entitled to any claim of seniority, promotion or other back benefits and his appointment shall be consider as fresh appointment". Which is already annex as Annex: F of the instant appeal.
- 13. That the Appellant has no cause of action to filed the instant appeal in this Hon,ble Tribunal.

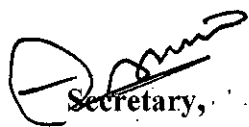
GROUND

- A. That Ground-A is incorrect, misleading. The respondents are bond to act upon the existing law and rules.
- B. That Ground-B is also incorrect and misleading. The said order is according to law and rules.
- C. That Ground -C is incorrect and misleading. The appellant did not come within the ambit of aggrieved person.
- D. That Ground-D incorrect. The reply has been given in the above Para.
- E. That Ground-E is incorrect and misleading.
- F. That Ground-F is incorrect. The respondents are bond to act upon the law and rules.
- G. That respondent also seeks leave of this Hon'ble Tribunal to present case law and to raise additional grounds at the time of arguments.

It is therefore, very humbly prayed that on acceptance of this reply, the instant appeal may very kindly be dismissed with cost.


District Education Officer
 (Male) Peshawar


Director,
 E & SE KPK Peshawar


Secretary,
 E & SE KPK Peshawar

21/11/18
2/10/52

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Mr. Justice Gulzar Ahmed
Mr. Justice Qazi Faez Isa
Mr. Justice Mazhar Alam Khan Miankhel

C.P.Nos.210 & 300 of 2017

[On appeal against common Judgment dated 28.11.2016
passed by the Peshawar High Court, Mingora Bench (Dar-
ul-Qaza), Swat, in W.P.Nos.145-M/2015 & 176-M/ 2013]

Muhammad Azam Khan (CT) & others [In CP.210]
Falas Khan & others [In CP.300] **Petitioner(s)**

VERSUS

Government of Khyber Pakhtunkhwa through Secretary [In CP.210]
Elementary & Secondary Education, Peshawar & others

Government of Khyber Pakhtunkhwa through Chief [in CP.300]
Secretary, Civil Secretariat, Peshawar **Respondent(s)**

For the Petitioner(s)

[In C.P.No.210]

[in C.P.No.300]

: Mr. Zulfiqar Ahmed Bhutta, ASC

: Mr. Muhammad Ameen K. Jan, ASC

For Govt. of KPK

: Barrister Qasim Wadood, Addl.A.G. KPK

Date of Hearing

: 11.10.2018

ORDER

GULZAR AHMED, J. — We have heard learned ASC for the petitioners.. It was admitted before us that the petitioners are seeking relief under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012. It was also admitted by the learned ASC for the petitioners that none of the petitioners was regular employee and that they have been appointed on temporary basis by the Education Minister Nawabzada Muhammad Khan Hoti. The sacked employee, as defined in the Act, required that the employee has to be regular employee to avail its benefit. Admittedly such being not the position of the petitioners, thus their case does not fall within the ambit of the said Act. The

ATTESTED

Court Associate

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"A"

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

DB

No. (Reg)
APPEAL No.....594..... of 2018.

Hayat Ur Rehman

Appellant/Petitioner

Versus

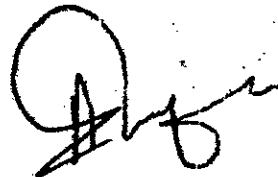
Govt of KP Secy: E & SE Peshawar

RESPONDENT(S)

Notice to Appellant/Petitioner ^{Hayat Ur Rehman} Government High School
Din Bahar Colony Peshawar

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 14-03-2022 at 09:00 AM

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



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.