

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

S.A No.421/2022 (Amended Appeal)

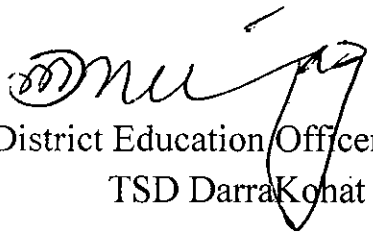
Mr. Shafiq Khan SCT (BPS-16), GHS Darra Adam Khel, Kohat...**Appellant**

VERSUS

1. The Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Civil secretariat Peshawar
2. The Director, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. The Additional Director (merged District), Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
4. The District Education Officer, Sub Division Darra Adam Khel, Kohat.
5. Mr. Aftab Khan SST BPS-16, GHS Darra Adam Khel...**Respondent**

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District Education Officer (M)
TSD Darra Kohat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

S.A No. 421/2022 (Amended Appeal)

Mr. Shafiq Khan SCT (BPS-16), GHS Darra Adam Khel, Kohat ... **Appellant**

VERSUS

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2. The Director, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. The Additional Director (merged District), Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
4. The District Education Officer, Sub Division Darra Adam Khel, Kohat
5. Mr. Aftab Khan SST BPS-16, GHS Darra Adam Khel..... **Respondent**

PARA WISE COMMENTS ON THE BEHALF OF RESPONDENT NO. 1 to 4.

Preliminary Objection

- i. That the Appellant has got no cause of action, locus standi to file the instant appeal.
- ii. That the Appellant has concealed material facts from honorable Tribunal.
- iii. That the Appellant has not come to this honorable Tribunal with clean hands.
- iv. That the Appellant case is not maintainable.
- v. That the Appeal is based upon malicious/vexatious and frivolous ground.
- vi. That the Appellant is estopped by his own conduct.
- vii. That the appeal of the appellant is badly time barred.
- viii. That the appeal is bad for misjoinder and non-joinder of necessary parties.

FACTS:

1. Para No. 1 of the fact is pertains to record.
2. Para No. 2 of the fact is pertains to record.
3. Para No. 3 of the fact is pertains to record.
4. Para No. 4 of the fact is pertains to record.
5. Para No. 5 of the fact is incorrect there was only one post of SST Phy/Maths vacant in the Sub Division Darra Adam Khel, according to the policy the

post was required to be filled by initial recruitment because one post cannot be allocated for promotion.

Furthermore, it is pertinent to mention that at the time of departmental promotion 2020, the appellant was not eligible for promotion due to result issuing date of Additional subject Phy/Math which is already mentioned by the appellant in his appeal Para No. 4 (Dated 16/11/2020). Whereas the date of departmental promotion was 24/08/2020 (Copy of the Policy is attached as **(Annexure A)** and additional subject Physics/Maths DMC is attached as **(Annexure B)**).

Therefore all the eight (8) vacant posts of SST Phy/Math were advertised in 2020 according to the rules.

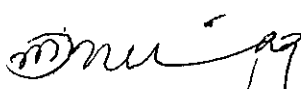
6. Para No. 6 of the fact is incorrect as stated in Para 5.
7. Para No. 7 of the fact is incorrect. The service appeal of the appellant was converted into COC No. 403/2022 in Service appeal No. 421/2022 in which the respondent submitted reply (Copy of the COC reply is attached as **Annexure C**).
8. Para No. 8 of the fact is correct to the extent that the gracious direction of the Honorable Tribunal on dated 30/06/2022 which were conveyed by the Petitioner to the respondent on 07/07/2022. The appointment order of SST Phy/Maths was issued on 24/06/2022 by Director E&SE vide No. 6379-85/F.No.01/SST contract appointment (Male) 2022 Dated. 24/06/202. Consequent upon the appointment order DEO (M) Kohat further issued adjustment order on 05/07/2022 before the receipt of gracious direction of the Honorable Tribunal (Copy of the COC Submission application, Appointment order and adjustment order are attached as **(Annexure D, E & F)**).
9. Para No. 9 of the fact is incorrect as stated in above Para No. 8.
10. Para No. 10 of the fact is correct to the extent that COC No. 403/2022 was filed by the petitioner and the respondent department appeared before the Honorable Tribunal and submitted reply on Dated. 14/11/2022 and the next date of COC hiring is fixed on 23/01/2023. It is further added that the departmental appeal was correctly rejected by the department which is self-explanatory (copy of the departmental appeal is attached as **Annexure G**).
11. Para No. 11 of the fact is incorrect as stated in above Para No. 6 and further added that the respondent department followed the rules and policy (Copy of Policy is already annexed in Para No. 5 as **Annexure A**).
12. Para No. 12 is legal.

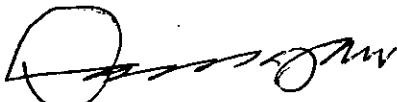
Grounds

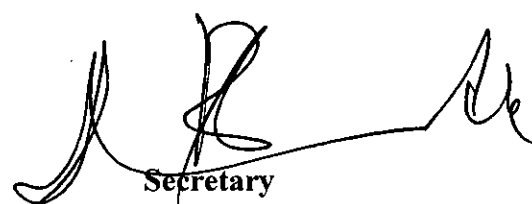
- A. Incorrect. The appellant was treated according to law.
- B. Incorrect: As stated vide Para 6.
- C. Incorrect: As stated vide Para 5.
- D. Incorrect: As stated vide Para 8.
- E. Incorrect. As stated vide Para 5.
- F. Incorrect. As replied in Facts.
- G. Incorrect: The Appellant was treated as per rules and policy.
- H. Incorrect: The act of the respondent department is legal and accordance with law.
- I. Incorrect: The Appellant was treated in accordance with rules, policy and law.
- J. The respondent department seeks gracious permission of this Honorable Service Tribunal to adduce some other grounds at the time of arguments.

PRAY.

In the light of above legal and factual position it is humbly prayed/requested that the amended appeal of the appellant may graciously be dismissed with cost please.


District Education Officer
TSD Darra Kohat
Respondent No. 4


Director
Elem: & Secondary Education
Khyber Pakhtunkhwa Peshawar
Respondent No.2 & 3


Secretary
Elem: & Secondary Education
Khyber Pakhtunkhwa Peshawar
Respondent No.1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

S.A No. 421/2022 (Amended Appeal)

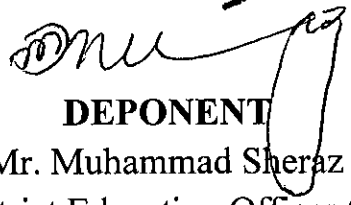
Mr. Shafiq Khan SCT (BPS-16), GHS Darra Adam Khel, Kohat ... **Appellant**

VERSUS

1. The Secretary Elementary & Secondary Education Khyber Pakhtunkhwa,
Civil secretariat Peshawar & Other..... **Respondents**

AFFIDAVIT

I Mr. Muhammad Sheraz DEO TSD Darra Kohat do here by affirm and declared that the contents of Para wise comments regarding the service appeal No. 421 are true, correct and nothing has been concealed from this Honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar.



DEPONENT

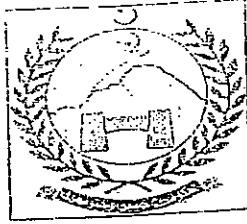
Mr. Muhammad Sheraz
District Education Officer (M)
TSD Darra Kohat

CNIC No: 14203-2057044-7
Mobile No: 03005325372



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 24th July, 2014.



NOTIFICATION

No.SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre: - In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No.SO(G)S&LD/1-28/2003/Vol-II dated, 09-04-2004, Notification No.SO(G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and Notification No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

- (i) Serial No. 1 shall be renumbered as 1B and before Serial No. 1B, as so renumbered, the following new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1.	Subject Specialist (BPS-17)	i. At least second class Master's Degree or four years BS Degree in the relevant subject; and ii. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualification from a recognized University.	23 to 35 years	(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16); with at least five years service as such and having qualification mentioned in column No. 3. Note: If no suitable candidate is available in the relevant subject the post failing in their promotion quota shall be filled by initial

Amended

Amended

5

				recruitment; and (b) fifty percent by initial recruitment.
1A	Director Physical Education (BPS-17)	At least second class Master's Degree in Physical Education from a recognized University.	22-35 years	<p>(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Physical Education Teachers (BPS-16), with at least five years service as Senior Physical Education Teacher and Physical Education Teacher and having qualification mentioned in column No. 3:</p> <p>Provided that if no suitable person is available from amongst Senior Physical Education Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst the Physical Education Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>Note:- If no suitable candidate is available in the relevant cadres of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment; and</p> <p>(b) fifty percent by initial recruitment"; and</p>

(ii) against Serial No. 1B, as so renumbered, for the existing entries, the following shall be substituted, in respective columns, namely:

1	2	3	4	5
"1B.	Secondary School Teacher (BPS-16)	<p>I. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology),</p> <p style="text-align: center;">Or</p> <p>(b) (Physics, Maths "A" or "B" or Statistics)</p> <p style="text-align: center;">Or</p> <p>(c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p style="text-align: center;">and</p> <p>II. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualifications from a recognized University.</p>	21 to 35 years.	<p>1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner:</p> <p>(a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher and having qualification mentioned in column No.3:</p> <p style="padding-left: 40px;">Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters (BPS-16), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3:</p>

10

Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least seven years service as Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No.3:

Provided further that if no suitable candidate is available from amongst Senior Primary School Teachers for promotion then the post shall be filled from amongst Primary School Teachers with at least seven years service as such and having qualification mentioned in column No. 3; and

(ii) twenty Five percent by initial recruitment.

Note:

- I. If no suitable candidate is available in the relevant cadre of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment.
- II. Posts of General SST and SSTs-1 Science and SST-2 Science shall be filled by promotion or initial recruitment, each on need basis separately."

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SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Endst : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA.
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
22. Master file

(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)

Answer B

(12)



UNIVERSITY OF LAKKI MARWAT

Khyber Pakhtunkhwa, Pakistan

12

No. 008582

TRANSCRIPT

ADDITIONAL SUBJECT IN BACHELOR OF SCIENCE

2020 - Annual

Institute/ Department Name: (Private Candidate)

Name: Shafiq Khan
Father Name: Mehrab Din
Registration No: 2020-ULM-KPP-007776

Roll No: 75988

PART-I

Subjects	Marks	Marks Obtained			
		Th	Prac	Total	In Words
Physics	75	24	10	34	Thirty Four
Total: 75, Obtained: 34 (Thirty Four), 45%				Remarks: Pass	

PART-II

Subjects	Marks	Marks Obtained			
		Th	Prac	Total	In Words
Physics	75	28	12	40	Forty
Total: 75, Obtained: 40 (Forty), 53%				Remarks: Pass	

Total Marks: 150 | Obtained Marks: 74 (Seventy Four) | 49% Pass

The Examination was taken as a Whole

Exam Held in Oct, 2020
Result Declaration Date: Nov 16, 2020
Issue Date: Jan 05, 2021

Prepared By

Checked By

Controller of Examination

Errors and omissions if any are subject to rectification.

(13)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Annex ①

COC NO: 403/2022
In
SERVICE APPEAL NOL 421/2022

Shafiq Khan

VS

Muhammad Sheraz Khan
DEO(M) Kohat

Reply to the contempt of Court petition on behalf of Respondent No: 2

Respectfully Sheweth

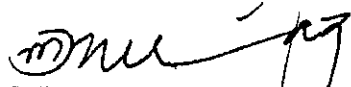
1. That Para No: 1 of the petition is correct to the extent that the Petitioner filed appeal before the Hon'able Service Tribunal Khyber Pakhtunkhwa Peshawar, rest of the Para is legal & pertains to record.
2. That Para No: 2 of the petition is legal & pertains to record.
3. That Para No: 3 of the petition is not maintainable & the petitioner deliberately manipulated the actual crux just to mislead the Hon'able Tribunal. The Hon'able Tribunal issued gracious direction on dated 30.06.2022 copy of the order was received on dated 07.07.2022 (copy annexed as **Annexure A**) & the said order was issued on 05.07.2022 while the approval of the Respondents granted approval vide order Endst No: 6379-85/F No: 01/SSTs Contract Appointment Male 2022 dated 24.06.2022 which is prior from the direction of the Hon'able Service Tribunal Khyber Pakhtunkhwa (copy of the order is annexed as **annexure B**)
4. That Para No: 4 of the petition is legal.

GROUNDS:-

- A. That Para No: A & B of the ground is already explained above. Hence need no comments.
- C. That Para No: C of the ground is wrongly exaggerated & based on self-made assessment the actual crux already explained in above leading Paras which shows that the respondent department never ever indulged in any exercise to violate gracious direction of competent fourm.
- D. That Para No: D of the ground is legal.

PRAYERS:-

In the light of the above material facts the petition in hand is infractus one, ab-initionly & not based on sound reason & liable to be dismissed being meritless.


MUHAMMAD SHERAZ
DISTRICT EDUCATION OFFICER
(MALE) KOHAT

To Honorable
①

(14)

The District Education Officer
Kohat.

Sub: Stay order dated 30.6.2022 on the vacant post of SST phy-maths at BHS Darra Adam Khel, granted by Honourable Service Tribunal Appeal No. 41/2022.

Dear Sir,

It is stated that one post of SST (Ph-maths) is lying vacant in BHS Darra Adam Khel District Kohat which comes in promotion quota but it was adjusted for initial quota.

I have filed a Service appeal No 41/2022 in the honourable Service Tribunal along with the application to restrain the respondents to make appointment on the vacant post of SST in BHS Darra Adam Khel.

The Honourable Service Tribunal admitted my case for regular hearing dated 30.6.2022 and also directed not to make initial recruitment on the available vacant post of SST (B.P.S 16) in physics marks group in sub division Darra Adam Khel till the decision of the main Service appeal.

But it is strange to see that a fresh candidate- Attab Alam has been recruited on the said post dated 7.5.2022. despite of the direction of Honourable Service Tribunal dated 30.6.2022. Herefore, it is requested that implementation on the appointment of Mr. Attab Alam s/o Muhammad Khan may please be stopped in the light of the directions of Honourable Service Tribunal. Thanks a lot

Date: 7-7-2022

✓ your truly,

Shafiq Khan SGT
BHS Darra Adam Khel.

Received
dated 11/7/2022
TSD Darra Adam Khel

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 421/2022



M. Shahid Khan, SCT (BS-16)
GHS, Datta Adam Khel, Kohat

(APPELLANT)

VERSUS

1. The Secretary, Elementary & Secondary Education Khyber Pakhtunkhwa Civil Secretariat Peshawar.
2. The Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. The Additional Director (Merged Districts), Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
4. The District Education Officer, Sub Division Datta Adam Khel, Kohat.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT 1974, AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS OF NOT PROMOTING THE APPELLANT ON THE POST OF SST (BS-16) IN PHYSICS/MATHS GROUP UNDER 40% PROMOTION QUOTA FROM SCT (BPS-16) DESPITE THE AVAILABILITY OF POST IN HIS QUOTA AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD 90 DAYS.

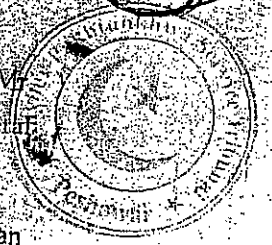
PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY KINDLY BE DIRECTED TO THE CONSIDER THE APPELLANT FOR PROMOTION TO THE VACANT/AVAILABLE POST OF SST BS-16 IN

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

No. 441/22
Shafiq Khan

16



Counsel for the appellant present: Mr. Muhammad Adcel But, Additional Advocate General
for respondents present:

Learned counsel for the appellant submitted an application for amendment of appeal alongwith spare copies. Application is allowed. Amended appeal is placed on file. Notices be issued to respondents for submission of written reply on amended appeal. To come for written reply on 14.11.2022 before S.B.

(Faréha Paul)
Member (E)

Date of Presentation of Petition 14-11-22

Number of Petition 200

Copying Fee 10/-

Charges 9/-

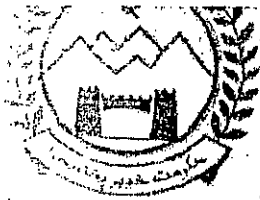
Total 19/-

Number of Copies 1

Date of Submission of Copy 14-11-22

Date of Delivery of Copy 14-11-22

Certified to be true copy
[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



Amad E

(17)

DIRECTORATE OF ELEMENTARY &
SECONDARY EDUCATION KHYBER
PAKHTUNKHWA, PESHAWAR

NOTIFICATION

Consequent upon the advertisement bearing No. INF (P) 6079/2021, and the recommendations of the Department Selection Committee, the following candidates are appointed against the post of SST (G), SST (B/C) and SST (P/M) Male in BPS-16 (Rs. 18910-1520-64510) @ Rs. 18910/- fixed plus usual allowances as admissible under the rules on adhoc / contract basis as per existing policy of the Provincial Government, in Teaching Cadre, on the terms and conditions as given below with immediate effect:

ITEM NO.1. SST (G) MALE (BPS-16)

Roll No	Name of Candidate & Father's Name	D/O Birth	CNIC#	Permanent Address	Acad Marks [out of 100]	ETEA Marks [out of 100]	Total Marks [out of 200]	Remarks
07606	Nadeem Khan S/O Usmai Din	30-04-1993	14301- 3229903-3	Bosti Khel (Dara Adam Khel) Kohat	57.53	78	135.53	Services are placed at the disposal of District Education Officer (M) Kohat for adjustment against vacant post of SST (G)
07605	Muhammad Bilal S/O Akbar Zaman	18-04-1991	17301- 9564636-9	Zarghon Khel Sani Khel, Dara Kohat	63.03	69	132.03	-----do-----

ITEM NO.2. SST (B/C)

Roll No	Name of Candidate & Father's Name	D/O Birth	CNIC#	Permanent Address	Acad Marks [out of 100]	ETEA A Marks [out of 100]	Total Marks [out of 200]	Remarks
07647	Nageeb Ullah S/O Attaullah Khan Afridi	07-04-1995	14301- 6080358-3	Bosti Khel Samandi Mela Kohat	59.79	84	143.79	placed at the disposal of District Education Officer (M) Kohat for adjustment against vacant post of SST (B/C)
07646	Muhammad Hyas Khan S/O Mir Alam Khan	09-12-1991	14301- 7826620-5	Toor Chappar Dara Kohat	63.62	67	130.62	-----do-----

ITEM NO.3. SST (P/M) MALE (BPS-16)

Roll No	Name of Candidate & Father's Name	D/O Birth	CNIC#	Permanent Address	Acad Marks [out of 100]	ETEA Marks [out of 100]	Total Marks [out of 200]	Remarks
71716	Aftab Khan S/O Munawar Khan	13-04-1986	22401- 0414940-5	Zarin Khel Mahammad Khel Dara Kohat	57.7	85	142.7	Services are placed at the disposal of District Education Officer (M) Kohat for adjustment against vacant post of SST (P/M)

Terms and Conditions:-

- The DEO is directed to adjust / post the appointees against the schools / posts already advertised on the web-site of ETEA. No corrigendum against a non-advertised post will

- Charge reports should be submitted to all concerned in duplicate.
1. Appointment is purely made on temporary/contract basis initially for one year with effect from 27-06-2022 to 26-06-2023.
 2. They should not be handed over charge if their age exceed 35 years or fall below 19 years of age. Age relaxation case may be submitted to the Competent Authority.
 3. If any meritorious candidate is deprived of appointment by this order, and the Competent Authority accepts his appeal, the appointment order of the low merit candidate will be with-drawn, and the adjustment order will be reviewed according to the merit.
 4. Appointment is subject to the condition that the certificates / documents must be verified from the concerned authorities by the DEO (concerned). If anyone is found guilty of producing bogus certificate/degree, will be reported to the law enforcing agencies for further action, and his appointment order shall be de-notified from the date of its issuance.
 5. Their services are liable to termination on one month's notice from either side. In case of leaving the department without notice, their one month pay / allowances shall be forfeited to the Government treasury.
 6. Pay will not be drawn until and unless a certificate is issued by DEO (concerned) to the effect that their certificates/degrees are verified and found correct and genuine.
 7. They should join their posts within 30 days of the issuance of this notification. In case of failure to join the post within 30 days, their appointment will expire automatically and no subsequent appeal shall be entertained.
 8. Health and Age certificate should be issued by the Medical Superintendent concerned before taking over charge.
 9. Their services shall be terminated at any time, in case their performance is found unsatisfactory during the contract period, or will be extended for another year if found satisfactory.
 10. The appointment is made on school based. They will have to serve at the place of posting, and their services are not transferrable to any other station.
 11. Before handing over charge, once again their documents may be checked by the Head of the School concerned, and if they have not acquired the relevant qualifications as per rules, they may not be handed over the charge of the post, and the case may be reported to the Directorate of E&SE, for with drawl of order.
 12. The appointees shall take nine (09) Months mandatory training at RPDC/DPD.
 13. The over Age period in respect of Mr. Aftab Khan S/O Munawar Khan SST (P/M) for 08 Months and 16 Days is hereby relaxed.

(Hafiz Dr. Muhammad Ibrahim)
DIRECTOR

Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Order No. 1577-S / F.No. 01/SSTs Contract Appointment (Male)/2022
Dated Peshawar the 24/06/ 2022

Copy of the above is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. District Education Officer (M) Kohat.
3. District Accounts Officer Kohat.
4. PS to the Secretary to Govt. of Khyber Pakhtunkhwa, Elementary & Secondary Education Department.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. Officials concerned.
7. Master File.


Deputy Director (Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa

Armax

(19)

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) KOHAT

NOTIFICATION

Consequent upon the advertisement bearing No. INF (P) 6079/2021 and recommendation of the Departmental Selection Committee, and subsequent appointment order received from Directorate of Elem. & Secy. Education (Khyber Pakhtunkhwa Peshawar for further adjustment vide Endst: No. 6979-85/F.No.01/SSTs contract/Appointment (Male)/2022 Dated Peshawar the 24-06-2022, the following candidates of TSD Darra, Kohat are hereby adjusted to the post of SST (G), SST (B/C), & SST (M/P) Male in BPS-16 (Rs.18910-1520-64510) @ Rs.18910/- fixed plus usual allowances as admissible under the rules on Adhoc/contract basis under the existing policy of the Provincial Government, in Teaching Cadre, on the terms and conditions given below with immediate effect and further adjusted against vacant post in the school mentioned against each.

i) **APPOINTMENT OF SECONDARY SCHOOL TEACHER GENERAL (MALE) BPS-16 ON ADHOC BASIS UNDER 25% OPEN QUOTA**

Sl	Roll No	Name	Father Name	D.O.B	CNIC	Academic Marks	NTS Marks	Total Score	Adjusted at
1.	123696	Nadzem Khari	Usmar Din	30-04-1993	14301-3229903-3	57.53	78	135.53	GHS Guz Darra, Kohat
2.	124205	Muhammad Bilal	Akbar Zamah	18-04-1991	17301-9564636-9	63.03	59	132.03	GMS Jammu, Kohat

ii) **APPOINTMENT OF SECONDARY SCHOOL TEACHER BIO-CHEM (MALE) BPS-16 ON ADHOC BASIS UNDER 25% OPEN QUOTA**

Sl	Roll No	Name	Father Name	D.O.B	CNIC	Academic Marks	NTS Marks	Total Score	Adjusted at
1.	07147	Naqeeb Ullah	Abdullah Khan Afridi	07-04-1995	14301-6080358-3	59.79	84	143.79	GHS Guz Darra, Kohat
2.	07176	Muhammad Ilyas Khan	Mir Alam Khan	09-12-1991	14301-7826620-5	63.62	57	130.62	GHS Darra Adam Khel, Kohat

iii) **APPOINTMENT OF SECONDARY SCHOOL TEACHER MATH-PHY (MALE) BPS-16 ON ADHOC BASIS UNDER 25% OPEN QUOTA**

Sl	Roll No	Name	Father Name	D.O.B	CNIC	Academic Marks	NTS Marks	Total Score	Adjusted at
1.	71715	Arbab Khan	Munawar Khan	13-04-1986	22401-0414940-5	57.7	85	142.7	GHS Darra Adam Khel, Kohat

TERMS AND CONDITIONS:-

- No TA/DA is allowed.
- Charge reports should be submitted to all concerned in duplicate.
- Appointment is purely on temporary & contract basis initially for one year with immediate effect.
- They should not be handed over charge if they exceed 35 years or below 19 years of age. Age relaxation case may be submitted to competent authority.
- If any meritorious candidate is deprived of appointment by this order, and the competent authority accepts his appeal, the appointment order of the low merit candidate will be withdrawn, and the adjustment order will be reviewed according to the merit.

- 6. Appointment is subject to the condition that the certificates/documents must be verified from the concerned authorities by the DEO (concerned), anyone found producing bogus certificate will be reported to the law enforcing agencies for further action.
- 7. Their services are liable to termination on one month's notice from either side. In case of resignation without notice their one month pay/allowances shall be forfeited to the Government.
- 8. Pay will not be drawn until and unless a certificate provided by the DEO (concerned) to the effect that their certificates are verified & found correct & genuine.
- 9. They should join their post within 30 days of the issuance of this notification. In case of failure to join the post within 30 days, their appointment will expire automatically and no subsequent appeal shall be entertained.
- 10. Health and Age certificate should be produced from the Medical Superintendent concerned before taking over charge.
- 1. Their services shall be terminated at any time, in case their performance found unsatisfactory during the contract period or will be extended for another year if found satisfactory.
- 2. The appointment is made on school based. They will have to serve at the place of posting, and their services are not transferable to any other station.
- 3. Before handing over charge, once again their documents may be checked by the Headmasters/Principal (Concerned) and if they do not acquired the relevant qualifications as per rules, they may not be handed over the charge of the post and the case may be reported to Directorate E&SE, for withdrawal of order.
- 4. The appointees shall take nine (09) months mandatory training at RTE Or PITE.
- 5. The over Age period in respect of Mr Aftab Khan S/O Munawar Khan, SST (P/M) for 08 Months and 16 Days is hereby relaxed.
- 6. An affidavit to be given by all appointees to the Head of institutions that they are neither enrolled in any higher studies nor they are employed of any Government/Private organization parallel to the current employment.

(Muhammad Sheraz Khan)
 District Education Officer
 (Male) Kohat

1st. No 3608-13 / Appointment SST-2022

Dated Kohat the 05/07/2022

Copy forwarded for information and necessary action to the:-
 Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
 District Accounts Officer Kohat with the request to release their pay on production of Duty Certificate duly countersigned by DEO concerned.
 PS to the Secretary to Govt. Khyber Pakhtunkhwa E&SE Department
 Principals/Headmasters Concerned.
 Officials Concerned.
 1 / File.

(Signature) 5/7/22
 District Education Officer
 (Male) Kohat

01
 10.1 PUC



(21)

Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar
PH No. 091-9330242 Fax 091-9210936

No. 8269-74 /EM/II M/SD Darra Adam Khel Vol: 01 Dated 12/9/2022

To

✓ *Annex G*

The District Education Officer (Male)
Sub Division Darra Adam Khel.

Subject:

DEPARTMENTAL APPEAL AGAINST THE NOTIFICATION
DATED 24.06.2022

Memo:

I am directed to refer to the subject cited above and to state that the Competent Authority is pleased to reject the appeal in respect of Mr. Shafiq Khan, S.CT (BPS-16), GHS Darra Adam Khel TSD Kohat, keeping in view that no post of a particular station is specified to be filled in under the promotion quota as per the existing rules and policy.

However, whenever the appellant is promoted as per rules and policy, he will be adjusted over there, where the vacant post is available.

12/9/2022
Assistant Director (Estab.)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst. of even No. & Date:

Copy forwarded for information to the;

1. The Section Officer (PE) Elementary and Secondary Education Department Civil Secretariat Khyber Pakhtunkhwa Peshawar w/r to his letter No. SO(PE) E&SED/2-6/DPC/2022 dated 02/08/2022.
2. Deputy Director (Litigation) Local Directorate Peshawar.
3. Deputy Director PSD Local Directorate Peshawar.
4. PA to Director E&SE, Khyber Pakhtunkhwa Peshawar.
5. Mr. Shafiq Khan, S.CT. (BPS-16), GHS Darra Adam Khel SD (Darra Adam Khel) Kohat

Assistant Director (Estab.)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

AMENDED SERVICE APPEAL NO.421/2022

Mr, Shafiq Khan, SCT (BPS-16)
GHS Darra Adam Khel, Kohat.

(APPELLANT)

VERSUS

1. The Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Civil secretariat, Peshawar.
2. The Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. The Additional Director (Merged Districts) Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
4. The District Education Officer, (Male) Kohat.
5. Mr. Aftab Khan SST (BPS-16), GHS Dara Adam khel Kohat

(RESPONDENTS)

AMENDED APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 24.06.2022, WHEREBY THE PRIVATE RESPONDENT NO.5 NAMELY AFTAB KHAN WAS APPOINTED AS SST BPS-16 IN PHYSICS/MATHS GROUP ON PROMOTION QUOTA OF SCT/CT THROUGH INITIAL RECRUITMENT AND AGAINST THE ORDER DATED 05.07.2022 WHEREBY PRIVATE RESPONDENT NO.5 WAS ADJUSTED AT GHS DARRA ADAM KHEL KOHAT AND THE REJECTION MEMO/ORDER DATED 13.09.2022 RECEIVED BY THE APPELLANT ON 05.10.2022, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT THE ACCEPTANCE OF THIS AMENDED APPEAL, THE NOTIFICATION DATED 24.06.2022, NOTIFICATION DATED 05.07.2022 AND MEMO/ORDER DATED 13.09.2022 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY FURTHER BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF SST (BPS-16) IN PHYSICS/MATHS GROUP FROM W.E.F 24.06.2022 UNDER 40% PROMOTION QUOTA OF SCT/CT WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant is well qualified having MSc, MEd degrees and joined the respondent department as CT in the year 1990 and since his appointment he is performing his duty with devotion and honesty, whatsoever, assigned to him and no complaint has been filed against him regarding his performance. (Copy of documents are attached as Annexure-A)
2. That the appellant was promoted to the post of SCT (BPS-16) along with other official vide notification dated 15.04.2014. (Copy of notification dated 15.04.2014 is attached as Annexure-B)
3. That the department issued a notification/Rules on 24.07.2014, wherein the post of SST (BPS-16) can be filled through 75% promotion quota on the basis of seniority-cum-fitness from the concerned districts and 75% was further bifurcate in the manner that 40% from amongst the Senior Certified Teacher (BPS-16) with at least five years service as Senior Certified Teacher and Certified Teacher having qualification of second class Bachelor degree from recognized University from the groups with two subjects with Chemistry, Botany or Zoology or Physics Maths "A" or "B" or Statistics or Humanities or other equivalent groups at degree level with English as compulsory subject and Bachelor of Education or Master of Education. (Copy of notification/rules dated 24.07.2014 is attached as Annexure-D)

4. That the appellant has done BSc degree in the year 1991, but due to requirement of Physics/Maths for promotion to the post of SST (BPS-16), the appellant did Physics as additional subject on 16.11.2020. **(Copies of relevant degree/transcript are attached as Annexure-D)**
5. That the appellant was on the top of the seniority list of SCT (BPS-16) of Physics/Maths group and the post of SST (BPS-16) in Physics/Maths group was vacant in Tehsil Sub Division Darra Adam Khel, which is evident from the statement given by the Education TSD Darra Kohat and detail of vacant post of SST (BPS-16) for advertisement 2021-2022 (Male), but in spite that the appellant was not promoted to the post of SST (BPS-16) on the vacant/available post of SST (BPS-16) in Physics/Maths group in 40% promotion quota of SCT/CT. It is pertinent to mention here that 08 posts of SSTs (BPS-16) in Physics/Maths group were vacant in Sub Division Darra Adam Khel in 2020, but all those posts were filled through initial recruitment. **(Copies of seniority list, detail statement of Education Officer TSD Darra Adam Khel, detail of 01 vacant post of 2021-2022 and detail of vacant post of 2020 are attached as Annexure-E,F,G&H)**
6. That as the appellant is on the top of the seniority list of Physics/Maths group and the post of SST (BPS-16) was also available in the Physics/Maths group, but despite that the appellant was not promoted on the post of SST (BPS-16) in Physics/Maths group, therefore, he filed departmental appeal for promotion to the post of SST (BPS-16) in Physics/Maths group on 13.12.2021, which was not responded within the statutory period of ninety days. **(Copy of departmental appeal is attached as Annexure-I)**
7. That after the lapse of statutory period of ninety days, the appellant filed service appeal in this Honorable Tribunal along with the application for restraining the respondents to make initial recruitment on available one vacant post of SST (BPS-16) in Physics/Maths group in Sub Division Darra Adam Khel till the decision of main service appeal. **(Copy of memo of service appeal along with application is attached as Annexure-J)**
8. That the Honorable Tribunal admitted the case of the appellant on 30.06.2022 and the respondents were directed not to make initial recruitment on the available vacant post of SST (BPS-16) in Physics/Maths group in Sub Division Darra Adam Khel till the

decision of main service appeal on the date fixed i.e 30.06.2022.
(Copy of order sheet dated 30.06.2022 is attached as Annexure-K)

9. That despite the case of the appellant is subjudice before this Honorable Tribunal and respondents were directed not to make initial recruitment on the available vacant post of SST (BPS-16) in Physics/Maths group in Sub Division Darra Adam Khel till the decision of main service appeal, the respondent department appointed private respondent No.5 namely Aftab Khan on the post of SST (BPS-16) in Physics/Maths group through initial recruitment vide notification dated 24.06.2022 without observing 40% promotion quota of SCT/CT and further adjusted him through notification dated 05.07.2022 at GHS Darra Adam Khel Kohat. (Copies of notification dated 24.06.2022 and 05.07.2022 are attached as Annexure-L&M)
10. That the appellant filed C.O.C petition No. 403/2022 before this against the notification dated 05.07.2022, which is still subjudice before this Honorable Tribunal and also filed departmental appeal on 20.07.2022 against the notification dated 24.06.2022 and against the notification dated 05.07.2022 which was rejected on 13.09.2022 and the rejection memo/order dated 13.09.2022 was received by the appellant through Registered Dak on 05.10.2022. (Copies of C.O.C Petition, departmental appeal, rejection memo/order dated 13.09.2022 and Registered Dak are attached as Annexure-N,O,P&Q)
11. That as the respondents department has vacant post of SST (BPS-16) in Physics/Maths group at GHS Darra Adam Khel which fall in the 40% promotion quota of SCT/CT and the appellant has also filed service appeal for directing the respondent to consider him on the available vacant post of SST (BPS-16) Physics/Maths group along with the application for restraining the respondents to make initial recruitment on available one vacant post of SST (BPS-16) in Physics/Maths group in Sub Division Darra Adam Khel till the decision of main service appeal, but the respondent department appointed private respondent No.5 namely Aftab Khan on 24.06.2022 through initial quota and further adjusted him on that post on 05.07.2022, therefore the appellant filed application on 12.10.2022 in this Honorable Tribunal to allow him to amend the instant service appeal to impugn the notification dated 24.06.2022, notification dated 05.07.2022 and rejection memo/order dated 13.09.2022 in the service appeal. The Honorable Tribunal allowed the application of the appellant for amendment of instant appeal on 13.10.2022. (Copies of

application and order sheet dated 13.10.2022 are attached as Annexure-R&S)

12. That now the appellant wants to file this amended service appeal in this Honorable Tribunal for redressal of his grievances on the following grounds amongst others.

GROUND:

- A. That the impugned notification dated 24.06.2022, notification dated 05.07.2022 and impugned rejection memo/orders dated 13.09.2022 received by the appellant on 05.10.2022 are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B. That the appellant is on the top of the seniority list of SCT (BPS-16) in Physics/Maths group and the post of the SST (BPS-16) was vacant at GHS Darra Adam Khel which fall in 40% promotion quota of SCT/CT, but the respondent department appointed private respondent No.5 through initial quota without observing the 40% promotion quota of SCT/CT, which is against the rules and superior court judgments and as such the impugned notification of promotion and adjustment of private respondent No.5 is liable to be set aside.
- C. That in the year 2020, 08 posts of SST (BPS-16) in Physics/Maths group were vacant in the respondent department which were filled through initial quota without observing 40% promotion of SCT/CT and similarly, in the year 2021 when 01 post SST (BPS-16) in Physics/Maths group was vacant in the respondent department and that 01 post of was also filled through initial quota without observing 40% promotion OF SCT/CT, which is against the law and rules,
- D. That the appellant has also filed service appeal before this Honorable Tribunal for directing the respondent to consider him on the available vacant post of SST (BPS-16) Physics/Maths group along with the application for restraining the respondents to make initial recruitment on available one vacant post of SST (BPS-16) in Physics/Maths group in Sub Division Darra Adam Khel till the decision of main service appeal and Honorable Tribunal admitted the case of the appellant on 30.06.2022 and the respondents were also directed not to make initial recruitment on the available vacant post of SST (BPS-16) in

Physics/Maths group in Sub Division Darra Adam Khel till the decision of main service appeal on the date fixed i.e 30.06.2022, but despite that the respondent department appointed private respondent No.5 through initial quota on 24.06.2022 and further adjusted him on 05.07.2022, which is clear violation of the Honorable Tribunal direction dated 30.06.2022.

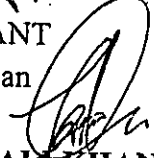
- E. That 01 post of SST (BPS-16) in Physics/Maths group was vacant in the respondent department at GHS Darra Adam Khel Kohat and as per superior court judgments promotion quota should be filled first than the initial quota, but the respondent department without observing first 40% promotion quota of SCT/CT appointed private respondent No.5 through initial quota, which is clear violation of superior court judgments and as such the impugned notifications are liable to be set aside.
- F. That the appellant is at the top of the seniority of Physics/Maths group and the post of SST (BPS-16) in Physics/Maths group was also available in the respondent department and it was his legal right to be promoted him on that available vacant post by observing 40% promotion quota of SCT/CT, but the respondent department appointed private respondent No.5 through initial quota without observing promotion 40% quota of SCT/CT, which is against the norms of justice and fair play.
- G. That depriving the appellant from his legal right of promotion to the post of SST (BPS-16) in Physics/Maths group under 40% promotion quota of SCT/CT by the respondent department by making initial appointment without observing the 40% promotion quota of SCT/CT has damage the service carrier both in monitoring benefits in further promotion chances as well as in future pension.
- H. That not promoting the appellant to the post of SST (BPS-16) in Physics/Maths group on 40% promotion quota of SCT/CT and making appointment on initial quota by the respondents department shows the arbitrariness behavior of the respondents.
- I. That the appellant has not been treated in accordance with law and has been deprived from his legal right of promotion on the post of SST (BPS-16) in Physics/Maths by doing appointment through initial quota without observing 40% promotion quota of SCT/CT.

J. That the appellant seeks permission of this Honourable Tribunal to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the amended appeal of the appellant may be accepted as prayed for.

APPELLANT
Shafiq Khan

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT