

1109/2012

20.10.2016

Counsel for the appellant and Mr. Nabi Gul, Superintendent alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Arguments heard and record perused.

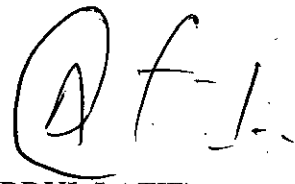
Vide our detailed judgment of today in connected Service Appeal No. 744/2013 titled "Tayyab Shah-Vs- The Provincial Government through Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar and others", this appeal is also disposed of as per the said detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

20.10.2016



(PIR BAKHSH SHAH)
MEMBER



(ABDUL LATIF)
MEMBER

24.03.2016

Counsel for the appellant and Mr. Nabi Gul, Supdt. alongwith Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to shortage of time. Therefore, the case is adjourned to 29.04.2016 for arguments.



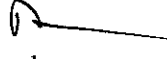
Member



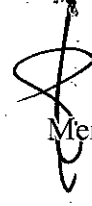
Member

29.04.2016

Counsels for the appellant and Mr. Ziaullah, GP for respondents present. Learned GP requested for adjournment. Last opportunity is given to the parties. To come up for arguments on 02.06.2016.



Member



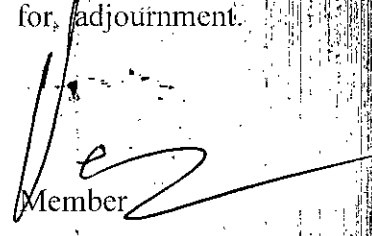
Member

2.6.2016

Counsel for the appellant and Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. Adjourned for arguments on ~~2010~~ 2016.



Member



Member

27.1.2015

Counsel for the appellant and Mr. Ziaullah, GP with Rahim Shah, Assistant for the respondents present. The learned Judicial Member is on official tour to D.I.Khan, therefore, case to come up for arguments on 6.4.2015.


MEMBER

06.4.2015

Junior to counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. Counsel for the appellant was stated to busy in the Hon'ble High Court. Case is adjourned to 24.08.2015 for arguments.


MEMBER


MEMBER

24.08.2015

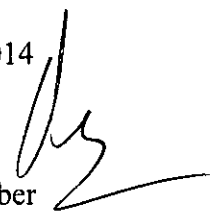
Counsel for the appellant and Mr. Muhammad Jan, GP with Mr. Abdul Hadi, SO (Litigation) for the respondents present. Since the court time is over, therefore, case is adjourned to 14-01-2016 for arguments.


MEMBER


MEMBER

30.10.2013

Counsel for the appellant and Mr. Bilal, Assistant Director
Litigation with Mr. Muhammad Jan, GP for the respondents
present. Learned counsel for the appellant stated that there is no
need of rejoinder. To come up for arguments on 07.02.2014

Member 

7.2.2014

Counsel for the appellant and Mr. Muhammad Jan, GP
present. Notices be issued to the respondents. To come up for
arguments on 22.5.2014.

MEMBER 

MEMBER 

22.05.2014

Counsel for the appellant and Mr. Muhammad Jan,
GP with Javed Supdt. for the respondents present. Counsel for
the appellant needs time. To come up for arguments on
2.10.2014.

MEMBER 

MEMBER 

02.10.2014

Counsel for the appellant and Mr. Muhammad Adeel Butt,
AAG for the respondents present. Due to incomplete Bench, case is
adjourned to 27.1.2015 for arguments.


MEMBER

03.04.2013

Counsel for the appellant, M/S Qaibaz Khan, SO, for respondents No.1 and 2, Muhammad Arif, Assistant Director litigation, for respondent No.3 and Muhammad Aqeel, Assistant for respondent No.5 with Arshad Alam, GP for the respondents present and requested for time. The learned GP is directed to ensure attendance of respondent No.4 for submission of written reply. To come up for written reply on 18.06.2013.


Member


Member

18.6.2013

Counsel for the appellant and Mr. Muhammad Jan, GP with Muhammad Qibaz Khan, SO for the respondents. In pursuance of promulgation of Khyber Pakhtunkhwa Service Tribunal (Amendment) Act 2013, the Tribunal is incomplete. To come up for the same on 2.9.2013.


READER

2.9.2013

Counsel for the appellant and Mr. Muhammad Jan, GP with Bilal Khan, AD (Litigation) for the respondents present and reply filed. Copy handed over to counsel for the appellant. To come up for rejoinder on 30.10.2013.


MEMBER


MEMBER

Appeal No. 1109/2012
Robina Shauheen

3. 11.12.2012

Counsel for the appellant present and heard. Contended that the appellant has not been treated in accordance with the law/rules. As per Finance Department Notification dated 24.7.1986 and judgment of the Hon'ble Supreme Court of Pakistan dated 3.2.2010, the appellant is entitled to the grant of higher pay scale but the same has been denied to him against which she preferred a Dept. Appeal at appeal on 15.6.2012 but with no response. He further contended that similar appeals of Javed Khan, Mufti Habibullah and Muhammad Ayaz have already been admitted to regular hearing and fixed before FB-II.. Points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 20.2.2013 for submission of written reply.

- Appellant deposited
Process fee & Security
Rs. 440/- Bank Receipt
attached with file in
(Commented A: No. 1109/12)

4. 11.12.2012

This case be put before the Final Bench for further proceedings.

20.02.2013.

Counsel for the appellant and Muhammad Aqeel for respondent No.5 with AAG present. None is available for respondents No.1,2,3 and 4. The learned AAG is directed to contact the respondents for submission of written reply. To come up for written reply on 03.04.2013.


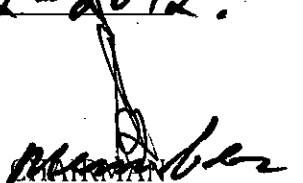
MEMBER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1109/2012

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	12/10/2012	<p>The appeal of Mst. Robina Shaheen presented today by Mr.Rehmanullah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	17-10-2012.	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>11-12-2012.</u></p> <p style="text-align: right;"> Member.</p>

IN THE SERVICE TRIBUNAL ,K.P.K PESHAWAR

Service Appeal No. 1109 /2012.

Robina Shaheen (3) "Junior Special Education Teacher (BPS-16)
Govt Institute for Blind (Girls), Peshawar.**Appellant**

-Vs-

The Provincial Govt through Chief Secretary,
Govt of K.P.K, Peshawar.....**Respondents**

I N D E X

S.NO	Description Of Documents	Annex	Pages
1	Grounds of Service Appeal		1-4
2	Affidavit		4
3	Addresses of Parties		5
4	Copy of Credentials/Documents of Appellant Copy of Appointment Order,	A, A-1	6-12
5	Copy of Notification Dated 24-07-1986	B	13-15
6	Copy of Supreme Court Judgment Dated 03-02-2010	C	16-20
7	Copy of Departmental Appeal of Appellant	D	21
8	Copy of Service appeal judgment dated 18/04/2012	E	22-25
9	Wakalatnama		

Appellant
Through

Rahman Ullah

Advocate Peshawar
High Court Peshawar,
Office 25-A Nasir Mansion to
Railway Road Peshawar
0333-9125367

1

IN THE SERVICE TRIBUNAL ,K.P.K PESHAWAR

Service Appeal No. 1109 /2012

1148
12/10/12

Robina Shaheen as junior special education
Teacher (BPS-16) Govt Institute for Blind
(Girls), Peshawar. **Appellant**

-Vs-

1. The Provincial Govt through Chief Secretary,
Govt of K.P.K, Peshawar.
2. Secretary, Social Welfare & Women
Development & Special Education Department,
Govt of KPK, Peshawar.
3. Director,
Directorate of Social Welfare & Women
Development & Special Education Department,
Govt of K.P.K, Peshawar.
4. District Officer, Social Welfare & Women
Development & Special Education Department, Peshawar.
5. Secretary,
Finance Department,
Govt of K.P.K, Peshawar..... **Respondents**

**SERVICE APPEAL U/S 4 OF NWFP SERVICE TRIBUNAL ACT 1974
FOR GRANTING OF HIGHER PAY SCALE IN THE LIGHT OF
NOTIFICATION DATED 24-07-1986 OF THE FINANCE DEPARTMENT
NWFP AND IN LIGHT OF THE SUPREME COURT JUDGMENT DATED
03-02-2010 AND AGAINST THE NOT TAKING ANY SACTION ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT**

Prayer in Appeal:

12/10/12

On acceptance of this service appeal, the respondents may be directed to grant Higher Pay Scale from the date of acquiring qualification i.e. 10-02-2010 (BPS-17) with all consequential benefits in light of the Finance Department Notification dated 24-07-1986 and Supreme Court Judgment dated 03-02-2010 passed in Review Petition No. 10-P/2009 by treating the appellant at par with this colleague (Waheed Nawaz).

Respectfully Sheweth:

1. That the appellant was appointed as "Junior Special Education Teacher" (BPS-16) on 10-02-2010 after recommendation of the Departmental Selection Committee, and now performing her duties in BPS-16 in Govt Institute for the Blind(Girls) Peshawar.
2. That the appellant has the qualification of B.A in 28-12-1998 and B.Ed 10-02-2010. Thus the appellant is now Junior Special Education teacher serving in (BPS-16) and on the basis of her requisite qualification, she is claiming Higher Pay Scale of BPS-17 from the date of acquiring qualification i.e. (10-02-2010) as per Govt of NWFP Finance Department Notification dated 24-07-19986.

(Copy of Credential/Documents is Annexure A)

3. That then Govt of NWFP Finance Department issued a Notification on 24-07-1986 in which the teacher of special education institution have the qualification of B.A/B.Sc, with B.Ed have been granted their respective Higher Pay Scale.***(Copy of Notification dated 24-07-1986 is Annexure B).***
4. That the appellant was appointed as supervisor on 07/03/1996 in (BPS-9) then higher pay scale (BPS-16) was awarded on 28/12/1998 in now performing her duty as" junior special Education Teacher" in (BPS-16). ***(Copy of appointment order and order dated 28-12-1998)***
5. That one of the colleague of the appellant namely Waheed Nawaz on attaining of qualification B.Ed, applied to the Department for granting BPS-17 on the strength of the above referred Finance Department, s Notification and he was granted BPS-17 on 14-05-2004. Lateron vide order dated 30-10-2004, the said benefits was withdrawn against which the appellant field an appeal before the Hon,ble Service Tribunal and the Hon,ble Service Tribunal dismissed the appeal of the appellant (Waheed Nawaz). The appellant against the judgment of the service Tribunal filed Civil

Petition No. 449-P/2009 which was also dismissed on 02-07-2009. the appellant (Waheed Nawaz) filed Review Petition No. 10-P of 2009 which was accepted on 03-02-2010 and the benefits of BPS-17 was restored to the appellant. **(Copies of judgment of Supreme Court dated 03-02-2010 is Annexure "C")**.

6. That as the appellant is also similar placed person, therefore, she filed Departmental appeal for granting of Higher Pay Scale on 15/06/2012 and waited for 90days, but the said appeal met no response **(Copy of Departmental Appeal is Annexure "D")**.
7. That now the appellant come to this august Tribunal, inter alia, on the following grounds.

GROUND:

- A. That not awarding Higher Pay Scale as per Finance Department Notification and judgment and not deciding appeal of the appellant is against the norms of justice and law.
- B. That the appellant is junior special education teacher and is fully entitled to Higher Pay Scale (BPS-17) as per Finance Department Notification and judgment of the Supreme Court.
- C. That the appellant has not been treated according to law and rules and has been discriminated by not awarding Higher Pay Scale as per Finance Department's Notification because the other colleague (Waheed Nawaz) etc enjoying the benefits of BPS-17 on the strength of the same notification of the Finance Department on the basis of which the appellant also Claimed the benefits of BPS-17.
- D. That the appellant is also entitled to her claim in light of the judgment reported as 1996 SCMR Page-1185, 2005 SCMR Page-499 and 2009 SCMR Page-1, in which it has been held by the Hon,ble Supreme Court of Pakistan then the good governance demand that such benefits should be extended to all the similar placed persons who might have not litigated instead of compelling that litigation. The appellant is also similarly placed person and is fully entitled to her claim.

4

E. That an identical appeal Nos. 3066/2010 titled Javed Khan & 8 others **-Vs-** The Provincial Govt Through Chief Secretary, Govt of K.P.K Peshawar, were also decided by allowed this Hon,ble Tribunal on 18-04-2012.

(Copy of Judgment Attached Annexure E).

F. That the appellant seek permission to advance other grounds and proof at the time of hearing.

It is, therefore, humbly prayed that on acceptance of this appeal, the respondents may be directed to grant Higher Pay Scale from 10-02-2010 with all consequential benefits in light of the Finance Department Notification dated 24-07-1986 and the Supreme Court judgment dated 03-02-2010 passed in Review Petition No. 10-P/2009 by treating the appellant at for with his colleague (Waheed Nawaz).



Through

Rahman Ullah

Advocate Peshawar.

AFFIDAVIT:

I Robina Shaheen Junior Special Education Teacher, do hereby solemnly affirm and declare on oath that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon,ble Tribunal.

✓

DEPONENT

5

IN THE SERVICE TRIBUNAL, K.P.K PESHAWAR

Service Appeal No. _____/2012

Robina Shaheen “Junior Special Education Teacher (BPS-16)
Govt Institute for Blind (Girls), Peshawar.Appellant

-Vs-


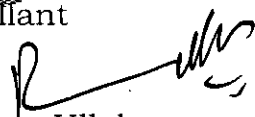
The Provincial Govt through Chief Secretary,
Govt of K.P.K, Peshawar.....Respondents

APPELLANT

Robina Shaheen as “Junior Special Education Teacher (BPS-16)
Govt Institute for Blind (Girls), Peshawar

RESPONDENTS:

1. The Provincial Govt through Chief Secretary,
Govt of K.P.K, Peshawar.
2. Secretary, Social Welfare & Women
Development & Special Education Department,
Govt of KPK, Peshawar.
3. Director,
Directorate of Social Welfare & Women
Development & Special Education Department,
Govt of K.P.K, Peshawar.
4. District Officer, Social Welfare & Women
Development & Special Education Department, Peshawar.
5. Secretary,
Finance Department,
Govt of K.P.K, Peshawar


Appellant
Through 
Rahman Ullah
Advocate Peshawar

Annex A³ (6)

**BOARD OF
INTERMEDIATE & SECONDARY EDUCATION
ABBOTTABAD**

29341

DETAILED MARKS CERTIFICATE

Intermediate Examination (Humanities Group)

SESSION 1945 _____ (Annual / Supplementary)

Name Rohina Shabeer

Father's Name Ghous Rehman

Roll No. 19242

SUBJECTS	Subjects Marks	MARKS OBTAINED			
		Part-I	Part-II	Total In	
				Figures	Words
1. English	200			70	
2. Urdu	200			119	
3. Islamic Education	50				
4. Pakistan Studies	50			49	
5. <u>art</u>	200			92	
6. <u>Ar</u>	200			123	
7. <u>Ar</u>	200			114	
Total	1100			567	Five hundred & Sixty Seven

Note: Errors/Omissions excepted.

15 OCT 1995

Date _____ 19 _____

Prepared by [Signature] Checked by [Signature]

Control of Examinations
Board of Intermediate & Secondary Education
ABBOTTABAD

15/10/95

ATTESTED
M. Qayyum Senior Teacher
M.A. B.Ed. & ...-17
G.I.E.M. Peshawar

Attested
[Signature]

ALLAMA IQBAL OPEN UNIVERSITY, ISLAMABAD

7

Serial No. 270545 PROVISIONAL RESULT CARD

Name RUBINA SHAHEEN
 Fathers's Name GOHER REHMAN
 Address C/O ZAKIR REHMAN MOH KANG-1
 WALI MASJID VILL & P/O
 Tehsil ABBOTTABAD
 District ABBOTTABAD

Roll No 608188364
 Registration No. OSNAD01119
 Final Semester SPR-2009

has successfully completed BACHELOR OF EDUCATION (B. ED)

The detail of passed courses are as under:

Semester	Course Code	Title of Course	Marks	
			Maximum	Obtained
SPR-08	0513	SCHOOL ORGANIZATION	100	51
SPR-08	0514	EVALUATION, GUIDANCE & RESEARCH	100	57
SPR-08	0518	EDUCATIONAL PSYCHOLOGY & CURRICULUM	100	59
SPR-08	0651	ENGLISH	100	53
AUT-08	0517	TEACHING OF PAKISTAN STUDIES	100	56
AUT-08	0654	TEACHING OF ISLAMIAT	100	45
SPR-09	0512	PERSPECTIVES OF EDUCATION	100	55
SPR-09	0652	ISLAM, PAKISTAN AND MODERN WORLD	100	54
SPR-09	0655	WORKSHOP & TEACHING PRACTICE	100	86
CREDITS			900	536

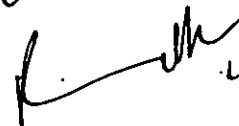
ATTESTED
 M. Qayum
 H.A.C. / SPS-17
 G.I.E. / Islamabad

Result Declared on FEBRUARY 10, 2010
 Date of issue FEBRUARY 20, 2010

Total Marks / Obtained 900 / 536
 Percentage / Grade 60 B

Disclaimer:
 This result card is issued provisionally, errors and omission excepted, as a notice only. Any entry appearing in this card does not itself confer any right or privilege on a candidate for the grant of certificate/degree/diploma, which will be issued under the rules/regulations on the basis of the original record of the university student.

Controller of Examinations

Attested


8

Handwritten signature

UNIVERSITY OF PESHAWAR

(Peshawar)

Session Annual 1998

Faculty of Education / of Education COLLEGE PESHAWAR

and a student

of Department of Education James passed the prescribed examination held in August, 1998, is this day admitted by the University of Peshawar

to the Degree of

Bachelor of Arts

in the Second Division

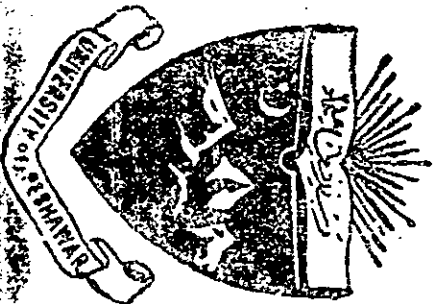
The Examination was taken as a whole / in parts

Serial No. 042363

Registration No. 95-91-2276

Roll No. 76776

Result declared on December 28, 1998



Signature
Registrar

Countersigned

Signature
Vice-Chancellor

ATTESTED
M. C. ...
G. S. ...

Signature
Signature

9

ADA No. 035722

Roll No. 964

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



**Abbottabad N.W.F.P., PAKISTAN
SECONDARY SCHOOL CERTIFICATE EXAMINATION
SESSION ANNUAL 1993**

THIS IS TO CERTIFY THAT ROBINA SHAHEEN
 Son/Daughter of GOHAR REHMAN
 and a ~~resident of~~ ^{Student} GOVT GIRLS HIGH SCHOOL NO. HARI PUR

has passed the Secondary School Certificate Examination of the Board of Intermediate and Secondary Education Abbottabad held in April, 1993 as a **Regular/Private** Candidate. He/She obtained 528 marks out of 850 and has been placed in Grade **B** Representing VERY GOOD

The candidate has passed in the following subjects.

- | | | | |
|------------|---------------------|----------------|----------------|
| 1. English | 3. Islamiyat | 5. ISL STUDIES | 7. GEN SCIENCE |
| 2. Urdu | 4. Pakistan Studies | 6. GEN MATH | 8. CIVICS |

He/She has been awarded Grade **C** on the basis of internal assesment by the institution concerned.

Date of birth according to admission form is FOURTH DECEMBER
 one thousand nine hundred and SEVENTY SIX (04-12-76)

[Signature]
ASSTT. SECRETARY

[Signature]
SECRETARY

This certificate is issued without alteration of eras.

Attested
[Signature]

Serial No 4

10

GOVERNMENT INSTITUTE FOR THE BLIND

PESHAWAR N.W.F.P. PAKISTAN

CERTIFICATE

SESSION 1988

Certified that MR/MISS RUBINA SHAHEEN

Son/Daughter of GOHAR REHMAN

Passed the 5th class final examination 5th years Vocational Training held during the month of MARCH 1988

He/She obtained 575 Marks out of 300

and has been placed in Grade (B)

He/She has passed the following subjects.

- | | | |
|---------------------|-------------|-------------------|
| 1 English | 4 Maths | 7 Gene Work |
| 2 Urdu | 5 Islamat | 8 General Science |
| 3 General Knowledge | 6 Basketary | 9 |

His/Her Date of birth according to the admission Register is 4-10-1976
(4th December, N.E.S Seventy six)

ATTESTED
M. Govem. Insp. Teacher
P. A. B. 105-17
GIB/11/2

Capra K.
Superintendent
Govt. Institute Blind
Peshawar

Capra K.
Superintendent
Government Institute for the Blind
PESHAWAR

Attested
[Signature]

Anwar A-1

GOVERNMENT OF N.W.F.P.
DIRECTORATE OF SOCIAL WELFARE,
SIDDIQUE COLONY, EID GAH ROAD,
PESHAWAR CITY.

NO. E-1/64/DSW/ 279

Dated, Peshawar the 7/3/1996

Miss: Rubina Shaheen,
D/O Gohar Rehman
Resident of Central Jail,
Haripur.

APPOINTMENT AS SUPERVISOR BPS-9

Reference minutes of the Departmental Selection

You are hereby appointed as Supervisor BPS-9
in the capacity of the Supdt: Govt: Institute for the Blind(Girls) Peshawar.

1/-P.M. plus other usual allowances as admissible under
from time to time in the scale of Rs. 1605-97-3060

The appointment is purely temporary and can be terminated
any time without assigning any reason by giving fifteen
days notice. In case you wish to leave service, similar notice
of fifteen days shall be given by you or fifteen days pay surcharge
in lieu thereof.

You are liable to be transferred to any where in NWFP.

The appointment is subject to medical fitness.

You will be on probation for a period of two years.

If you accept the offer of appointment on the above
terms and conditions, you are directed to please report for duty
to the Superintendent, Govt: Institute for the Blind(Girls) Peshawar

upto 28.3.1996. In case you do

not report for duty by this date, the offer shall be deemed to
have been cancelled.

[Signature]
DIRECTOR
SOCIAL WELFARE, NWFP:

Attest: Even No. & Date.

Copy to:-

- The Accountant General, NWFP: Peshawar.
- The District Accounts Officer,
- The Secretary, Social Welfare Department, NWFP: Peshawar
- The Social Welfare Officer, RCD/UCD Project,
- The Supdt: Govt. Institute for the Blind, Girls, Peshawar.
- The Manager, Centre for Mentally Retarded and Physically
Handicapped Children,
- The Principal, School for Deaf Children,

The P.S. to Minister for Social Welfare, NWFP: Peshawar

[Signature]
DIRECTOR,
SOCIAL WELFARE, NWFP:

[Signature]
Superintendent,

Govt. Institute for Blind (Girls)
Peshawar

[Signature]
Attested
[Signature]

GOVERNMENT OF N.W.F.P.
 DIRECTORATE OF SOCIAL WELFARE
 MADDIQUE COLONY, SIE GARD ROAD
 PESHAWAR.

(12) 15

DATED PESHAWAR THE / _____ 1999.

ORDER

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 punishn
 re, or rev
 use of th
 ment Ser

In pursuance of Government of NWFP, Finance Department Circular letter No. FD(SR-I)95-84 dated 24.7.1986, the following teachers of handicapped institutions who possesses prescribed qualification are hereby granted higher pay scale (Personal Scale) with effect from the date as shown against their name:

S.NO.	NAME & DESIGNATION.	OFFICE	QUALIFICATION.	PRESENT PAY SCALE	HI. HONORABLE AWARD	WITH EFFECT FROM.
1	2	3	4	5	6	7
1.	Mr. Umara Khan Cane Supervisor	Govt: Institute for the Blind Swat.	Matric with five years certificate	9	14	15.7.1996.
2.	Mst. Robina Shaheen, Basketary Supervisor	Govt: Institute for the Blind (G) Pesh:	B.A 5 years certificate in Braille.	9	16	28.12.1998.

12/98

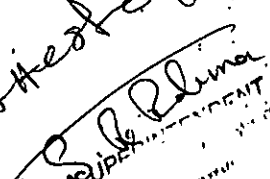
adwab.
1-99


DIRECTOR
 SOCIAL WELFARE, N.W.F.P.

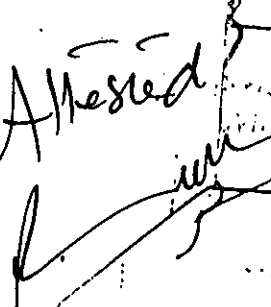
Endst: No. DSW/Est: / 4281-86 Dated Pesh: the / 11-12-88

Copy to:-

1. The Accountant General NWFP, Peshawar.
2. The District Accounts Officer, Swat.
3. The Section Officer-II, Social Welfare Department NWFP, Peshawar.
4. The Superintendent, Govt: Institute for the Blind, Swat, and (Girls) Peshawar.
5. The official concerned.

Attested

 SUPERINTENDENT
 Govt. Institute for the Blind (Girls)
 Peshawar


 DIRECTOR
 SOCIAL WELFARE, N.W.F.P.

Attested


to of
31/12/88

Annexure

No. FD(SR-I)1-95/84-III/B

GOVERNMENT OF N.W.F.P.
FINANCE DEPARTMENT

Dated Peshawar, the 24th July 198

13

2

10

9

From

Saeed Ullah Jan,
Secretary to
Government of N.W.F.P.,
Finance Department,
Peshawar.

To

The Secretary to
Government of N.W.F.P.,
Health and Social Welfare Department,
Peshawar.

Subject:- REVISION OF PAY SCALES OF THE TEACHERS WORKING IN THE INSTITUTIONS FOR THE HANDICAPPED.

Sir,

I am directed to refer to the subject noted above and to say that the matter regarding grant of enhanced pay scales to different categories of teachers working in the institutions for the handicapped (i.e., Blinds, Deaf & Dumb, Physically Handicapped and Mentally Retarded) has been under consideration of the Government for sometime. It has been decided to prescribe new scales of pay for these teachers working in the above institutions with immediate effect. The new scales of pay, showing the qualifications prescribed for teachers are as under:-

(1) DEAF AND DUMB INSTITUTIONS.

- (a) Trained Graduate Teachers (B.A./B.Sc., B.Ed.) with adequate knowledge in the Education of deaf and dumb to be certified by the Social Welfare Directorate. B-17
- (b) Untrained Graduate and post-Graduate Teachers (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge in the education of deaf and dumb, to be certified by the Social Welfare Directorate. B-16 These teachers must acquire B.Ed. within a period of three years.
- (c) Trained under-Graduate Teachers (Matric/P.A./P.T.C. or P.T.C., etc.) B-14 These teachers must acquire the qualification of B.A./B.Sc./B.Ed. within five years as at (a) above.

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No. FD(SR-1) 1-95 / 84-111
GOVERNMENT of N.W.F.P
FINANCE DEPARTMENT.
Dated Peshawar: the 2nd July 1986.

From, Saeed Ullah Jan,
Secretary to
Government of N.W.F.P
Finance Department,
Peshawar.

To, The Secretary to
Government of N.W.F.P
Health and Social Welfare Department,
Peshawar.

SUBJECT:- REVISION OF PAY SCALES OF THE TEACHERS WORKING IN THE INSTITUTIONS FOR THE HANDICAPPED.

Sir,
I am directed to refer to the subject noted above and to say that the matter regarding grant of enhanced pay scales to different categories of teachers working in the institutions for the handicapped (I.e.) blinds, deaf & dumb physically handicapped and mentally retarded has been under consideration of the government for sometime. it has been decided to personable new scales of pay for these teachers working in the above institutions with immediate effect. The new scales of pay, showing the qualifications prescribed for teachers are as under:-

- (1) DEAF AND DUMB INSTITUTIONS.
- (a) Trained Graduate Teachers (B.A./ B.Sc./ B.Ed.) With Adequate knowledge in the Education of deaf and dumb To be certified by the social Welfare directorate. B-17
 - (b) Untrained graduate and post-graduate Teachers (B.A / B.Sc. M.A./ M.Sc.) With adequate know ledge in the Of deaf and dumb to be certified by Social welfare directorate. B-16 These teachers must Acquire B.Ed. within a period of three years.
 - (c) Trained under-graduate Teachers (Metric / F.A./ F.Sc With C.T or P.T.C etc.) B-14 These teachers must acquire the qualification Of B.A./ B.Sc./ B.Ed. Five years as at (a) above.

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d) Untrained, under Graduate B-11 Teachers with adequate knowledge of teaching deaf and dumb (to be certified by the Social Welfare Directorate).

These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

To be Redesignated as

2) BLINDS INSTITUTIONS.

a) Trained Graduate Teachers B-17 (B.A./B.Sc., B.Ed.) with adequate knowledge of Braille or teaching the blind (to be certified by the Social Welfare Directorate).

Senior Special Educating Teacher

b) Un-trained Graduate and post-Graduate Teachers (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge of Braille or teaching the blind (to be certified by the Social Welfare Directorate).

These teachers must acquire B.Ed. within a period of three years.

To be Redesignated as Junior Special Educating Teacher

c) Trained under-Graduate teachers: B-14

These teachers must acquire the qualification of B.A., B.Sc., B.Ed. within five years as at (a) above.

- i) F.A., C.T., and proficiency in Braille or adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate.)
- ii) Matric, P.T.C., S.V. and proficiency in Braille or with adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate)
- iii) Matric with Diploma/ Certificate in a trade from a Blind Institute and proficiency in Braille or with adequate knowledge in teaching the blinds (to be certified by the S. W. Directorate.)

To be Redesignated as Assistant Special Educating Teacher

(d) Un-trained, under Graduate B-11 Teachers with proficiency in Braille or adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate.)

These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

To be Redesignated as

3) MENTALLY RETARDED/PHYSICALLY HANDICAPPED INSTITUTIONS.

(a) Trained Graduate Teachers B-17 (B.A./B.Sc., B.Ed.) with adequate knowledge of teaching the mentally retarded and physically disabled (to be certified by the Social Welfare Directorate).

(b) Untrained Graduate and Post-Graduate Teachers (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge of

These teachers must acquire B.Ed. within a period of three years.

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(d) Untrained, under Graduate Teachers with adequate Knowledge of teaching deaf And dumb (to be certified By the social welfare Directorate. B-11 these teachers should continue in B-11, till such time they cross to the next stages of B-14 / 16.

(2) BLINDS INSTITUTIONS.

(a) Trained graduate teachers (B.A. /B.Sc. B.Ed) with Adequate knowledge of Braille or teaching the Blind (to be certified by the Social welfare directorate.) B-17

(b) Un-Trained graduate and Post-Graduate teachers (B.A./ B.Sc. M.A./ M.Sc.) with Adequate knowledge of Braille Or Teaching the blind. (to be certified By the social welfare Directorate. B-16 these teachers must acquit B.Ed. within a period of Three years.

(c) Trained under-graduate teachers: B-14 these teachers must acquit the qualification of B.A. B.Sc. B.Ed. within five years as at (a) above.
1) F.A. C.T. and proficiency in Braille or adequate knowledge of teaching the blind (to be Certified by the social welfare Directorate.)
2) metric P.T.C. S.V and proficiency in Braille or with adequate knowledge of teaching the blind. (to be certified by the social welfare directorate)
3) matric with diploma / certificate in a trade from a blind institute and proficiency in Braille or with adequate knowledge in Teaching the blinds. (to be certified by the S.W directorate.)

(d) un-trained, under graduate teachers with proficiency in Braille or adequate knowledge of teaching the blind.(to be certified by the social welfare Directorate.) B-11 these teachers should continue in B-11, till such time they cross the next stages of B-14/16

() MENTALLY RETARDED / PHYSICALLY HANDICAPPED INSTITUTIONS.

(a) trained graduate teachers. (B.A./B.Sc. B.Ed.) with adequate knowledge of teaching the mentally retarded and physically disabled.(to be certified by the social welfare directorate.) B-17

(b) untrained graduate and (C.S.T-graduate teachers (B.A./B.Sc. M.A / M.Sc.)with adequate Knowledge of B-16 these teachers must acquit B.Ed. within a period Three years.

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teaching the mentally
retarded and physically
disabled (to be certified
by the Social Welfare
Directorate.)

(c) Trained under-Graduate
(B.A./B.Sc. with C.T./
B.T.C./B.V.) with adequate
knowledge of teaching; the
mentally retarded & physically
disabled (to be certified by
the Social Welfare Director-
ate).

B-14 These teachers must acquire
the qualification of B.A./
B.Sc., B.Ed. within five
years as at (a) above.

(d) Untrained under-Graduate
Teachers, with adequate
knowledge of teaching; the
mentally retarded & physically
disabled (to be certified by
the Social Welfare Director-
ate).

B-11 These teachers should con-
tinue in B-11, till such
time they cross the next
stages of B-14/16.

All special pays sanctioned for the above categories
of teachers shall be discontinued with immediate effect.

Your obedient servant,

Safdar Ali Khan

(SAFDAR ALI KHAN)
ADJL: FINANCE SECRETARY-I,
GOVERNMENT OF N.W.F.P.

Encls. No. FD(SR-I)1-95/84-II. Dated Pesh. the 24th July, 1986.

Copy of the above is forwarded to:-

- 1) The Accountant General, N.W.F.P., Peshawar.
- 2) The Director, Social Welfare, N.W.F.P., Peshawar.

Saeed Ahmad Alvi
(SAEED AHMAD ALVI)
DEPUTY SECRETARY (REGULATION),
FINANCE DEPARTMENT.

Encls. No. FD(SR-I)1-95/84-III. Dated Pesh. the 24th July, 1986.

A copy is also forwarded to:-

- 1) The Secretary to Government of the Punjab,
Finance Department, Lahore.
- 2) The Secretary to Government of Sind,
Finance Department, Karachi.
- 3) The Secretary to Government of Baluchistan,
Finance Department, Quetta.
- 4) The Secretary to Government of Azad Jammu and Kashmir,
Finance Department, Muzaffargarh.

Fakir Ullah
(FAKIR ULLAH)
SECTION OFFICER (SR-I)

M. A. Khan
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Teaching the mentally retarded and physically Disabled (to be certified by the social welfare Directorate.)

(c) Trained under-graduate (F.A. / F. Sc. with C.T/ P.T.C. / S.V.) with adequate Knowledge of teaching the mentally Retarded & physically disabled (to be qualified to the social welfare Directorate.)

B-14

these teachers must acquire the qualification of B.A./ B.Sc. / B.Ed. within five years as at (a) above.

(d) Untrained under-graduate Teachers with adequate knowledge Of teachers the mentally retarded & physically disabled (to be certified by the social welfare directorate.

B-11

these teachers should continue un B-11 till such time they cress to the next stages of B 14/ 16.

All special pays sanctioned for the above categories of teachers shall be discontinued with immediate effect.

Your obedient servant

(SAFDAR ALI KHAN)
ADDL. FINANCE SECRETARY-1
GOVERNMENT OF N.W.F.P

ENDST . NO FD(SR-1)1-95 / 84-11 DATED PESHAWAR THE 24TH JULY 1986.

- COPY OF THE ABOVE IS FORWARDED TO:-
1. THE ACCOUNTANT GENERAL N.W.F.P . PESHAWAR
2. THE DIRECTOR SOCIAL WELFARE N.W.F.P. PESHAWAR

(SAEED AHMAD AL VI)
DEPUTY SECRETARY
(REGULATION)
FINANCE DEPARTMENT.

ENDST . NO FD (SR-1)1-95 / 84-111 DATED PESHAWAR THE 24TH JULY 1986

A copy is also forwarded to:-

- 1) The secretary to government of the Punjab finance department lahore.
- 2) The secretary to government of sindh finance department karachi
- 3) The secretary to government of Baluchistan finance department, Quetta
- 4) The secretary to government of azad jammu and uzaffarabad finance department

FAKHAR-UZ-ZAMAN)
SECTION OFFICER (SR-1)

[Signature]
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The Officer Incharge,
Supreme Court of Pakistan,
Peshawar.

Amended

The Registrar,
N.W.F.P Service Tribunal,
Peshawar.

12/11/2010

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CIVIL APPEAL NO. 04-P OF 2010

Subject:

CIVIL REVIEW PETITION NO. 10-P/2009

in

CIVIL PETITION NO. 449-P OF 2006.

(Wahced Nawaz Vs: Secretary Social Welfare & others.)

On review from the judgment dated 02.07.2009 of the Supreme Court in CP-449-P/2006 against the judgment and order of the NWFP Service Tribunal, Peshawar, dated 31.05.2005 passed in Appeal No.298/2005.

I am directed to enclose herewith for information a certified copy of the order of this Court dated 03.02.2010 accepting the Review Petition No.10-P/2009 thereby converting the Civil Petition No.449-P/2006 into Appeal and allowing the same.

I am also to invite your attention to the directions of the court contained in the concluding paragraph of the enclosed judgment for immediate necessary action.

Kindly acknowledge the receipt of this letter immediately.

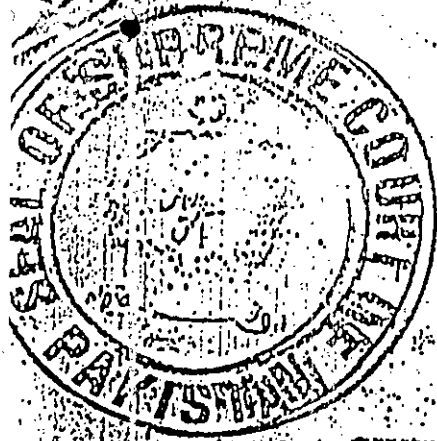
Encl: Order

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(OFFICER INCHARGE)

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Advocate

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(Signature)



IN THE SUPREME COURT OF PAKISTAN
(Review Jurisdiction)

17

PRESENT:
MR. JUSTICE SHAKIRULLAH JAN
MR. JUSTICE NASIR-UL-MULK
MR. JUSTICE TARIQ PARVEZ

CIVIL REVIEW - PETITION NO. 10-P OF 2009

IN
CIVIL PETITION NO. 449-P OF 2006

(on review from the judgment of this Court dated
02.07.2009 in Civil Petition 449-P of 2006)

Waheed Nawaz

...Petitioner,

VERSUS

The Secretary Government of N.W.F.P.
Social Welfare, Zakat and Women
Development, Peshawar and 4 others.

...Respondent.

For the Petitioner:

Mr. Muhammad Esa Khan, ASC

On behalf of
Govt. of N.W.F.P.

Mr. Zia-ur-Rehman, A.G. N.W.F.P.

For Respondent No.5:

Falak Naz, Dist. Officer Social Welfare Bannu.

Date of Hearing:

03.02.2010

JUDGMENT

NASIR-UL-MULK, J.- The petitioner was serving as

Junior Teacher in the Centre for Mentally Retarded & Physical
Handicapped Children, Bannu in BS-16. Upon acquiring higher

qualification of B.Ed. the petitioner applied to the District
Coordination Officer for grant of BS-17 on the strength of circular of the

N.W.F.P. Finance Department dated 24.07.1986. Accordingly, he was
granted the relief as sought by order dated 14.05.2004. This order,

however, was withdrawn on 30.10.2004. The petitioner challenged the
said order of withdrawal before N.W.F.P. Service Tribunal. Accepting

the plea of the Government N.W.F.P. that the benefit of Circular dated

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In Charge
Court of Pakistan

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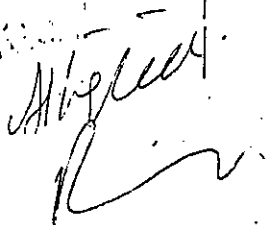
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24.07.1986 granting higher pay scale to the teachers serving in the Handicapped Institutions had already been withdrawn on 14.05.1999. the appeal of the petitioner was dismissed on 31.05.2006. The petitioner filed petition for leave to appeal before this Court (Civil Petition for Leave to Appeal No. 449-P of 2006) which was dismissed on 02.07.2009 on the same ground that prevailed with the Tribunal. The petitioner now through this review petition seeks reversal of the judgment by this Court as well of the Tribunal.

2. Mr. Muhammad Esa Khan, ASC, appeared for the petitioner and Mr. Zia-ur-Rehman, Advocate General N.W.F.P. for the Respondent, Government of N.W.F.P.

3. The learned counsel for the petitioner took us to the Circular of 24.07.1986, giving higher grades to the teacher working in the Institutions of handicapped and pointed out that there was no requirement of any teaching experience for trained graduate teachers in BS-16 for grant of BS-17. That the Circular of 14.05.1999 has been misconstrued by the Department as well as by the Tribunal and this Court in that it does not withdraw the concession granted by the Circular of 24.07.1986. The learned Advocate General was unable to controvert the construction laid on the said Circular by the learned counsel for the petitioner. He, however, pleaded that the petitioner lacks the requisite experience for grant of BS-17.

4. Circular of 24.07.1986 was issued by the N.W.F.P. Finance Department prescribing new pay scales for teachers working in Institutions for Handicapped. The petitioner was granted BS-17 under the said Circular. The order dated 30.10.2004 withdrawing the grant of BS-17 does not spell out the reason therefore. However, in the comments filed by the Respondent, Government of N.W.F.P. a


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 Court of Pakistan
 Islamabad

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was pleaded that the withdrawal was made on the ground that the concession given to teachers under the Circular of 24.07.1986 had already been withdrawn by another Circular dated 14.05.1999. It will be useful to reproduce the contents of the Government of N.W.F.P. Finance, Excise & Taxation Department No. FD (SR-I) 6-26/98 dated 14.05.1999:-

GOVERNMENT OF N.W.F.P.
FINANCE, EXCISE & TAXATION DEPTT.

No. FD (SR-I) 6-26/98
dated Peshawar the 14th May 1999.

The Secretary to Govt. of NWFP,
Zakat, Usher & Social Welfare Deptt.
Peshawar.

Subject:- DEMAND OF THE PAKISTAN ASSOCIATION OF THE
BLIND NWFP PROVINCIAL BRANCH PESHAWAR.

Sir,

I am directed to refer to Zakat, Usher & Social Welfare Department's letter No. SO-II (SW)/II-15/Vol. IV/99/P.C. dated 17.04.1995 on the subject noted above and to say that Finance, Excise & Taxation Department agrees to waive off, upto the date of issuance of this letter the conditions laid down against the relevant posts in the Finance Department's letter No. FD (SR-I) 1-95/8-III dated 29th July, 1986 for acquiring the prescribed qualification within a specific period for award of higher pay scales to teachers working in the institutions for the Handicapped (i.e. Blinds, Deaf & Dumb, Physically Handicapped and Mentally Retarded).

2. So far as the proposal for the upgradation the designation of the post of teachers in special Education is concerned, it is observed that Provincial Government has imposed complete ban on the upgradation of posts. Therefore, Administrative Department is required to move a summary for Chief Minister through Finance Department containing the necessary proposals forwarded earlier to this Department vide letter No. SO-II (SW)/II-15/ Vol. IV/96/130 dated 13.02.1999 and seek relaxation of ban.

5. A bare reading of the Circular would show that it does not withdraw the concession or the facility granted to the teachers in question under the Circular of 24.07.1986. Rather it provides a further concession by waiving off the condition for promotion to a

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higher post required by the said Circular. We have not been able to comprehend as to how the Department has construed the provision of 1999 Circular as withdrawal of the concession under the 1986 Circular. Perhaps it was the position taken up by the Government of N.W.F.P. in their comments before the Service Tribunal that led the Tribunal to dismiss the petitioner's appeal. That may also be the reason why it was held in the judgment under review that the concession under the 1986 Circular now stands withdrawn by the Circular of 1999. Even if it is construed that the waiver granted by the 1999 Circular of the requisite condition was valid up to the date of the Circular, the learned Advocate General did not refute the contentions of the learned counsel for the petitioner that there was no condition of experience required for granting the petitioner BS-17.

6. In the light of foregoing discussion, we are of the view that the Honble Judges hearing the petition from which the present review petition arises were not properly assisted on the construction of the Circular dated 14.05.1999. We are, therefore, constrained to allow this review petition, recall the order and judgment dated 02.07.2009 delivered by this Court in Civil Petition No. 449-P of 2006 and after converting the said petition into appeal allow the same. Consequently, the judgment of the N.W.F.P. Service Tribunal dated 31.05.2001 is set aside and the appeal filed by the petitioner before the Service Tribunal is allowed in the terms prayed for.

Sd/- *Mian Shaker Ullah Jan*, J
 Sd/- *Mr. Nisar ul Haque*, J
 Sd/- *Mr. Tariq Noor*, J

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Attest

Rm

PT SHAWAR
3rd January, 2010.

M. dasan/A

~~NOT APPROVED FOR PUBLICATION~~

[Signature]
 Supreme Court
[Signature]

Attest
[Signature]

Annex 'D' (21)

To,

The Secretary to Govt of K.P.K
Social welfare, special education and women development
Department Peshawar.

Subject: **APPEAL FOR THE GRANT OF HIGHER PAY SCALE**

Respected Sir,

With humble submission that the applicant performing her duty as junior special education teacher in BPS-16 having qualification B.A/B.Ed and Under the circular of Khyber pakhtunkhuwa Finance Department dated 24-07-1986. and as per judgment passed in Review Petition No. 10-P/2009 dated 03-02-2010. The applicant is eligible for the grant of higher pay scale in BPS-17 from 10-02-2010 with all back benefit.

It is humbly appeal to your worthy office to grant higher pay scale (BPS-17). The appellant may please be granted higher pay scale (BPS-17) as per circular of the Finance Department dated 24-07-1986 for the sake of justice.



Yours Obediently ✓

Robina Shaheen
Junior Special Education
G.I.B Peshawar

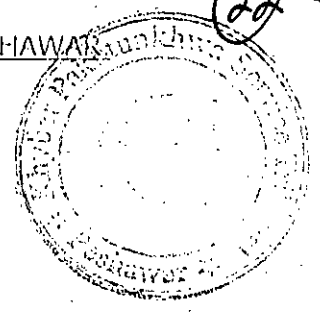
Dated: 15-06-2012

Annex E
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 3066/2010

Date of Institution. ... 06.12.2010
Date of Decision ... 18.04.2012



Javed Khan, Junior Teacher, Special Education(BPS-16)
Government Institute for Blind, Mardan. ... (Appellant)

VERSUS

1. The Provincial Government through Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Social Welfare, Women Development & Special Education Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
3. Director, Social Welfare & Women Dev: & Special Education Department, Government of Khyber Pakhtunkhwa, Peshawar.
4. District Officer, Social Welfare & Women Development & Special Education Department, Mardan.
5. Secretary, Finance Department, Government of Khyber Pakhtunkhwa, Peshawar. (Respondents).

HEARERS
KHYBER PAKHTUNKHWA
ATTORNEY GENERAL

SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR GRANT OF HIGHER PAY SCALE IN THE LIGHT OF NOTIFICATION DATED 24.7.1986 OF THE FINANCE DEPARTMENT AND IN LIGHT OF THE AUGUST SUPREME COURT OF PAKISTAN JUDGMENT DATED 3.2.2010.

MR. RAHMANULLAH,
Advocate ... For appellant.

MR. SHERAFGAN KHATTAI,
Addl. Advocate General ... For respondent No:5.

SYED MANZOOR ALI SHAH, ... MEMBER
MR. NOOR ALI KHAN, ... MEMBER.

JUDGMENT

SYED MANZOOR ALI SHAH, MEMBER.- This appeal has been filed by Javed Khan, the appellant U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer that on acceptance of the appeal, the respondents may be directed to grant higher pay scale BPS- 17 to the appellant in the light of Finance Department notification dated 24.7.1986 and the august Supreme Court of Pakistan judgment. dated 3.2.2010, with all consequential benefits.

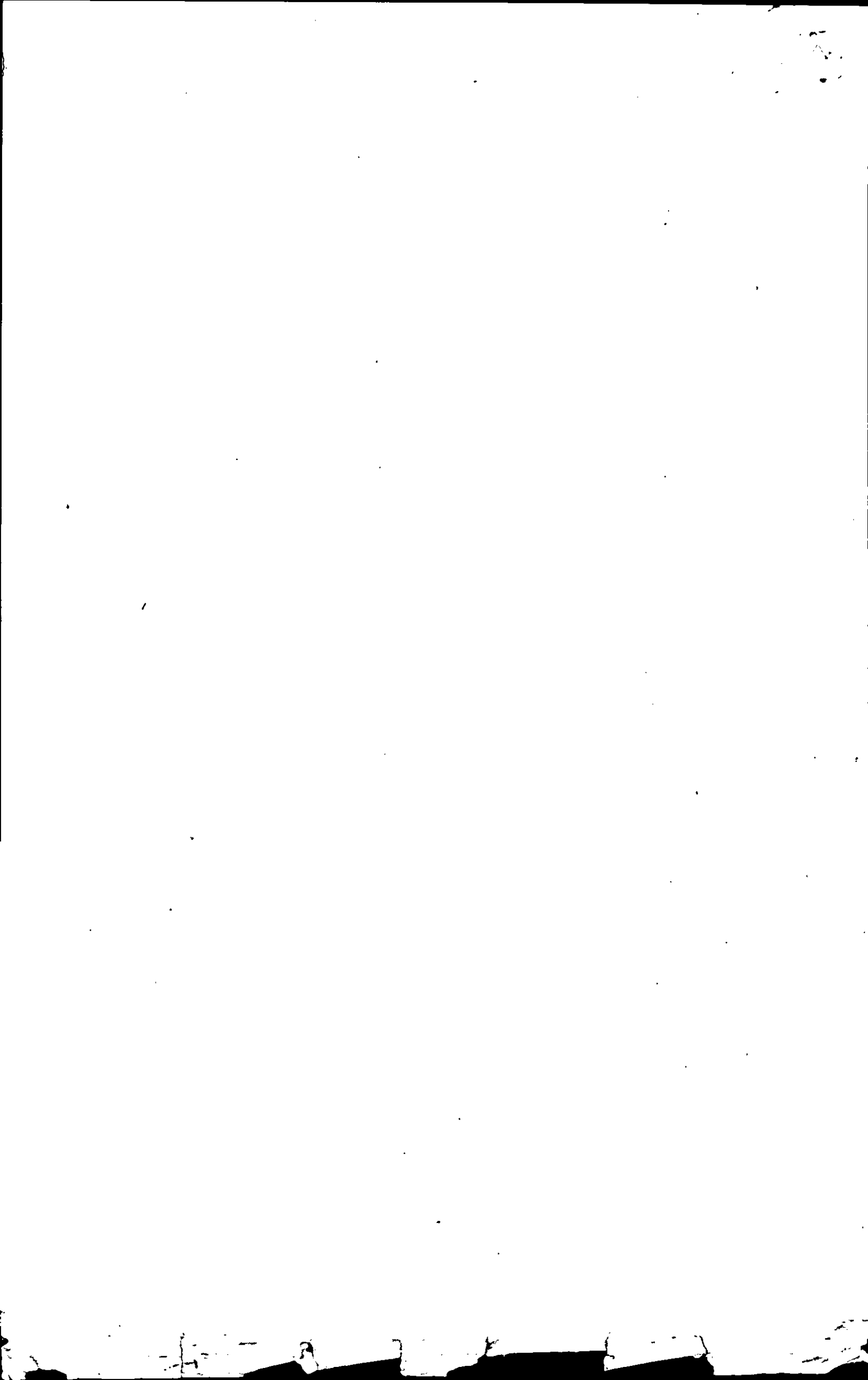
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2. Brief facts of the case are that the appellant was appointed as Junior Teacher, Special Education (BPS-16) on 11.7.1993, on the recommendation of the Departmental Selection Committee. The appellant having qualified five years course certificate from Government Institute of Blind, Mardan in 1993, B.A in 1998, M.A in 2001 and B.Ed in 2006, was trained graduate teacher serving in (BPS-16) and on the basis of his qualification, his claimed higher pay scale BPS-17 from 28.1.2006 as per Government of Khyber Pakhtunkhwa Finance Department Notification dated 24.7.1986. The Government of Khyber Pakhtunkhwa Finance Department issued another notification dated 27.7.1986, in which the teachers working at Mentally retarded and Physical Handicapped and Special Education Institution with the qualification of B.A/BS.c were granted higher pay scales. Other colleagues of the appellant namely Waheed Nawaz on attaining the qualification of B.Ed, applied to the Department for grant of BPS-17 on the strength of the above referred Finance Department notification, which was granted to him, vide order dated 14.5.2004. Lateron vide order dated 30.10.2004, the said benefits was withdrawn. The appellant Waheed Nawaz, filed Service Appeal before this Tribunal, which was dismissed. Against the judgment of this Tribunal, he filed Civil Petition No. 449-P/2009, which was also dismissed on 2.7.2009. Then he filed Review Petition No. 10-P of 2009, which was accepted on 3.2.2010 and the benefits of BPS-17 was restored to him. The appellant being similarly placed person also filed departmental appeal on 12.7.2010, for grant of higher pay scale BPS-17, which has not been decided within the statutory period, hence the present appeal.

The appeal was admitted to regular hearing on 10.1.2011, and notices were issued to the respondents. They failed to file written replies on 18.2.2011, 29.3.2011 and 13.6.2011. On the request of Mr. Tahir Iqbal Khattak, AGP another chance was given to them for submission of written reply on 19.7.2011, however, fine of Rs. 500/- (Five Hundred) was imposed upon the respondents, vide order dated 13.6.2011. Even then the respondents failed to file written replies within four months and vide order dated 12.10.2010, they were given last chance for submission of written reply on 11.11.2011. On 11.11.2011, representative of respondent No. 5 was present without any written reply; hence defence of respondent No.5 was struck off. No one was available on behalf of respondents No. 1 to 4, hence they were placed ex-parte. Lateron representative of respondent No. 5 appeared on 21.12.2011 and defence of respondent No.5 restored. Written reply of respondent No. 5 filed on 4.1.2012. Ex-parte proceedings against respondents No. 1 to 4 remained intact.

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4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that the appellant was appointed as Junior Teacher (BPS-16) in Special Education on 11.7.1993. He qualified five years course certificate from Government Institute of Blind in 1993, B.A in 1998, M.A in 2001 and B.Ed in 2006 and now is trained graduate teacher is entitled for the award of BPS-17 as per Finance Department notification dated 24.7.1986. Other colleague of the appellant namely Wahid Nawaz was awarded the same benefit by the august Supreme Court of Pakistan vide order dated 3.2.2010 in Civil Review Petition No. 10-P/2009 in CP NO. 449-P/2006. As per 1996-SCMR-1185, the appellant was also entitled to the same treatment, so he filed departmental appeal on 12.7.2010, but the same benefit has not been extended to him for no plausible reason. The learned counsel stated that similarly placed person, namely Rahmanullah, who also filed service appeal No. 3065/2010, before this Tribunal but during pendency of the appeal, his grievances have been redressed by the respondent department, vide order dated 19.7.2011, but the appellant has been discriminated. He requested that the appeal may be accepted as prayed for.

6. The learned AAG argued that the Finance Department issued notification dated 24.7.1986, according to which higher pay scale BPS-17 was allowed only to those trained teachers who possessed the prescribed qualification of B.A/B.Sc and B.Ed while those untrained teachers with adequate knowledge in the education of (deaf and dumb) were also allowed higher pay scales with condition of acquiring the prescribed qualification within a period of three to five years. Later on 14.5.1999, the Finance Department issued another notification wherein the facility of higher pay scale which were conditional for untrained upto the issuance of letter dated 14.5.1999. Hence no one is entitled to get higher pay scale as per notification dated 24.7.1986, after issuance of notification dated 14.5.1999. He requested that the appeal may be dismissed.

7. The Tribunal observes that the August Supreme Court of Pakistan vide judgment dated 3.2.2010, granted BPS-17 to other colleague of the appellant namely, Wahid Nawaz, Junior Teacher, Centre of Mentally Retired & Physically Handicapped Children, Bannu. Similarly, Mr. Rahmanullah who had filed service appeal with similar request, before this Tribunal, his grievances have been redressed by the respondent department, vide order dated 19.7.2011 and his appeal has been filed being infructuous on 18.8.2011. The appellant is also entitled

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ADDITIONAL
 SECRETARY
 GOVERNMENT
 OF PUNJAB
 LUDHIANA

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to the same treatment as per judgment of the august Supreme Court of Pakistan reported as 1996-SCMR-1185 and 2009-SCMR-1.

8. In view of the above, the appeal is accepted and the respondents are directed to treat the appellant at par with his other colleagues mentioned above and may not be discriminated. Parties are left to bear their own costs. File be consigned to the record.

9. This order will also dispose of other connected appeals No. 3067/2010, Muhammad Idrees, No. 3068/2010, Mehboob Elahi, No. 3069/2010, Abdul Kabir, No. 3072/2010, Dilawar Shah, No. 3073/2010, Daud Shah, No. 3074/2010 Zafar Alam, No. 3076/2010, Sardar Ali, and No. 3079/2010, Hafiz-ur-Rahman in the same manner.

ANNOUNCED
18.4.2012

(NOOR ALI KHAN)
MEMBER

(SYED MANZOOR ALI SHAH)
MEMBER

Certified
Khyber
Service Tribunal,
Peshawar

Date of presentation of Application 24.4.2012
 Number of Petitions 100
 Copy of Petitions 10
 Total To
 Name of Applicant [Signature]
 Date of Completion of Copy 31-5-2012
 Date of Delivery of Copy 31-5-2012

Ansari
[Signature]

بعدالت سرمد سپریم کورٹ چیف جسٹس خواجہ گلشن اقبال

Service Appeal No. — 12

Appellant: 2012ء بجانب
روبینہ ناز منجم قعود و منبرہ

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام گلشن اقبال کیلئے رجسٹرار سپریم کورٹ گلشن اقبال
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 بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک دروپیہ آرضی 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 منسوخ
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 اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے 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 لکھد یا کہ سندر ہے۔

المرقوم لکھد
ماہ اکتوبر 2012ء



2012ء

کے لئے منظور ہے۔

Accepted

Attested

Signature

بمقام

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1109/2012

Rubina Shaheen
Junior Special Education Teacher

(Appellant)

Versus

Government of Khyber Pakhtunkhwa & others

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DEPONENTS

Asstt. Director (Litigation)
Social Welfare, SE and WE,
Khyber Pakhtunkhwa.

2

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL JUDICIAL
COMPLEX (OLD) KHYBER ROAD PESHAWAR**

Appeal No.1109 of 2012

Robina Shaheen, Junior Special Education Teacher,
Government Institute for the Blind Girls, Peshawar.....Appellant

Versus

1. Chief Secretary, Government of Khyber Pakhtunkhwa.
2. Secretary, Social Welfare, Special Education & Women Empowerment Department.
3. Director, Social Welfare, Special Education & Women Empowerment, Government of Khyber Pakhtunkhwa
4. District Officer, Social Welfare & Women Development Department, Mardan.
5. Secretary Finance, Government of Khyber Pakhtunkhwa.....Respondents

REPLY ON BEHALF OF RESPONDENTS NO. 1, 2, 3 & 5

- 1- The appellant has got no cause of action.
- 2- The appeal is not maintainable in its present form.
- 3- The appellant has no locus standi.
- 4- That the appeal is time barred.

FACTS:


- Para No.1 Incorrect. The appellant was initially appointed as Supervisor (BPS-09) in the year 1996. After acquiring the prescribed qualification, she was awarded higher pay scale BPS-16 in the year 1998.
- Para No.2 In reply to Para-2, it is submitted that Finance Department, Govt of Khyber Pakhtunkhwa had allowed higher pay scales to the teachers serving in Special Education Institutions with certain conditions vide letter dated 24.07.1986 (Annexure-A). The said conditions were later on waived off through another letter of Finance Department dated 14.05.1999. The appellant was awarded (BPS-16) w.e.f 28.12.1998 on acquiring the higher qualification of BA. As per conditions prescribed in Finance Department letter dated 24.07.1986, the appellant was required to acquire B.Ed degree within three years whereas she has acquired B.Ed degree in February 10, 2010 i.e. after a lapse of more than 11 years. She therefore, is not entitled for award of higher pay scale on the basis of B.Ed degree.
- Para No.3 Correct, as explained in Para-2 above.
- A


- Para No.4 Correct.
- Para No.5 Correct but the decision of the August Supreme Court of Pakistan was in a particular case and is not extendable to the instant case due to the reasons mentioned in Para-2 above.
- Para No. 6 That the departmental appeal of appellant has no weight and, therefore, cannot be met.
- Para No. 7 That the appellant has got no cause of action to file this appeal.


GROUND:

- a) Incorrect, the appellant is not entitled for award of higher pay scale mentioned as per Para-2 above.
- b) As explained in Para-2 above.
- c) Incorrect, the appellant has been treated as per policy and rules / regulations mentioned in the Finance Department letter dated 24.07.1986 (Letter attached).
- d) Incorrect, the appellant is not entitled to be awarded higher pay scale as she does not fulfill the conditions in the Finance Department letter dated 24.07.1986.
- e) Correct to the extent that decision in appeal No. 3066/2010 of the Honorable Court but the facts of the appellant are against the decision mentioned in the appeal.
- f) The respondents may also be allowed to raise additional grounds at time of arguments.

It is requested that the appeal may be dismissed with cost throughout.


Secretary to Govt of Khyber Pakhtunkhwa
Finance Department
(Respondent No. 5)


Secretary to Govt of Khyber Pakhtunkhwa
Social Welfare, Spl Education and
Women Empowerment Department
(Respondent No. 2)


Director
Social Welfare, Special Education and
Women Empowerment Department
Khyber Pakhtunkhwa
(Respondent No. 3)

AFFIDAVIT:

I, _____ do hereby solemnly affirm on oath that the contents of the written reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.

Deponent

Dated Peshawar, the 24th/1/1954

From

Masud Bilal Jan,
Secretary to
Government of N.W.F.P.,
Finance Department,
Peshawar.

To

The Secretary to
Government of N.W.F.P.,
Health and Social Welfare Department,
Peshawar.

Subject:- REVISION OF PAY SCALES OF THE TEACHERS WORKING IN THE INSTITUTIONS FOR THE HANDICAPPED

Sir

I am directed to refer to the subject noted above and to say that the matter regarding grant of enhanced pay scales to different categories of teachers working in the institutions for the handicapped (i.e., Blinds, Deaf & Dumb, Physically Handicapped and Mentally Retarded) has been under consideration of the Government for some time. It has been decided to prescribe new scales of pay for the teachers working in the above institutions with immediate effect. The new scales of pay, showing the qualifications prescribed for teachers are as under:-

(1) DEAF AND DUMB INSTITUTIONS

(a) Trained Graduate Teachers (B.A./B.Sc., B.Ed.) with B-17

adequate knowledge in the Education of deaf and dumb to be certified by the Social Welfare Directorate.

(b) Untrained Graduate and post-Graduate Teachers B-16

(B.A./B.Sc., M.A./M.Sc.) with adequate knowledge in the education of deaf and dumb, to be certified by the Social Welfare Directorate.

These teachers must acquire B.Ed. within a period of three years.

(c) Trained under-Graduate Teachers (Matric/F.A./ B-14

with C.D. or P.T.C., etc.)

These teachers must acquire the qualification of B.A./B.Sc./B.Ed. within five years as per (b) above.

ATTESTED

o b
TR

(d) Untrained, under Graduate B-14
Teachers with adequate
knowledge of teaching deaf
and dumb (to be certified
by the Social Welfare
Directorate).

Three years
B.Ed. with
three year

(2) BLIND INSTITUTIONS.

(a) Trained Graduate Teachers B-14
(B.A./B.Sc., B.Ed.) with
adequate knowledge of
braille or teaching the
blind (to be certified
by the Social Welfare
Directorate).

Three years
B.Ed. with
three year

(b) Un-trained Graduate and B-16
post-Graduate Teachers (B.A./
B.Sc., M.A./M.Sc.) with
adequate knowledge of
Braille or teaching the
blind (to be certified
by the Social Welfare
Directorate).

Three years
B.Ed. with
three year

(c) Trained under-Graduate B-14
teachers:

Three years
B.Ed. with
three year

i) B.A., C.P., and pro-
ficiency in Braille
or adequate knowledge
of teaching the blind (to be certified
by the Social Welfare Directorate)

ii) Metric, P.T.C., S.V.
and proficiency in
Braille or with adequate
knowledge of teaching
the blind (to be certified by
Social Welfare Directorate)

iii) Metric with Diploma/
Certificate in a trade
from a Blind Institute
and proficiency in Braille
or with adequate knowledge
in teaching the blinds (to be certified
by the S. W. Directorate)

(d) Un-trained, under Graduate B-14
Teachers with proficiency
in Braille or adequate
knowledge of teaching the
blind (to be certified
by the Social Welfare
Directorate).

Three years
B.Ed. with
three year

(3) MENTALLY RETARDED/PHYSICALLY HANDED/BLIND

Trained Graduate Teachers B-14
(B.A./B.Sc., B.Ed.) with
adequate knowledge of
teaching the mentally re-
tarded and physically dis-
abled (to be certified
by the Social Welfare
Directorate).

Three years
B.Ed. with
three year

(d) Un-trained Graduate and B-16
Post Graduate Teachers
(B.A./B.Sc./M.A./M.Sc.) with
adequate knowledge of

Three years
B.Ed. with
three year

SECTION OFFICER (I)
(MARKED)
S. D. SINGH

- 1) The Secretary to Government of the Punjab, Finance Department, Lahore.
- 2) The Secretary to Government of Sindh, Finance Department, Karachi.
- 3) The Secretary to Government of West Bengal, Finance Department, Calcutta.
- 4) The Secretary to Government of Madhya Pradesh, Finance Department, Bhopal.

Copy is also forwarded to:-
Order No. PD(SR-I) 1-95/84-III Dated Pesh. the 24th Nov. 1986

(MAILED AND)
OFFICE SECRETARY (ADDITIONAL)
OFFICE OF DEPARTMENT

The Accountant General, M.A. & P. Department, Lahore.
The Director, Social Welfare, M.A. & P. Department, Lahore.

Order No. PD(SR-I) 1-95/84-III Dated Pesh. the 24th Nov. 1986

SAVDAR ALI KHAN
ADDITIONAL SECRETARY
GOVERNMENT OF M.A. & P.

Your obedient servant

All special duty sanctioned for the above category of teachers shall be discontinued with immediate effect.

(d) Untrained under-graduate teachers with additional knowledge of teaching the handicapped (to be certified by the Social Welfare Directorate) shall be certified by the Social Welfare Directorate.

(e) Trained under-graduate teachers with additional knowledge of teaching the handicapped (to be certified by the Social Welfare Directorate) shall be certified by the Social Welfare Directorate.

K.S.A.

Better Copy



No. ED(SR-1) 1-95 / 84-111
GOVERNMENT of N.W.F.P
FINANCE DEPARTMENT.
Dated Peshawar: the 24th July 1986.

From,
Saeed Ullah Jan,
Secretary to
Government of N.W.F.P
Finance Department,
Peshawar.

To,
The Secretary to
Government of N.W.F.P
Health and Social Welfare Department,
Peshawar.

SUBJECT:- REVISION OF PAY SCALES OF THE TEACHERS WORKING IN THE INSTITUTIONS FOR THE HANDICAPPED.

Sir,

I am directed to refer to the subject noted above and to say that the matter regarding grant of enhanced pay scales to different categories of teachers working in the institutions for the handicapped (i.e.) blinds, deaf & dumb physically handicapped and mentally retarded has been under consideration of the government for sometime. it has been decided to personable new scales of pay for these teachers working in the above institutions with immediate effect. The new scales of pay, showing the qualifications prescribed for teachers are as under:-

- (1) DEAF AND DUMB INSTITUTIONS.
- (a) Trained Graduate Teachers B-17
(B.A./ B.Sc./ B.Ed.) With Adequate knowledge in the Education of deaf and dumb To be certified by the social Welfare directorate.
- (b) Untrained graduate and post-graduate Teachers (B.A / B.Sc. M.A./ M.Sc.) With adequate know ledge in the Of deaf and dumb to be certified by Social welfare directorate. B-16
These teachers must Acquire B.Ed. within a period of three years.
- (c) Trained under-graduate Teachers (Metric / F.A./ F.Sc With C.T or P.T.C etc.) B-14
These teachers must acquire the qualification Of B.A./ B.Sc./ B.Ed. Five years as at (a) above.

...../2

Attested To be True Copy

Retd
Attested
R

[Signature]
Asstt: Director (Litigation)
Social Welfare, SE and WE
Khyber Pakhtunkhwa.

Ben

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Untrained, under Graduate Teachers with adequate Knowledge of teaching deaf And dumb (to be certified By the social welfare Directorate.

B-11

these teachers should continue in B-11, till such time they cross to the next stages of B-14 / 16.

(2) BLINDS INSTITUTIONS.

(a) Trained graduate teachers (B.A. /B.Sc. B.Ed) with Adequate knowledge of Braille or teaching the Blind (to be certified by the Social welfare directorate.)

B-17

(b) Un-Trained graduate and Post-Graduate teachers (B.A./ B.Sc. M.A./ M.Sc.) with Adequate knowledge of Braille Or Teaching the blind. (to be certified By the social welfare Directorate.

B-16

these teachers must acquit B.Ed. within a period of Three years.

(c) Trained under-graduate teachers:

B-14

these teachers must acquit the qualification of B.A. B.Sc. B.Ed. within five years as at (a) above.

- 1) F.A. C.T. and proficiency in Braille or adequate knowledge of teaching the blind (to be Certified by the social welfare Directorate.)
- 2) metric P.T.C. S.V and proficiency in Braille or with adequate knowledge of teaching the blind. (to be certified by the social welfare directorate)
- 3) matric with diploma / certificate in a trade from a blind institute and proficiency in Braille or with adequate knowledge in Teaching the blinds. (to be certified by the S.W directorate.)

(d) un-trained, under graduate teachers with proficiency in Braille or adequate knowledge of teaching the blind.(to be certified by the social welfare Directorate.)

B-11

these teachers should continue in B-11, till such time they cross the next stages of B-14/16

(3) MENTALLY RETARDED / PHYSICALLY HANDICAPPED INSTITUTIONS.

(a) trained graduate teachers (B.A./B.Sc. B.Ed.) with adequate knowledge of teaching the mentally retarded and physically disabled.(to be certified by the social welfare directorate.)

B-17

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(b) untrained graduate and (C.S.T-graduate teachers (B.A./B.Sc. M.A / M.Sc.)with adequate Knowledge of

B-16

these teachers must acquit B.Ed. within a period Three years.

Asstt: Director (Litigation) Social Welfare, SE and WE Khyber Pakhtunkhwa.

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...../3

ATTESTED

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Teaching the mentally-retarded and physically Disabled (to be certified by the social welfare Directorate.)

- (c) Trained under-graduate (F.A. / F. Sc. with C.T/ P.T.C. / S.V.) with adequate Knowledge of teaching the mentally Retarded & physically disabled (to be qualified to the social welfare Directorate.) B-14 these teachers must acquire the qualification of B.A./ B.Sc. / B.Ed. within five years as at (a) above.
- (d) Untrained under-graduate Teachers with adequate knowledge Of teachers the mentally retarded & physically disabled (to be certified by the social welfare directorate. B-11 these teachers should continue on B-11 till such time they cross to the next stages of B 14/ 16.

All special pays sanctioned for the above categories of teachers shall be discontinued with immediate effect.

Your obedient servant

(SAFDAR ALI KHAN)
ADDL. FINANCE SECRETARY-1
GOVERNMENT OF N.W.F.P

END ST. NO FD(SR-1)1-95 / 84-11 DATED PESHAWAR THE 24TH JULY 1986.

- COPY OF THE ABOVE IS FORWARDED TO:-
1. THE ACCOUNTANT GENERAL N.W.F.P. PESHAWAR
 2. THE DIRECTOR SOCIAL WELFARE N.W.F.P. PESHAWAR

(SAEED AHMAD ALVI)
DEPUTY SECRETARY
(REGULATION)
FINANCE DEPARTMENT.

END ST. NO FD (SR-1)1-95 / 84-111 DATED PESHAWAR THE 24TH JULY 1986

A copy is also forwarded to:-

- 1) The secretary to government of the Punjab finance department lahore.
- 2) The secretary to government of sindh finance department karachi
- 3) The secretary to government of Baluchistan finance department, Quetta
- 4) The secretary to government of azad jammu and _____ finance department muzaffarabad.

(FAKHAR-UZ-ZAMAN)
SECTION OFFICER (SR-1)

Asstt: Director (Litigation)
Social Welfare, SE and WE
Khyber Pakhtunkhwa.

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A To be True Copy
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1109/2012

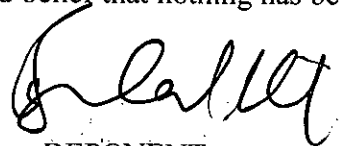
1. Rubina Shaheen, Junior Special Education Teacher,
Government Institute for the Blind (Girls) Peshawar.....**Appellant.**

Versus

- 1. Chief Secretary, Govt. of Khyber Pakhtunkhwa.
- 2. Secretary, Social Welfare, Special Education & Women Empowerment Department
- 3. Director, Social Welfare, Special Education & Women Empowerment, KPK.
- 4. District Officer, Social Welfare, Spl: Edu: & Women Empowerment, Peshawar.
- 5. Secretary Finance, Govt. of Khyber Pakhtunkhwa.....**Respondents**

AFFIDAVIT

I, Bilal Khan, Assistant Director (Litigation) do hereby solemnly affirm and declare on oath that the contents of the para-wise comments on behalf of Respondents No. 2, 3, & 5 are true and correct to the best of my knowledge and belief that nothing has been concealed from this Honorable Court.



DEPONENT

NIC# 17301-6611628-9

Cell No. 0333-9374624

Identified by:

Government Pleader
Service Tribunal
Government of Khyber Pakhtunkhwa, Peshawar

Asstt: Director (Litigation)
Social Welfare, SE and WE,
Khyber Pakhtunkhwa.