

EP 171/2020

09.08.2021

Clerk of counsel for the petitioner and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Clerk of counsel for the petitioner submitted an application for adjournment due to engagement of learned senior counsel in other cases out of station. To come up for further proceedings on 05.10.2021 in the light of order dated 21.06.2021 of this Tribunal.


Chairman

05.10.2021

Clerk of counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

It was brought on record on 21.06.2021 that the operation of the judgment of this Tribunal has been suspended by the August Supreme Court of Pakistan on 16.12.2020. Thereafter adjournment was sought by associate of counsel for the petitioner. On 09.08.2021 again adjournment was granted on request of clerk of counsel for the petitioner. A similar request has been made today by the clerk of counsel for the petitioner but it is not viable to grant adjournment when no purpose is likely to be served due to suspension of operation of judgment of this Tribunal. If the judgment of this Tribunal is maintained by the August Supreme Court of Pakistan, the petitioner would be at liberty to seek restoration of the Execution Petition but for the time being the same is consigned to record room without further proceedings.


Chairman

24.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 27.04.2021.


Reader

27.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 21.06.2021 for the same as before.


READER

21.06.2021

Junior to counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Wisal, ADO for the respondents present.



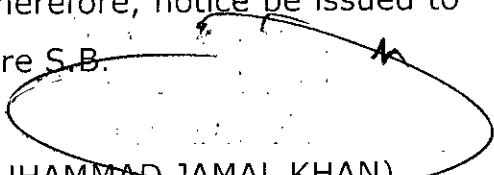
Representative of the respondents has submitted written comments of respondents No. 3 and 4. In Paragraph 10 of the comments, it has been mentioned that status quo had been granted by the Apex Court in the CPLA filed against the judgment under implementation. Learned Junior counsel requests for adjournment as learned senior counsel is busy before the Hon'ble High Court today. Adjourned to 09.08.2021 for further proceedings before S.B.


Chairman

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 171 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10.12.2020	<p>The Execution Petition submitted by Mr. Shah Hussain through Mr. Fazal-e-Wahid Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR,</p>
2-		<p>This Execution Petition be put up before S. Bench on <u>08/01/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
08.01.2021		<p>None for the parties present, therefore, notice be issued to both the parties for 24.02.2021 before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M. No. _____/2020

In

Service Appeal No.63/2015

Shah Hussain.....**Petitioner**

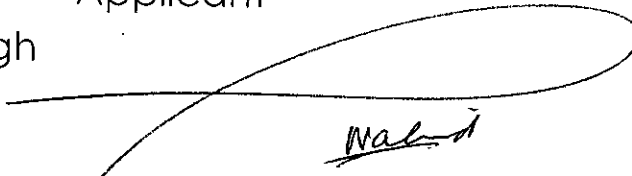
Versus

Government of Khyber Pakhtunkhwa through Chief
Secretary and others.....**Respondents**

I N D E X

S#	Description of Documents	Annex	Pages
1.	Application		1-4
2.	Affidavit		5
3.	Copy of appeal and order dated 16.10.2017	A	6-12
4.	Wakalatnama		13

Applicant
Through


Fazal-e-Wahid

Fazal-e-Wahid

Advocate

High Court, Peshawar

Cell No. 03028810176

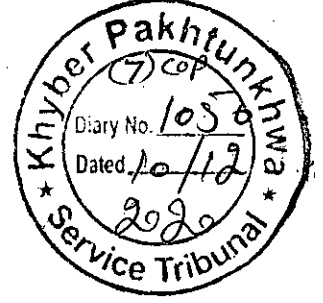
Clerk No.0310-9585858

B-10, Haroon Mansion, Khyber

Bazar Peshawar

Dated 09.12.2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR



C.M. No. 171 /2020

In

Service Appeal No.63/2015

Shah Hussain S/o Hussain Zada,
R/o Hanchand tehsil Tangi District Charsadda

.....**Petitioner**

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Dabgari Garden, Peshawar
3. Executive District Officer, Elementary & Secondary Education Charsadda
4. District Education Officer (DEO) Charsadda
5. Accountant General, Khyber Pakhtunkhwa Peshawar.....**Respondents**

**APPLICATION FOR IMPLEMENTATION OF
THE ORDER AND JUDGMENT DATED
16.10.2017 PASSED BY THIS HON'BLE
COURT ALONGWITH ISSUING DIRECTION
TO THE RESPONDENTS TO MAKE
NECESSARY ENTRY IN THE SERVICE BOOK**

**OF THE PETITIONER AND TO GRANT THE
ANNUAL INCREMENT TO THE APPLICANT**

Respectfully Sheweth:-

1. That it was in the year 1996 when the petitioner alongwith other were appointed as C.T teacher after fulfilling all the legal formalities.
2. That during the era of 1997 the applicant alongwith the other employees were made sacked and was removed from service due to political motivation.
3. That in the year 2012 Government introduced an Act called KP Sacked Employee Appointment Act, 2012 wherein certain proceedings were provided for the reinstatement of the sacked employees.
4. That as many others employees also applied by following the procedure and after fulfilling all the legal formalities the petitioner was reinstated in the service.
5. That after reinstatement an inquiry was concluded against the SDO namely Atta Ullah & due to that inquiry the petitioner alongwith other were removed/dismissed from services.

6. That the petitioner challenged the aforesaid order before proper forum and finally this Hon'ble Tribunal vide order dated 16.10.2017 reinstated the petitioner while considering/ treating the period as leave of the denied due intervening. (Copy of the Appeal and order dated 16.10.2017 is attached as Annexure "A").
7. That the respondents were not ready to implement order of this Hon'ble Tribunal, hence petitioner filed an and executive petition No.358/2018 and was during pendency of the said petition the petitioner was reinstated and posted at GMS Jamroz khan Khel Charsadda, hence on this ground the file was consent to record room vide order dated 22.07.2019.
8. That though the reinstatement was made and the petitioner is posted but respondent are still not ready to grant annual increments to the petitioner he earned during the period of his service as this Hon'ble Tribunal was pleased to consider the intervening period during service and withdrawal of appointment order by reinstatement of the petitioner was considered as "*leave of a kind due*" hence he was entitled for the grant of annual increments he earned during the period.

9. That the respondents were time and again requested to extend all the benefits to the applicant but in vain, hence this application.
10. That the act of the respondents is nothing but discrimination as other colleges of the applicant is extended all the benefit including annual increments but is refused to the applicant.

It is therefore prayed that on acceptance of this application all the benefits of reinstatement including annual increment may kindly be extended to the applicant.

Any other remedy deemed proper and just may also be granted in favour of the appellant.


Applicant

Through


Fazal-e-Wahid
Advocate High Court

Dated 09.12.2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M. No. _____/2020

In

Service Appeal No.63/2015

Shah Hussain.....**Petitioner**

Versus

Government of Khyber Pakhtunkhwa through Chief
Secretary and others.....**Respondents**

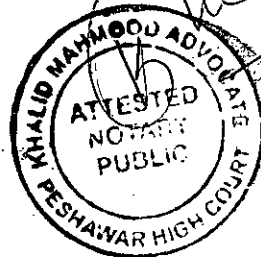
AFFIDAVIT

I, Shah Hussain S/o Hussain Zada, R/o Hanchand tehsil Tangi District Charsadda, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by:


Fazal-e-Wahid
Advocate High Court


DEPONENT



(1)

Annex A3

6



BEFORE THE SERVICE TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 62 /2015

H.W.F. Provincial
Service Tribunal
Diary No 284
Dated 31-3-2015

Zahid Ali S/o Muslim Khan
R/o Mohallah Sadran, Nisatta,
District Charsadda.....

Appellant

Versus

1. Govt. of Khyber Pakhtunkhwa through its Chief Secretary, Civil Secretariat, Peshawar.
- 2. Director (Elementary & Secondary Education), Khyber Pakhtunkhwa, Dabgari Garden, Peshawar.
3. The Executive District Officer (Elementary & Secondary Education), Charsadda.
4. The District Education Officer (Male), Charsadda.
5. Secretary Education, Khyber Bazaar, Peshawar.


.....**Respondents**

Appeal u/s 4 of KPK Service Tribunal Act, against the impugned order of respondent No.4 dated 22.07.2014, whereby the appellant's reinstatement order No.3929/34 appointment dated 31.12.2012 was cancelled.

Prayer in Appeal:

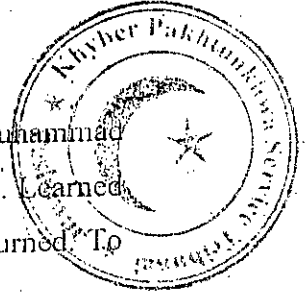
By accepting this appeal, the impugned order of respondent No.4 dated 22.07.2014, whereby appellant re-instatement order dated 31.12.2012 was

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

63/2015

7



01.06.2017

Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 21.08.2017 before D.B.

(GUL ZAMB KHAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

21/8/2017

Appellant in person and Mr. Muhammad Adeel Butt, AAG for the respondents present. Due to non-availability of DB, case to come up for argument on 18/10/2017 before DB.

Reader

16.10.2017

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Daud Jan, Supdt for respondents present. Arguments heard and record perused.

This appeal is also accepted as per detailed judgment of today placed on file in connected service appeal No. 62/2015 entitled "Zahid Ali -vs-Govt. of Khyber Pakhtunkhwa through its Chief Secretary, Civil Secretariat, Peshawar and 4 others". Parties are left to bear their own cost. File be consigned to the record room.

Announced:
16.10.2017

(Muhammad Hamid Mughal)
Member

(Ahmad Hassan)
Member

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application	17/11/2020
Number of Words	880
Copying Fee	10/-
Urgent	
Total	10/-
Name of Copyst	
Date of Completion of Copy	17/11/2020
Date of Delivery of Copy	17/11/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 62/2015

Date of Institution ... 31.03.2015

Date of Decision ... 16.10.2017



Zahid Ali S/O Muslim Khan
R/o Mohallah Sadran, Nisatta,
District Charsadda.

... (Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through its Chief Secretary, Civil Secretariat, Peshawar. and 4 others. ... (Respondents)

MR. MUHAMMAD IJAZ KHAN SABI,
Advocate

--- For appellant.

MR. ZIAULLAH,
Deputy District Attorney

... For respondents

MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL


... MEMBER (Executive)
... MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.-

This judgment shall dispose of the instant service appeal as well as connected service appeals no. 63/2015 titled Shah Hussain and no. 326/2015 titled Muhammad Hayat as similar question of law and facts are involved therein.

ATTESTED


EXAMINER
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Service Tribunal,
Peshawar

2. Arguments of the learned counsel for the parties heard and record perused

FACTS

3. The brief facts are that the appellant was appointed as Arabic Teacher on 31.10.1996. He alongwith other employees were sacked in 1997. That under the provisions of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012

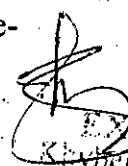
appellant was reinstated in service on 31.12.2012. Thereafter again vide impugned order dated 22.07.2014 he was removed from service. He preferred departmental appeal on 12.08.2014 and subsequently filed writ petition before the august High Court as the Tribunal was not functional. Later on on the directions of the Hon'able High Court the appellant preferred instant service appeal on 31.03.2015.

ARGUMENTS

4. Learned counsel for the appellant argued that he was appointed as AT after observance of codal formalities vide order dated 31.10.1996. That his services were terminated on 26.06.1997 being not appointed on merit. Thereafter through another order dated 31.12.2012 again on the recommendations of DSC he was reinstated/appointed against the same post. On the allegations of illegal appointments an inquiry was conducted against ex-EDO Education Charsadda. Resultantly, vide impugned order dated 22.07.2014 reinstatement order of the appellant was withdrawn because his appointment was not covered under Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012. As this Tribunal was not functional so the appellant filed writ petition no. 3590/2014 in Peshawar High Court and was disposed of vide judgment dated 12.01.2015. Proper inquiry and opportunity of defense was not afforded to the appellant before passing order of termination of services. Hence, he was 'condemned unheard. Moreover, well settled principle of "*Audi Altram Pertrum*" was also violated by not providing opportunity of personal hearing to the appellant. Even Mr. Attaullah, Ex-EDO in his statement before the inquiry officer admitted that the appellant was fully eligible for re-appointment/reinstatement.

5. Learned Deputy District Attorney argued that the appellant was not only qualified for appointment and also hired on fixed pay. That the appellant does not

ATTESTED


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Service Tribunal,
Peshawar

fulfill the criteria given in the Sacked Employees Act for reinstatement. He was reinstated in 2012 without observance of codal formalities. All codal formalities were observed before terminating the services of the appellant

CONCLUSION.

6. Careful perusal of record would reveal that as appointment of the appellant was not made on merit so his services were terminated vide order dated 26.06.1997. Thereafter, through another order and on the recommendation of DSC he was reinstated/appointed vide order dated 31.12.2012. This order was not only issued with the approval of DCO, Charsadda but in para-4 of the appointment order it was clearly mentioned that appointment was made under Sacked Employees (Appointment) Act, 2012. It clearly manifests that the appellant was eligible for appointment as T.T and their initial appointment was made according to invogue policy. On the allegations of illegal appointment an enquiry was conducted against Mr. Attaullah Khan, Ex-EDO (Education), Charsadda. Resultantly, upon the recommendations of the enquiry officer respondents vide impugned order dated 22.07.2014 withdrew his appointment order being not covered under Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012. As regards recommendations of inquiry officer regarding Mr. Zahid it is mentioned restatement order dated 31.12.2012 and termination order were not available so his reinstatement is irregular. First it has not been termed as irregular and any conclusion finding without backing of relevant record has not legal effect. Both the documents are available on record and were repeatedly discussed during the hearing of appeal. Contention of the learned counsel for the appellant that his appointment was made on fixed pay is not based on facts. Perusal appointment order dated 31.10.1996 shows that he was appointed BPS-09 on fixed pay alongwith usual

ATTESTE

WAZIR
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

allowances. Hence, it cannot be termed as appointment on fixed pay. Moreover, his appointment was made according to the invogue policy. It has not been contested by the respondents in their comments. Even the Finance Department vide order dated 30.10.2009 allowed annual increment/running pay scale to untrained teachers who were subsequently regularized upon acquiring requisite training. So far as the issue that his appointment is not covered under 2012 Act, it has adequately been explained in judgment of Peshawar High Court dated 24.12.2014 rendered in Writ petition no. 1662-P/2013. Para-8 of the judgment is reproduced below:-

Learned AAG argued with vehemence that the petitioners' case is not covered by the Act as its provisions in unequivocal terms postulate that relief under the Act will be given only to those sacked employees who were appointed on regular basis to a civil post possessing the prescribed qualification (emphasis supplied). According to the learned AAG, as at the time of their appointments, the petitioners were not equipped with the professional qualification, therefore, they cannot be considered under the Act. We are afraid to be in agreement with the learned AAG on his above submission, because at the time of appointment of the petitioners as un-trained teachers pursuant to which petitioner were taken into service where-after they had performed their duties for years and services of some of them were later on regularized.

ATTESTED

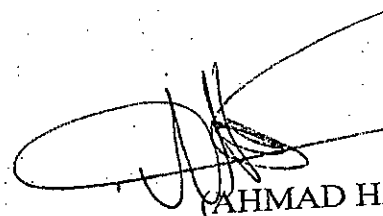
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

7. There cannot be two opinions that after reinstatement/appointment vide order dated-31.12.2012 appellant being a civil servant was required to be dealt with according to prevailing rules and by following prescribed procedure. However, with one stroke of pen appointment order was unilaterally withdrawn on the basis of inquiry conducted against Ex-EDO Charsadda Appellant was not treated according to Article-4 and 10(A) of the constitution, hence, he was condemned unheard. Treatment meted out to the appellant is also against the principles of natural justice and numerous judgment of superior courts on fair trial and due process of law.

(12)

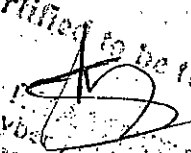
8. It has also been mentioned in the said judgment that similarly placed colleagues of the petitioners have been reinstated by the department in pursuance of the judgment of this Tribunal. As such it is a cardinal principal of law that similarly placed persons should be treated equally and without any discrimination, as enshrined in Article-4 and 25 of the Constitution.

9. As a sequel to above, the appeal is accepted and impugned order dated 22.07.2014 is set aside and the appellant is reinstated in service. The intervening period may be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.


 (AHMAD HASSAN)
 MEMBER





 (MUHAMMAD HAMID MUGHAL)
 MEMBER

ANNOUNCED
 16.10.2017

Certified to be true copy

 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

17/11/2020

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ایڈووکیٹ شہناز حسین				
بار کونسل ایسوسی ایشن نمبر: BC/10-2881		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
رابطہ نمبر: 0302-8810176				

بجالات جناب: سرورس سٹیٹل پ.ا. ب.ا. ک۔

مخانب: Appellant	دعویٰ: مزدور سے دفعہ
شاہ حسین	علت نمبر:
بنام	مورخہ:
کولفٹے P. ا. ب. ا. ج. ر. ن.	جرم:
	تھانہ:

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام کے لئے اختیار و اختیار کے لئے مقررہ کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور و قبول ہوگا
 دوران مقدمہ میں جو چیز ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیش مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے
 المرقوم: 2020/06/06

مقام **پشاور سٹیٹل**
 81
 Receipt

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Wahid
Fazal-e-Wahid
Adv

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

EXECUTION PETITION NO. 171/2020

IN

APPEAL NO .63 /2015

Shah H^usain.....Appellant.

V/S

Government of Khyber Pakhtunkhwa, through Chief Secretary,
Peshawar & others.....Respondents.

(Reply on behalf of respondent No. 5)

Respectfully Sheweth:-

Para :- 1 to 10:-

Being an administrative matter, the issue relates to other Respondents. And they are in a better position to redress the grievances of the Appellant. Besides the Appellant has raised no grievances against Respondent No.05.

Keeping in view the above mentioned facts it is, humbly prayed that the appeal in hand having no merits may be dismissed with cost.


**ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA**

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 171/2020

Shah Hussain

Vs.

Govt of Khyber Pakhtunkhwa & others

Written comments on behalf of Respondent No. 03 &04

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DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA



BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 171/2020

Shah Hussain

Vs

Govt of Khyber Pakhtunkhwa & others

Written comments on behalf of Respondent No. 03& 04

Respectfully Sheweth:


Preliminary Objections:

- A. That the Appellant has no locus standi and cause of action.
- B. That the present Appeal is wrong, baseless and not maintainable, it shows no cause to be taken for adjudication, therefore, the Appeal is liable to be rejected/dismissed.
- C. That the Appeal is unjustifiable, baseless, false, frivolous and vexatious. Hence the same is liable to be dismissed with the order of special compensatory costs in favour of Respondents.
- D. That no legal right of the appellant has been violated, therefore, the appellant has no right to file the instant appeal.
- E. That the Appellant is completely estopped/precluded by his own conduct to file this Appeal.
- G. That the Appellant has not come to this Hon' able Tribunal with clean hands. The Appeal also suffers from miss-statements and concealment of facts and as such the Appellant is not entitled to equitable relief.
- H. That the Appellant has no right to file the instant Appeal and the Hon' able Services Tribunal has got no jurisdiction to adjudicate upon and the Appeal is liable to be dismissed.
- I. That the instant appeal is barred by law and limitation.

PARA WISE REPLY ON FACTS:

1. That the petitioner was terminated due to his illegal appointment.
2. That the petitioner was appointed without the advertisement and without fulfilling the codal formalities.
3. That the petitioner first appointment was on fixed pay while the Act, 2012 favours those employees whose appointment was on regular basis.
4. That the petitioner do not fulfilling the requisites of the Khyber Pakhtunkhwa Sacked Employees Appointment, Act 2012, therefore, had been terminated in pursuance of the inquiry conducted against the then EDO.
5. As is replied in the above para No.4
6. That the petitioner is pursuance of the judgment of this Hon'ble Court had been re-instead conditionally till the final disposal of the civil appeal pending before the Hon'ble Apex Court.
7. The petitioner was re-instated in service in pursuance of the judgment of this Hon'ble Tribunal.
8. That the appeal of the appellant challenged before the Hon'ble Supreme Court of Pakistan and the Hon'ble Apex Court was gracious enough to grant leave to appeal and suspended the judgment of this Hon'ble Court.
(Copy of order sheet is annexed as annexure-A)
9. That the petitioner is regularly receiving his salaries since his re-instatement.
10. That the judgment of this Hon'ble Tribunal is subjudice before the Hon'ble Apex Court in which leave as well as status quo had been granted by Hon'ble Apex Court, therefore, the petitioner is not entitled for any kind of benefits till the final disposal of the CPLA pending before the Hon'ble Supreme Court of Pakistan.

Respondent No 03 & 04



**District Education Officer
(Male) Charsadda**

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

Service Appeal No. 171/2020

Shah Hussain


Vs

Govt of Khyber Pakhtunkhwa & others

AFFIDAVIT

I Mr. Himayat Shah DEO (Male) Charsadda do hereby solemnly affirms that the contents of the Para-wise comments submitted by respondents are true and correct and nothing has been concealed intentionally from this Hon' able court.

Deponent


(Himayat Shah)
**DISTRICT EDUCATION OFFICER
(MALE) CHARSAKDA**

Anne A
15/8/20
(4)

**IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)**

PRESENT:

MR. JUSTICE GULZAR AHMED, HCJ
MR. JUSTICE IJAZ UL AHSAN
MR. JUSTICE MUNIB AKHTAR

**CIVIL APPEALS NO.1448 OF 2016, 1483 OF 2019, 759,
760 AND 761 OF 2020.**

AND

**CIVIL PETITIONS NO.288-P/16, 372-P/2016, 416-P/2017,
485-P/2017, 517-P/2017, 43-P/2018, 44-P/2018, 45-
P/2018, 491-P/2018, 568-P/2018, 633-P/2018, 634-
P/2018, 2122/2018, 6-P/2019, 118-P/2019, 439-P/2017,
147-P/2019, 541-P/2019 AND 704-P/2019.**

*(Against the orders/judgments dated 14.03.2016, 07.04.2016,
20.06.2017, 11.09.2017, 19.09.2017, 16.10.2017, 18.04.2018,
03.05.2018, 17.05.2018, 24.05.2018, 18.10.2018, 11.10.2018,
04.07.2017, 20.11.2018, 15.05.2019 and 07.03.2019 passed by the
Peshawar High Court, the Peshawar, Peshawar High Court, Mingora
Bench (Dar-ul-Qaza), Swat, The Khyber Pakhtunkhwa Service Tribunal,
Peshawar, the Peshawar High Court, D. I. Khan Bench in C. R. No.493-P of
2015, W.P. No.1851-P of 2014, W.P. No.3245-P of 2015 with I.R., W.P.
No.429-M of 2014, W.P. No.3449-P of 2014 in C.M.No.1070-P of 2016,
Service Appeal No.62 of 2015, Service Appeal No.63 of 2015, Service
Appeal No.326 of 2015, W.P. No.778-M of 2017, W.P. No.1678-P of 2016,
W.P. No.3452-P of 2017, W.P. No.4675-P of 2017, W.P. No.2446-P of 2016,
W.P. No.3315-P of 2018, W.P. No.667-D of 2016, W.P. No.2096-P of 2016,
W.P. No.2389-P of 2018 and W.P. No.965-P of 2014).*

Government of KPK through Secretary Elementary &
Secondary Education, Peshawar and others.
(in all cases)

District Education Officer (Male), District Swabi, etc.
(in CP.416-P/2017)

District Education Officer (Male), Charsadda and others.
(in CP.634-P/2018)

Nadeem Ashraf and others.
(in CP.2122/2018)

Director Elementary & Secondary Education, KPK, Peshawar
and others.
(in CP.147-P/2019)

...Appellant(s)/Petitioners

Versus

Javed Khan and others.
Muhammad Ilyas.
Mst. Safia Begum (PET) and others.

*(in CA.1448/2016)
(in CA.1483/2019)
(in CP.288-P/2016)*

Akhter Biland.
 Muhammad Israr and another.
 Shujaullah.
 Sheraz Badshah and others.
 Zahid Ali.
 Shah Hussain.
 Muhammad Hayat.
 Dir Nawab Khan and others.
 Muhammad Faridoon and others.
 Shafiq Ahmad.
 Yahiya Jan.
 Govt. of KP through Secretary Law, Justice
 & Human Rights, Peshawar and others.
 Syed Attaullah Shah and others.
 Noor ud Din.
 Asmatullah Khan.
 Mst. Bakht Zari and others.
 Attaullah Jan.
 Sajjad Ahmad and another.
 Intizar Ali and others.
 Behramand and others.
 Kifayatullah and others.

(in CP.372-P/2016)
 (in CP.416-P/2017)
 (in CP.485-P/2017)
 (in CP.517-P/2017)
 (in CP.43-P/2018)
 (in CP.44-P/2018)
 (in CP.45-P/2018)
 (in CP.491-P/2018)
 (in CP.568-P/2018)
 (in CP.633-P/2018)
 (in CP.634-P/2018)

(in CP.2122/2018)
 (in CP.6-P/2019)
 (in CP.118-P/2019)
 (in CP.439-P/2017)
 (in CP.147-P/2019)
 (in CP.541-P/2019)
 (in CP.704-P/2019)
 (in CA.759/2020)
 (in CA.760/2020)
 (in CA.761/2020)

...Respondent(s)

For the Appellant(s):

Mr. Sumail Ahmed Butt, A. G.
 KP.
 (in all Civil Appeals)

For the Petitioner(s):

Barrister Qasim Wadood,
 Addl. A. G. KP.
 Mr. Atif Ali Khan, Addl. A. G. KP.
 Ms. Rohean Naz, ADOL, Noshetra.
 Mr. Aftab Alam Rana, ASC
 (in CP.2122/2018)

For the Respondent(s):

Mr. Fazal Shah, ASC.
 (in CA.1448/2016)

Mr. Khalid Rehman, ASC.
 Sh. Riazul Haque, ASC.
 (in CA.1483/2019)

Sh. Riazul Haque, ASC.
 (in CAs.759-760/2020 & CP.517-P/2017)

Mr. Saleem Ullah Ranazai, ASC.
 (in CP.439-P/2017)

Mr. Abdul Munim Khan, ASC.
 (in CA.761/2020)

N.R. (in all CPs).

16.12.2020.

Date of Hearing:

.....

ATTESTED

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ORDER

GULZAR AHMED, CJ-. Since leave to appeal has already been granted by this Court vide orders dated 13.05.2016, 26.08.2019 and 03.09.2020 passed in Civil Appeal No.1448 of 2016, Civil Appeal No.1483 of 2019 and Civil Appeals No.759 to 761 of 2020, respectively, involving similar questions, we are inclined to grant leave to appeal in the listed petitions as well to consider *inter alia* the same. Order accordingly.

2. Let appeal stage paper books be prepared on the available record. However, the parties are at liberty to file additional documents, if any before the next date of hearing. The office shall fix all the matters together for hearing on a date immediately after winter vacation.

3. In the meantime, operation of the impugned judgment(s) shall remain suspended.

4. Let CPLA No.2122 of 2018 involving seniority matter be de-linked from the aforesaid cases.

Sd/- H CJ
Sd/- J
Sd/- J



Certified to be True Copy

لجالتہ بنا پر سروس سرینوئل ۱۹.۱۰.۱۹۰۱

شہد حسین بنا EDO

دفعہ سب پر دہلی میں جناح اور نیشنل کالج دہلی

لجالتہ بنا

ضلعی کالج سب ڈپٹی میں رسالہ ہے

کی، فہرست عنوانیہ عدالت اصولی میں زیر تجویز ہے

گورنمنٹ؟ جناح اور نیشنل کالج

یہ اس میں دہلی اور دہلی عدالت ہے پوری بیٹے out station

عدالت ہے اس لیے جناح اور عدالت اصولی میں پیش رو

قصر ہے

انہا انویسٹمنٹ بنیادی دفعات متعلقہ فرما کر جناح

تبدیلی زمانہ قائم ہمارا فرمایا جاوے ۹/۸/۵۲

سید علی محمد صاحب

Handwritten signature or scribble