

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	29.07.2021	<p style="text-align: center;"><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;">Appeal No. 5238/2021</p> <p style="text-align: center;">Date of Institution.. 06.05.2021</p> <p>Mehrun Nisa D/O Rahim Bakhsh, R/O Zaffarabad Colony, Tehsil and District D.I.Khan. (Appellant)</p> <p style="text-align: center;"><u>Versus</u></p> <p>1. Government of Khyber Pakhtunkhwa through Secretary, E&SE Peshawar and two others. (Respondents)</p> <p>Mr. Nauman Akbar Khan, Advocate. For appellant</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>AHMAD SULTAN TAREEN, CHAIRMAN.</u></p> <p>Through the instant service appeal, the appellant has challenged order dated 28.06.2019, whereby her representation has been rejected. The appellant prayed in the following terms:-</p> <p>(a) To declare the impugned order/Notification No.Endst: No. 5426-34 F.No. 286/Litigation-I/WP No.250-D/2015 Mehrun Nisa Vs. Govt. of KPK/D.I.Khan dated Peshawar the 26.06.2019 as illegal and ab-initio void.</p> <p>(b) To pass a proper termination order of petitioner by the competent authority i.e. respondent No. 3.</p> <p>(c) To allow the appellant to join her services.</p> <p>(d) To issue monthly salaries since April 2010 with all back benefits up till now.</p>



2. I have heard arguments of learned counsel for the appellant and have also gone through the available record.

3. The documents annexed with the appeal would reveal that firstly the appellant approached the Hon'ble Peshawar High Court, D.I.Khan through Writ Petition No. 250-D/2015 for payment of monthly salaries to her since April, 2014 with all back benefits. The Honourable High Court vide order dated 11.03.2021, while treating the Writ Petition as departmental appeal/representation sent the same to the Appellate Authority/Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar for its decision strictly in accordance with law after providing due opportunity of hearing to the petitioner (present appellant) preferably within one month. In compliance with the order dated 11.03.2019, the Appellate Authority constituted a scrutiny committee, the appellant was directed vide letter dated 26.03.2019 to appear before Appellate Authority on 02.04.2019 for personal hearing at 11.00 A.M. The Appellate Authority after personal hearing of the appellant, came to the conclusion that her appointment order against the C.T post at GGMS New Zafar Abad Colony District D.I.Khan was found not only fake and bogus but also not authentic. Her departmental appeal/representation was, therefore, rejected on 28.06.2019.

4. Under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, the appellant should have filed service appeal before this Tribunal within thirty days against the



order dated 28.06.2019 but she filed the present appeal on 06.05.2021, which is hopelessly time-barred. There is no application for condonation of delay annexed with the Memorandum of appeal. During the course of preliminary arguments, learned counsel for the appellant could not explained 22 months and 08 days delay in submission of instant appeal.

5. For what has been discussed above; the appeal at hands is hopelessly time barred and is accordingly dismissed in limine. File be consigned to the record room.

ANNOUNCED
29.07.2021

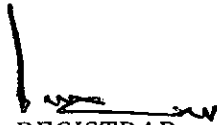


(AHMAD SULTAN TAREEN)
Chairman

Form: A

FORM OF ORDER SHEET

Court of _____

Case No. - _____ /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/05/2021	<p>The appeal of Mst. Mehr-un-Nisa resubmitted today by Mr. Nauman Akbar Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench Peshawar. Notices be issued to the appellants/counsel for preliminary hearing to be put up there on <u>28/07/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mst. Mehr-un-Nisa d/o Rahim Bakhsh r/o Zaffar Abad Colony Dera Ismail Khan received today i.e. on 06.05.2021 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Annexures-B, C, D, E, F and H of the appeal are illegible which may be replaced by legible/better one.
- 2- Annexures of the appeal may be attested.
- 3- Appeal has not been flagged/marked with annexures' marks.
- 4- One more copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 799 /S.T,

Dt. 07/05 /2021

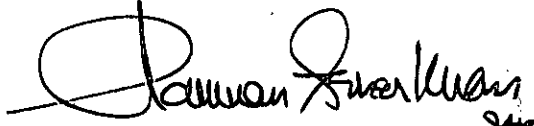

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Nauman Akbar Khan Adv.
High Court D.I.Khan

Respected Sir;

- 1:- That the instant appeal was filed which was returned with above mentioned objection which was received on 19-5-21
- 2:- That all the objection ~~was~~ ^{are} removed and the file is returned back ~~to~~ to the honorable court.

Yours obediently


NA

Nauman Akbar Khan
Advocate High Court
Dera Ismail Khan
Cell # 0300, 0345-5795002

BEFORE THE HONORABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR.

Service Tribunal Appeal No _____/2021

MEHR UN NISA.

VERSUS GOVT OF KP & OTHERS

SERVICE APPEAL

I N D E X

S.No	Description of Documents	Annexure	Page
1.	Grounds of Service Appeal & Affidavit		1-9
2.	Copy of Appointment Order	"A"	10
3.	Service Appeal	"B"	11
4.	Copy of order dated 27-10-2011	"C"	12-26
5.	Copy of Inquiry report	"D"	27-30
6.	Copy of Execution Petition	"E"	31-33
7.	W.P # 481/2014	"F"	34-35
8.	Order dated 03-02-2015	"G"	36-37
9.	Termination Order	"H"	38-41
10.	Salary Slip	"I"	42
11.	W.P # 250/2015	"J"	43
12.	Copy of Order dated 14-03-2019	"K"	44-45
13.	Contempt of Court Petition	"L"	46
14.	Impugned Notification	"M"	47-48
15.	Copy of Order Dated 07-04-2021	"N"	49-51

Dated 05-05-2021

Your Humble Appellant

Mehr un Nisa
MEHR UN NISA

Through Counsel

Mohammad Yousaf Khan
Mohammad Yousaf Khan

Advocate

Supreme Court, Stationed at D.I.Khan

Nauman Akbar Khan
Nauman Akbar Khan

Advocate

High Court, D.I.Khan.

BEFORE THE HONORABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Service Tribunal Appeal No 5238 /2021

Diary No. 5228

MEHR UN NISA.

Dated 06/5/2021

D/O Rahim Bakhsh, R/O Zaffarabad Colony, Tehsil &, District Dera
Ismail Khan. Cell # 0342-099-4300.

(Appellant/Petitioner)

V E R S U S

1. Government of Khyber Pukhtoonkhwa.

Through Secretary, Elementary and Secondary Education Peshawar.

2. Director of Education (E&S).

Khyber Pukhtoonkhwa, Peshawar.

3. District Education Officer (Female).

Dera Ismail Khan.

(Respondents)

SERVICE APPEAL/REPRESENTATION UNDER
SECTION 4 OF THE SERVICE TRIBUNAL ACT(I),
1974 AGAINST THE ORDER/NOTIFICATION NO.
ENDST: NO. 5426-34 F.NO 286/LITIGATION -
I/WP NO 250-D/2015 MEHRU NISA VS GOVT OF
KPK/D.I.KHAN DATED PESHAWAR THE
28/06/2019.

Filed to-day

Registrar

06/05/2021

Re-submitted to -day
and filed.

Registrar

25/5/2021 Prayer;

On acceptance of the instant Appeal/Representation
the Order/Notification No. Endst: No. 5426-34 F.No
286/Litigation -I/WP No 250-d/2015 Mehru Nisa VS
Govt of KPK/D.I.Khan Dated Peshawar the
28/06/2019 may kindly be declared null and void.

The Petitioner, among other grounds, respectfully submits as
under:-

1) **That** the petitioner above named is peaceful, respectable, law abiding and bonafide citizen of District Dera Ismail Khan, Islamic republic of Pakistan. That the petitioner has completed her Academic qualification and was appointed against the vacant posts of CT, BPS 9 at the Government Girls Middle School, Madina Town. Copy of the appointment letter is annexed as **Annexure "A"**.

2) **That** the petitioner challenge her verbal termination before this honorable court annexed as **Annexure "B"** which was accepted and the respondents were directed to re instate the qualified appellants and a speaking order in respect of those who are not found qualified. Copy of the order dated 27-10-2011 is annexed as **Annexure "C"**.

3) **That** an inquiry committee was constituted for digging the fact of valid appointment and illegal appointments if so in the light of order dated 27-10-2011 of this honorable court, and the five members committee duly submitted their report/findings/recommendations. Copy is annexed as **Annexure" D"**.

4) **That** thereafter execution petition was filed wherein the respondents at the bar mislead this honorable court and stated that the respondents implemented the recommendation of the committee and issued orders/letters accordingly. Copy of execution petition order dated 14-03-2012 is annexed as **Annexure "E"**.

5) **That** the petitioner along with other petitioner's instituted writ petition no. 481 of 2014 for issuance of the termination order with all back benefits. Copy of the writ petition is annexed as **Annexure "F"**.

6) That this honorable court was pleased to pass an order and by directing the respondents to hand over the termination letter to the petitioner's as well as copy of the same is to be placed on record of the writ petition no. 481 of 2014. Copy of the order dated 03-02-2015 is annexed as **Annexure "G"**.

7) That the respondents in compliance of the judgment dated 03-02-2015 issued termination orders of other petitioners. Copy of the termination letter is annexed as **Annexure "H"**.

8) That as the petitioner was not terminated, therefore, her name was not available in the list of CT (Female) provided to this Honorable Peshawar High Court D.I.Khan Bench.

9) That the petitioner on 10th April, 2010 received her last payment. Copy of the payment order is annexed as **Annexure "I"**.

10) That the monthly salary of the petitioner is stooped by the respondent's department without any reason.

11) That the petitioner challenge the respondents through writ petition no. 250-D/2015 annexed as **Annexure "J"** which was disposed off with the direction to the petitioner for appearance before the respondent no. 2. Copy of the order is annexed as **Annexure "K"**.

12) That the petitioner again filed a contempt of court petition for not taking up the petitioner case annexed as **Annexure "L"**, wherein the respondent no. 2 against the law and norms of justice reject the appeal of the petitioner through impugned Order/Notification No. Endst: No. 5426-34 F.No 286/Litigation -I/WP No 250-D/2015 Mehru Nisa VS Govt of KPK/D.I.Khan Dated Peshawar the 28/06/2019 annexed as **Annexure "M"**, and this honorable court was pleased to direct



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the petitioner to approach proper forum. Copy of the order dated 07-04-2021 is annexed as **Annexure "N"**.

13) That the respondents all together ignored the rights so guaranteed by the constitution of Islamic Republic of Pakistan, and the respondent no. 2 without law passed the impugned Order/Notification No. Endst: No. 5426-34 F.No 286/Litigation - I/WP No 250-d/2015 Mehru Nisa VS Govt of KPK/D.I.Khan Dated Peshawar the 28/06/2019 hence, having no other alternate remedy, the petitioner is constrained to challenge the same inter alia on the following grounds.

G R O U N D S

1) That the act of the respondent's is against the law, the facts and circumstances of the case and the same amounting to high handedness on the part of the respondents.

2) That the act of the respondent no. 2 is against the law as being the appellate authority was not directly supposed to decide the case of the petitioner but was supposed to referred the same with its findings to the competent authority i.e., respondent no. 3 but astonishingly produced the impugned Order/Notification No. Endst: No. 5426-34 F.No 286/Litigation - I/WP No 250-d/2015 Mehru Nisa VS Govt of KPK/D.I.Khan Dated Peshawar the 26/06/2019.

3) That impugned Order/Notification No. Endst: No. 5426-34 F.No 286/Litigation -I/WP No 250-d/2015 Mehru Nisa VS Govt of KPK/D.I.Khan Dated Peshawar the 26/06/2019 is ab-initio void as again the petitioner grievance were not addressed properly at its proper forum, which otherwise deprived the petitioner for challenging of the same under section 10(4) of the civil servant act 1974, keeping in view that case of the petitioner was sent to the respondent no. 2 by this honorable court, hence

the appellate forum was required to gather the information/recommendation after thorough probe and the same were to be communicated to the proper competent authority for its onward implementation.

4) That since the competent forum as contemplated under section civil service act 1974, has not passed the proper termination order therefore, in its absence the petitioner was deprived from her constitutional as well as legal rights. Furthermore, the impugned order infect is passed by the appellate authority which cannot be challenged as an order of competent authority.



5) That the petitioner was duly appointed by issuing appointment order after all codal formalities. submitted her arrival/duty report to the concerned authorities, in the Government Girls Middle School, Madina Town petitioner had been signing the attendance register. Salary was paid to the petitioner till April 2010, but then the payment of salary abruptly stopped, despite the petitioner was continuing working. If there were any irregularities in the appointment of the petitioner, Departmental Authorities could take action under the relevant Efficiency and Disciplinary Rules and after due process, bring employment of the petitioner to an end, but in the instant case her name is not even mentioned in the termination letter in spite of the fact that the petitioner herself applies to the termination letter if so, otherwise let her do her job with all back benefits.

6) That it is a matter of great concern the petitioner name not reflects in any report which is showing that the petitioner was rightly and validly appointed after all the codal formalities.

7) **That** the petitioner is entitled to receive all the back benefits, i.e., salary along with allowances accrued during the course of litigation.

8) **That** the petitioner is also entitled to rejoin her duties from the date of receiving her last pay and the respondent's are bound to not create any hurdles in the regaining of the petitioner service.

9) **That** due to the aforesaid reason most respectfully it is submitted that the above said acts, of the respondents named above are illegal, unlawful, against the law and clear cut misusing of the powers of being government officials.

10) **That** since there is no other efficacious remedy available to the petitioner, except to file the instant petition.

11) **That** the petitioner above named neither has made any false statement nor has concealed, any fact from this Honorable Court, hence, this petition is being filed before this Honorable Court.

12) **That** counsel of the petitioner may kindly be allowed to raise further grounds during the course of arguments.

It is therefore most humbly requested that by accepting this instant appeal the Honorable Court may be pleased to pass order to the respondents to

- A) *Declare the impugned Order/Notification No. Endst: No. 5426-34 F.No 286/Litigation -I/WP No 250-d/2015 Mehru Nisa VS Govt of KPK/D.I.Khan Dated Peshawar the 26/06/2019 as Illegal and ab initio void.*

- B) Pass a proper termination order of petitioner by the competent authority, i.e., respondent no. 3.
- C) Allow the petitioner to join her services.
- D) Issue monthly salaries since April 2010 with all back benefits up till now.
- E) Pass any such other, orders as this Honorable Court thinks fit and proper in view of the circumstances of the case.

Dated: 05/05/2021 Yours humble petitioner

Mehrunisa

Mehrun Nisa

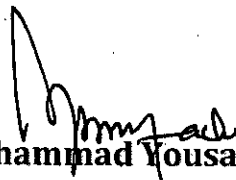
Through Counsel



Nauman Akbar Khan

Advocate

High Court, D.I.Khan.



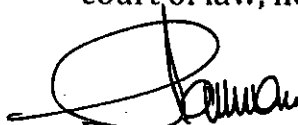
Mohammad Yousaf Khan

Advocate

Supreme Court, Stationed at D.I.Khan

Certificate:

It is to certify that there is no other petition pending before any court of law, nor earlier instituted such kind of petition.



Deponent:

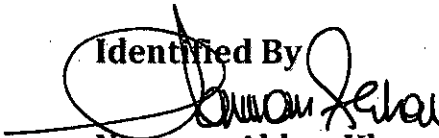
AFFIDAVIT:

I, Ms. Mehrun Nisa D/O Rahim Bakhsh, R/O Zaffarabad Colony, Tehsil &, District Dera Ismail Khan, do hereby affirm on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Mehrunisa

Deponent:

Identified By



Nauman Akbar Khan

Advocate, High Court

stationed at Dera Ismail Khan.

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BEFORE THE HONORABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR.

Service Tribunal Appeal No _____/2021


MEHR UN NISA

V E R S U S

Government of Khyber Pakhtunkhwa & Others.
SERVICE APPEAL

APPLICATION WITH THE REQUEST TO SUSPEND THE
IMPUGNED NOTIFICATION THE IMPUGNED
ORDER/NOTIFICATION NO. ENDST: NO. 5426-34
F.NO 286/LITIGATION -I/WP NO 250-D/2015
MEHRU NISA VS GOVT OF KPK/D.I.KHAN DATED
PESHAWAR THE 26/06/2019 TILL THE DECISION
OF THE MAIN SERVICE APPEAL.

Respectfully Submitted:

- 
- That this instant application is submitting before your honour and may kindly be read as part of the main appeal.
 - That the petitioner has good prima facie case and balance of convenience is also in favour of the petitioner & there is likelihood of success of the service appeal in favour of appellant.
 - That if the operation of the impugned notification dated 28-06-2019 has not been suspended then the appellant will face irreparable loss and the purpose of the main appeal will be infructuous.

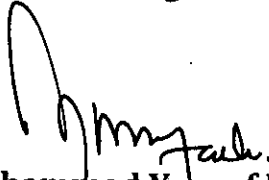
Therefore it is most humbly requested that by accepting the instant application the impugned Order/Notification No. Endst: No. 5426-34 F.No 286/Litigation -I/WP No 250-d/2015 Mehru Nisa VS Govt of KPK/D.I.Khan Dated Peshawar the 26/06/2019 may kindly be suspended till the decision of the appeal.

Dated: 05/05/2021 Yours humble petitioner

Mehrunisa

Mehrun Nisa

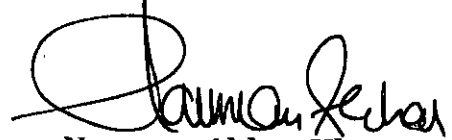
Through Counsel



Mohammad Yousaf Khan

Advocate

Supreme Court, Stationed at D.I.Khan



Nauman Akbar Khan

Advocate

High Court, D.I.Khan.

Certificate:

It is to certify that there is no other petition pending before any court of law, nor earlier instituted such kind of petition.



Deponent:

AFFIDAVIT:

I, Ms. Mehrun Nisa D/O Rahim Bakhsh, R/O Zaffarabad Colony, Tehsil &, District Dera Ismail Khan, do hereby affirm on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Identified By

Mehrunisa

Deponent:



Nauman Akbar Khan

Advocate, High Court

stationed at Dera Ismail Khan.



OFFICE OF THE EXECUTIVE DISTRICT OFFICER, (SCHOOLS & LIT.)
DIKHAN

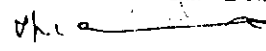
APPOINTMENT ORDER:

Consequent upon the approval of Selection Committee, the following Fresh candidate is hereby appointed against vacant post of CT in the school noted against their name in BPS 9 plus usual allowances being a qualified, fresh candidate as per existing policy in the interest of public service w.e.f. from the date of taking over charge on the following terms and conditions.

<u>S.No.</u>	<u>Name of Candidate with Father's Name</u>	<u>Schools where posted.</u>
1.	Mehrun Nisa D/O Rahim Bakhsh R/O Lachra	G GMS Madni Town

TERMS & CONDITIONS:

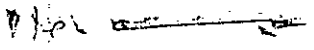
1. Charge reports should be submitted to all concerned.
 2. No pensionary benefit will be available.
 3. The services of the above named candidate is made purely on temporary basis & liable to terminate at any time with out assigning any notice/ reasons.
 4. The candidate will produce Health & Age certificate from the M/S concerned.
 5. The original documents may be checked/verified by concerned Board/ University through DDO concerned before handing over charge.
 6. No TA/DA is allowed.
- These conditions will be implemented w.e.f. 1.10.07


Sd/-
Executive District Officer, EXECUTIVE DISTRICT OFFICER,
Literacy/Education D.I.Khan SCHOOLS & LITERACY DIKHAN

Endst: No. 12551-551 Dated D.I.Khan the 27/7/2007

Copy to the:-

1. Director Schools & Literacy N.W.F.P. Peshawar.
2. District Co-ordination Officer, D.I.Khan.
3. District Accounts Officer, D.I.Khan.
4. Headmistress/ Headmaster concerned.
5. Candidate concerned.


EXECUTIVE DISTRICT OFFICER,
SCHOOLS & LITERACY DIKHAN

B-11

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal no. 2476 of 2010.

Meharun Nisa D/O Rahim Bakhsh R/O D.I.Khan
Madni Town D.I.Khan.



VERSUS

1. Government of KPK through secretary Elementary and Secondary Education Deptt: Peshawar
2. Director Elementary and Secondary Education Deptt: Peshawar
3. Executive District officer, Elementary and Secondary Education Deptt: D I Khan
4. District Coordination Officer, and Secondary Education Deptt. D.I.Khan
5. Account Officer Kechary Road Dera Ismail Khan.

APPEAL AGAINST ILLEGAL AND MALAFIDE TERMINATION DATED 04-09-2009 GIVEN EFFECT DATED; 07-05-2010 FROM SERVICE ON THE BACK OF APPELLANT.

now

That the brief facts of the case are as under:

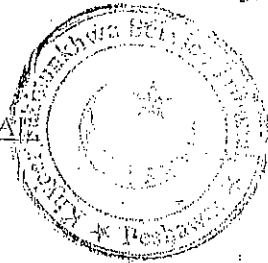
That through a public notice in the daily Mashriq of 7th April 2007, the executive district officer D I Khan invited application for the post of C.T, Drawing Master, Physical Education Teacher, Islamite Teacher, Primary School Teacher and Qari. Advertisement is Annexure A.

2. That the appellant applied and having cleared the test and interview, he was appointed the post of CT in 2007. The orders were Annexure B.

3. That in the NWFP assembly question number 131 was raised with regard to the appointments of appellants and the matter was referred to the standing committee # 26 of elementary and secondary school education department of the provincial assembly, who issued its report. That the provincial Assembly of NWFP adopted the

ATTACHED
KPK Service Tribunal Peshawar

C-12



BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 1407/2010

Date of institution ... 21.07.2010

Date of judgment ... 27.10.2011

Abdul Salam S/o Shah Suliman,
D.I.Khan Ex. P.T.C GPS, Kamal Khel

.. (Appellant)

VERSUS

1. Province of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar.
2. Director of Education (E&S) Khyber Pakhtunkhwa, Peshawar.
3. Executive District Officer (E&S) Dera Ismail Khan.
4. District Coordination Officer, Dera Ismail Khan. ... (Respondents)

APPEAL U/S 4 OF NWFP (KHYBER PAKHTUNKHWA) SERVICE TRIBUNALS ACT 1974 AGAINST IMPUGNED ORDER DATED 04.9.2009, WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM SERVICE, BY THE INCOMPETENT AUTHORITY, DISREGARD OF THE RULES, AND WITHOUT OBSERVING THE LEGAL REQUIREMENTS, AND HIS DEPARTMENTAL APPEAL ELICITED NO RESPONSE WITHIN STATUTORY PERIOD.

1. Shahzada Irfan Zia, Advocate for the appellant
 2. Ashraf Ali Khattak
 3. Ghulam Nabi
 4. Saadullah Khan Marwat
 5. Muhammad Arif Baloch
 6. Muhammad Anwar Awan
 7. Shaukat Ali Jan
 8. Matiullah Rand
 9. Abdul Qayyum Qureshi
 10. Muhammad Ismail Alizai
 11. Abdul-Hamid Khan
 12. Muhammad Waqar Alam
 13. Muhammad Saeed Bhutta
 14. Muhammad Saeed Khan & M. Asghar Khan
 15. Rustam Khan Kundi
 16. Gul Tiaz Khan
 17. Zahid Muhibullah
 18. Khalil-ur-Rehman Hissam
 19. Fazal-ur-Rehman Baloch
 20. Javed Iqbal
 21. Yasir Zakria Baloch
 22. Allah Nawaz, Advocates
- Advocates from S.No.2 to 22 for the remaining appellants.
Mr. Sher Afgan Khattak, AAG. .. For respondents

Nauman Akbar Khan
Advocate High Court
Dera Ismail Khan
Cell # 0300, 0345-5795002

13

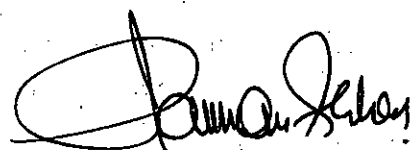
Mr. Qalandar Ali Khan
Syed Manzoor Ali Shah

Chairman
Member

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:- This single judgment is also directed to dispose of the appeals mentioned in the list appended herewith, as common questions of law and facts are involved in all the appeals.

2. In the Daily 'Mashriq' Peshawar dated 7th April 2007, a publication/ advertisement appeared from the Executive District Officer (EDO), E&SE, D.I.Khan, inviting applications for unspecified posts, both male and female, of C.E. Drawing Masters (D.M), Physical Education Teachers (PET), Arabic Teachers (A.T), Islamiyat (Theology) Teachers (TT), Qaris and Primary School Teachers (PST) by 20.4.2007, and alongwith other conditions for selection of the candidates, the minimum qualification for the posts, dates of test and interview as well as places/venues of interview were also mentioned. The record would show that a large number of applications were received. Test and interview were also conducted for the said posts, resulting in appointments not only against the above mentioned posts but also against other posts like Junior Clerks, Lab Assistants and Assistant Store Keeper (M) in the year 2007. However, in the year 2008, a local Member of the Provincial Assembly, raised question No.31 regarding recruitment/appointments made in the Education Department of District D.I.Khan by the EDO D.I.Khan, which was referred to Standing Committee No.26 for Elementary & Secondary Education, by the Provincial Assembly. The Standing Committee deliberated upon the issue, during which the Committee was informed that inquiries had also been conducted into appointments in Education Department of District D.I.Khan and Inquiry Committee/Inquiry Officers have made recommendations for appropriate legal departmental action. After deliberations, the Standing Committee recommended



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that within one month the department should cancel appointment orders of those persons who were illegally appointed during the period between 1st January 2007 and June 2008 and also take stern disciplinary action against officers/officials found involved in illegal appointments. The record further shows that a Writ Petition was lodged in the High Court Bench D.I.Khan, which was accepted and an Hon'ble Bench of the Peshawar High Court D.I.Khan Bench directed the department to act upon the inquiry report dated 05.01.2009 positively within two months from 11.6.2009, where upon the District Coordination Officer (DCO) D.I.Khan passed office order dated 4.9.2009 thereby implementing the decision of the Standing Committee No.26, order of the Peshawar High Court D.I.Khan Bench dated 11.6.2009 and order of the Chief Minister NWFP (Khyber Pakhtunkhwa) contained in the Elementary & Secondary Education Department letter dated 26/8/2009, and terminated services of all the 'illegally/irregularly' appointed teachers, detail of which was given in Annexure to the office order. This office order of the DCO D.I.Khan was followed by a letter dated 7.5.2010 from the DCO (E&SE) D.I.Khan to all concerned for implementation of termination orders issued by the DCO on 4.9.2009, and also a corrigendum on 20.5.2010 thereby terminating all the personnel appointed from January 2007 to 30th June 2008 except 131 (F)PST, 309 (M) PST - deceased son quota, disabled quota and minority quota in the light of decision of the Peshawar High Court, D.I.Khan Bench. It is against the said order of DCO D.I.Khan that the appellant in the instant appeal as well as appellants in the connected appeals, listed in the enclosed list, first preferred departmental appeals and then lodged these appeals. In the meantime, some of the appellants had also approached Peshawar High Court, D.I.Khan Bench and had filed Writ Petitions which were returned to the petitioners for presentation to the proper forum (KPK Service Tribunal) if they so desire, vide order dated 29.4.2010. The petitioners moved the august Supreme Court of Pakistan wherefrom the petitions were withdrawn and consequently dismissed by a Hon'ble Bench of



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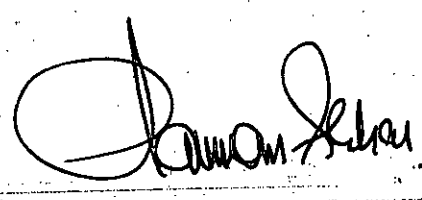
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August Supreme Court of Pakistan vide order dated 28.6.2010 with the observation that if the petitioners approached proper forum for redressal of their grievances, the question of limitation be considered sympathetically if so raised. There-after, the appellants started lodging these appeals one by one, inter-alia, on the grounds that the impugned order dated 4.9.2009 was void, illegal and without jurisdiction because DCO D.I.Khan was not competent to terminate the services of officials in BPS-1 to BPS-10; that the DCO did not apply his independent mind and just acted upon the direction of Chief Minister and recommendation of a politically constituted Standing Committee; that before passing the impugned order, legal requirements were not fulfilled and the appellants were terminated from service without any charge sheet and/or show cause notice; that no chance of personal hearing was afforded to the appellants before passing the impugned order, hence they were condemned unheard; that even during the course of successive inquiry proceedings, the appellants were not associated to justify their respective position and thus the entire proceedings were conducted ex-parte; and that if there was any fault or lapse on the part of the department in the selection process, the appellants should not have been punished for the same.

3. It may be mentioned here that quite a number of affectees of the impugned termination order had also approached this Tribunal in the year 2009 and vide order dated 10.2.2009, this Tribunal had disposed of around 49 appeals with direction to the Secretary to Government of NWFP (S&L) to constitute a committee of experts of his department and, if need be, of the Establishment Department and Finance Department, to consider the cases of all the appellants named in the order as well as cases of all similarly placed persons, and decision regarding the same be given at the level of the competent authority, so that the parties are saved from unnecessary litigation, in the interest of justice, and in the interest of public work. It was expected that such a committee would be in a position to finalize its findings, and the competent authority may be in a position

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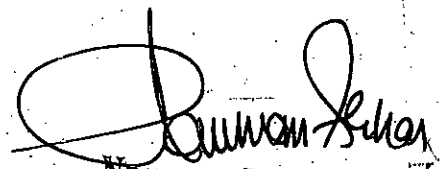


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to grant a decision in these cases, within a period of three months from the date of delivery of the order. The said order was not implemented within the specified time, therefore, implementation petitions were lodged, wherein directions were accordingly issued to the department for implementation of the order, following which, a committee comprising a Chairman and three other Members was constituted, which conducted its proceedings and submitted its report, which has been kept in the office record, while a copy of report/findings/recommendations has been placed on this file. The Scrutiny Committee concluded that appointments of all the appellants, except that of Shahana Niazi D/o Ghulam Sadiq (Service Appeal No.2177/2010), were illegal and irregular. The report/findings/recommendations of the Scrutiny Committee reveals appointments of more than two thousand teachers of various categories against following 1390 sanctioned posts:-

PST	961
AT	61
TT	59
Qari	50
CT	171
DM	43
PET	45
Total	1390

4. The respondents defended the impugned termination order and resisted the appeals on several legal and factual grounds including the one that the services of a civil servant can be terminated without notice during the initial or extended period of his probation under section 11(i) of the NWFP (Khyber Pakhtunkhwa) Civil Servants Act, 1973. They alleged, in their written reply/comments, that the appellants were neither eligible/qualified for the posts, nor requisite codal formalities for appointment were observed, hence the appointments were illegal and fake. They contended that more than one inquiries were conducted and the matter was taken up in the Provincial Assembly and that it was recommended as a result of inquiries as well as by the Standing


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Committee, recommendations of which were unanimously adopted by the Provincial Assembly, to terminate the services of all persons illegally appointed. They maintained that all the appointments were found illegal and in violation of recruitment policy except 309 (M) and 131 (F) PST. They concluded that the decisions of the Inquiry Committees and recommendations of the Standing Committee, adopted unanimously by the Provincial Assembly, were also confirmed by the Chief Minister as well as by the Peshawar High Court D.I.Khan Bench, which were followed by the DCO by terminating the services of all those persons who were illegally/irregularly appointed and that the order of DCO was also followed by corrigendum issued by the EDO.

5. Arguments of the learned counsel for the appellants and learned AAG heard, and record perused.

6. The main thrust of the arguments of the learned counsel for the appellants was against the impugned order dated 4.9.2009 of the DCO D.I.Khan, which was a general order in all the cases of 'illegal/irregular' appointments. The objections to the impugned order were two-fold. Firstly, the order was general in nature on the direction/recommendation of the Standing Committee of the Provincial Assembly without application of mind to each and every case, and thereby services of around 1613 male and female teachers of various categories were terminated with one stroke of pen; and, secondly, the order was passed by the DCO D.I.Khan who was not appointing authority for employees in BPS-1 to BPS-10, and thus not competent to dispense with their services. The learned counsel further laid stress on the non-observance of codal formalities essentially required for termination of services of civil servants, like service of charge sheet and/or show cause notice and providing them opportunity of defence and hearing. They also alleged non-association of appellants in the inquiry proceedings conducted in the matter. The learned counsel contended that the appellants were appointed after qualifying test and interview for the posts conducted in pursuance of



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advertisement/publication made in the newspaper by the department/authority and after their applications for the posts were found in order by the department. They maintained that the appellants had joined service and performed their duty without any complaint about their performance from the quarter concerned.

7. The learned AAG assisted by the representatives of the department vehemently contested claim of the appellants/counsel for the appellants and argued that the appointments were made without first obtaining proper sanction of the posts, without advertisement, and without observance of the codal formalities including test and interview, preparation of merit list, and its approval by the competent authority. It was argued on behalf of the department that some of the appointments were made even before advertisement, without specifying the posts against which the appointments were being made and without checking whether the educational qualification of the candidates fulfilled the academic requirements for the posts. It was pointed out that all 440 PSTs appointed on merits and after observance of codal formalities were retained, while the rest appointed, 'illegally/irregularly' were terminated as a result of more than one inquiries, recommendation of the Standing Committee, and orders of the Chief Minister as well as Peshawar High Court, D.I.Khan Bench. It was alleged on behalf of the department that the competent authority i.e. EDO D.I.Khan not only endorsed the impugned order of DCO D.I.Khan dated 4.9.2009 but also issued a follow up letter dated 7.5.2010 and corrigendum on 20.5.2010. They further pointed out that none of the appellants was in possession of proper documents showing his eligibility for the post, and also proper appointment order against the post. They concluded that the appointments of the appellants have been found by various legal and constitutional forums as illegal/irregular, besides fake in most of the cases.

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8. From whatever has been narrated above, as well as from perusal of the record, the following points emerge which are critically important for determination of fate of these appeals:-

- (a) The services of the appellants, appointed in 2007, were dispensed with vide a general order of the DCO D.I.Khan dated 4.9.2009, against which some of them preferred departmental appeals and then lodged appeals in the Tribunal, which were disposed of vide order dated 10.2.2009, while the rest moved the Peshawar High Court D.I.Khan Bench in writ jurisdiction, but their writ petitions were returned to them for presentation to the proper forum vide judgment/order dated 29.4.2010, against which petitions were moved in the august Supreme Court of Pakistan, which were dismissed as withdrawn with the observation that if the petitioners/appellants approached the appropriate forum for redressal of their grievances, the question of limitation be considered sympathetically if so raised. Not only that the question of limitation has not been raised so vehemently by the department, the appellants have also been vigilantly pursuing their case, albeit in the wrong forum, therefore, the appeals lodged in the Tribunal after disposal of their petitions by the august Supreme Court of Pakistan cannot be held as time-barred, especially when the august Supreme Court of Pakistan directed for sympathetic consideration of the question of limitation, together with certain facts of the case warranting interference by the Tribunal. Besides, the impugned order has been issued by the DCO D.I.Khan who was not appointing authority of civil servants in BPS-1 to BPS-10, and, as

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such, the impugned order would be deemed to be an order by an authority not competent to issue the order, and, as such, void; and no limitation would run against such order (2007.SCMR 262 (g) and PLJ.2005 SC 709 (Appellate Jurisdiction).

(b) The posts of Junior Clerks, Lab.Assistants and Assistant Store Keeper (M) were never advertised, and, as such, no codal formalities were observed for appointment of 14 Junior Clerks, 03 Lab.Assistants and one Assistant Store Keeper. Their appointments were, therefore, aptly termed as illegal/irregular, and, consequently, their services have rightly been terminated, as appointments secured through illegal/irregular orders would be void ab-initio and would not confer any right on the holders of such appointment orders. Their appeals also deserve to be dismissed on this score.

After painstaking exercise in pursuance of the order dated 20.01.2011 in one of the implementation/execution petitions, for which the then Secretary Education, Mr.Muhammad Arifeen Khan, and his team genuinely deserve commendation, the Scrutiny Committee prepared a detailed report, stretching over hundreds of pages, wherein they held only the appointment of PST Shahana Niazi D/o Ghulam Sadiq (Service Appeal No.2177/10) according to the prescribed procedure, as her name also appeared in the merit list, and recommended her reinstatement into service. The respondent-department also did not contest her appeal in the manner they contested appeals of other appellants. Therefore, her appeal deserves to be accepted.

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(d) Regarding the remaining cases, the respondents have resisted the appeals on the grounds that neither the posts on which appointments of the appellants were made were sanctioned before advertisement, nor the appellants qualified or were eligible for the posts, and codal formalities like test and interview, preparation of merit list and approval of competent authority were not observed; but these assertions of the respondents are belied by the available record as well as some documents produced by the appellants/counsel for the appellants alongwith a joint affidavit by Muhammad Ayub Khan, SET GHS Panyala and Abdullah TT GHS Panyala who performed duty during test and interview of the appellants on 24th, 25th and 26th April 2007, during the course of arguments, showing constitution of committees for conducting test and interview, preparation of merit list after test and interview, besides revealing some cases in which the candidates other than those claimed by the respondents to have been appointed on merit secured more marks than the latter. So far sanction prior to advertisement/publication is concerned, it was duty of the authority to secure the requisite sanction prior to advertising/publicizing the posts for inviting applications, and the appellants can, by no stretch of imagination, be held responsible for any fault/lapse in this respect on the part of the authority i.e. EDO D.I.Khan. Notwithstanding the fact that appellants have placed on file verification of the certificates/testimonials of some of the appellants by the respondent-department, even if some irregularity was found in the appointments, the appellants/appointees should

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not be made to suffer for such lapses on the part of the appointing authority (1996 SCMR 411 (Supreme Court of Pakistan), 2004 SCMR 303 (Supreme Court of Pakistan), 2006 SCMR 678 (Supreme Court of Pakistan), PLJ 2006 SC 81 (Appellate Jurisdiction), PLJ 2011 Lahore 736 (Multan Bench Multan), and last but not the least 2011 SCMR 1581 (Supreme Court of Pakistan).

- (e) It is a matter of record that not in a single inquiry out of so many inquiries by the department, the then EDO D.I.Khan has been confronted with his signatures on appointment letters, so conveniently termed by the respondent-department as bogus and fake. When the 'authority' has never and no-where disowned his signatures on such appointment letters, how the same can be held as bogus and fake. No-doubt, the record shows departmental proceedings against the then EDO, and major penalty of compulsory retirement has been imposed upon him, but only after causing colossal loss to the national exchequer, for which he must be made accountable and also made to make good the loss so caused to the public money, and also landing hundreds of jobless persons in deep trouble by forcing them to engage in protracted litigation, during which they have not only been robbed of whatever money was left with them after securing the jobs; while he himself enjoying post retirement life with all perks and privileges. In view of implications/consequences of the acts on the part of the then EDO D.I.Khan, the penalty imposed on him does not appear commensurate with the gravity of his guilt, but since that matter is

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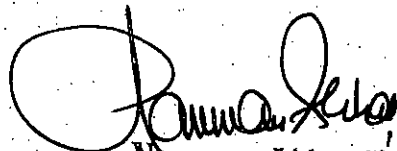
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not before us, we would stop short of making any order with respect to the departmental proceedings against him, but would, indeed, direct the respondent-department to recover the pay/salary paid to the illegally/irregularly appointed persons from the pension etc. of the then EDO instead of burdening the public exchequer for illegal/irregular acts on the part of the then EDO D.I.Khan.

(D) No-doubt, an illegal/irregular and an order void ab-initio would not confer a right on the holder of such order, but an order passed by a competent authority in the discharge of his duty after observance of codal formalities does confer right on the holder of such order to be heard in support of order in his favour and his case decided on merit instead of a general order on the direction of some outside authority. If authorities are needed, one can readily refer to a number of cases including cases reported as 1995 PLC(C.S) 419 (Lahore High Court), 2005 SCMR 1814 (Supreme Court of Pakistan), 2006 PLC (C.S) 1140(Northern Areas Chief Court), 2005 SCMR 85 (Supreme Court of Pakistan), 1987 PLC (C.S) 868 (b), 2007 SCMR 330 (Supreme Court of Pakistan), 2008 PLC (C.S) 582 (Northern Areas Chief Court), and 2007 MLD 703 (Lahore). Undoubtedly, notices were not issued to the appellants prior to the impugned order by the DCO D.I.Khan, and they were never provided opportunity of hearing either by the 'authority' prior to passing of the impugned order or during inquiry/ scrutiny proceedings by several committees during the pre and post period of impugned order. As such, the principle of audi-alteram partem was violated at all levels and at all stages, rendering the impugned

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order void and invalid, in respect of those who were found eligible for the posts after observance of codal formalities.

(g) There is no dispute that in the case of appointments, in BPS-1 to BPS-10, the appointing authority, in view of notification of the Provincial Government dated 7th October 2005, was EDO and thus also competent authority for disciplinary matters; whereas the District Coordination Officer was appointing authority for officials in BPS-11 to 15; therefore, the impugned order in respect of the appellants issued by the DCO D.I.Khan was an order by an incompetent authority and not sustainable in law as held in cases reported as 1983 PLC (C.S) 354 (Service Tribunal Punjab), 2001 PLC (C.S) 1097, 2008 PLC (C.S) 949 (Lahore High Court) and 1985 PLC (C.S) 1002. The contention of the respondents was that the competent authority i.e. EDO D.I.Khan not only endorsed the impugned order issued by the DCO D.I.Khan and issued a letter for implementation of termination order but also issued corrigendum thereby terminating the services of the appellants. Apart from the fact that endorsement of the order of an incompetent authority by the competent authority and follow up letter by him would not validate a void order issued by an incompetent authority, the corrigendum issued after more than 8 months of the impugned order would also not serve any useful purpose in view of PLD 2000 SC 104, as after issuance of termination order the department had become functus-officio.

(h) It was urged on behalf of the respondents that recommendations of the Standing Committee of the Provincial Assembly assumed legal

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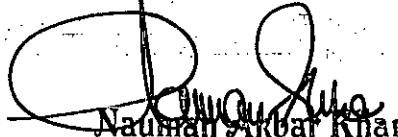

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status following judgment/order dated 11.6.2009 of the Peshawar High Court, D.I.Khan Bench, whereby a clear direction was issued to act upon the inquiry report, but they lost sight of the fact that no direction of any authority could absolve the departmental authority from following the law/rules on the subject and fulfill necessary legal requirements before passing the impugned order.

9. As a sequel to the foregoing discussion, we would make the following order:-

- (i) All the appeals of Junior Clerks, Lab. Assistants and Assistant Store Keeper(M) are dismissed with costs, being devoid of merit.
- (ii) The appeal of Ms. Shahana Niazi (Service Appeal No. 2177/10) is accepted, and by setting aside the impugned order, she is reinstated in service with consequential/back benefits.
- (iii) The appeals of the rest of the appellants including PSTs(M&F), CTs(M&F), PETs(M&F), DMs(M&F), ATs(M&F), TTs(M&F) and Qaris (M&F) are also accepted and impugned termination order in their cases set aside, but instead of their outright reinstatement, their cases are remanded/sent back to the Secretary, Elementary & Secondary Education Department, Peshawar (Respondent No.1) for reconsideration of the cases in the light of above observations for reinstatement of the qualified appellants and a speaking order in respect of those who are not found qualified, by the competent authority, after affording opportunity of hearing to the said appellants through an efficient and fair mechanism to be evolved for the purpose by him so as to ensure compliance with the mandatory legal requirements on the one hand

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and integrity of the proceedings on the other hand. Since the matter has already been delayed inordinately, it is expected that the proposed exercise should not take more than three months, whereafter a progress report be submitted to the Registrar of the Tribunal.

(iv) The respondent-department should also look into claim of those appellants who have alleged performance of duty for considerable time after their appointment, and if they are found to have actually performed duty for certain period, and, as such, entitled to pay/salary for the period of the duty, legal procedure should be adopted for recovery of their claims from the then EDO D.I.Khan who has already been held responsible for appointments in question as a consequence of departmental proceedings against him.

ANNOUNCED
27.10.2011

Sd/- Baland Ali Khan
Chairman
Sd/- Syed Mansoor Ali Shah
Member

Certified to be true copy
Khan
Service Tribunal
Peshawar

Date of Presentation of Application 15-1-2014
Number of Wards 6000
Copying Fee 32
Urgent 2
Total 34
Name of Copyist [Signature]
Date of Completion of Copy 15-1-2014
Date of Delivery of Copy 15-1-2014

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MOST IMMEDIATE/COURT CASES

GOVERNMENT OF KHYBER PAKHTUNKHAWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

No.SO(Lit) E&SED/1-3/2011
Dated Peshawar, the 26.01.2012

To

The Executive District officer,
Elementary & Secondary Education
D.I Khan.

Subject:- INQIRY REPORT REGARDING THE KHYBER
PAKHTUNKHWA TRIBUNAL JUDGEMENT DATED 27-10-2011 ON
SERVICE APPEAL NO.1407/2010 AND OTHER CONNECTED
APPEALS ON ILLEGAL/IRREGULAR APPOINTMENTS IN DISTRICT D.I
KHAN.

I am directed to refer the subject noted above and to enclose herewith a copy of the inquiry report regarding the judgment dated 27-10-2011 in Service appeal No. 1407/2010 and other connected appeals on illegal irregular appointments in District D.I Khan for necessary action and strict compliance in letter and spirit under intimation to this department and all other concerned.

Enclosure (As above)

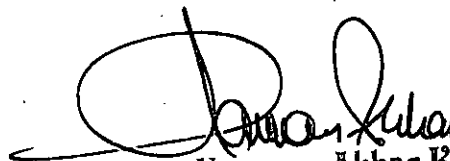
SECTION OFFICER (LITIGATION)

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Copy is forwarded for information to:-

1. Registrar Khyber Pakhtunkhawa Service Tribunal, Peshawar.
2. Director E&SE Khyber Pakhtunkhawa, Peshawar.
3. D.C.O D.I Khan.
4. P.S to Secretary E&SE Department.

SECTION OFFICER (LITIGATION)


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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

REPORT/FINDINGS/RECOMMENDATIONS/
OF THE COMMITTEE WITH REFERENCE TO SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY AND
SECONDARY EDUCATION DEPARTMENT NOTIFICATION NO SO
LITIGATION/E&SE/1-3/2011 /D.I.KHAN DATED 29.11.2011 IN
PURSUANCE OF KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
ORDER DATED 27.10.2011 ON SERVICE APPEAL NO 1407/2010
AND OTHER CONNECTED APPEALS.


INTRODUCTION:

In pursuance of the judgment of Khyber Pakhtunkhwa Services Tribunal dated 27.10.2011 in Service Appeal No 1407/2010 Abdusl Salam versus Province of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education and the others connected Service appeals, (Annexure-A), and judgment dated 16.12.2011 2011 in Service Appeal No 3052/2010 Lubna Sadia versus Province of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Secretary Elementary and Secondary Education Department Khyber Pakhtunkhwa constituted a Committee vide Notification No SO Litigation/E&SE/1-3/2011 /D.I.Khan dated 29.11.2011 comprising of the following for reconsideration of the cases in light of the judgment of the Honourable Services Tribunal vide (Annexure-B)

1. Secretary) E&SE Department (Chairman).
2. Director (E&SE) Khyber Pakhtunkhwa, Peshawar (Member).
3. Abdul Wali Khan Dy Director (E&SE) (Member).
4. Ghulam Qasim EDO (E&SE) Tank. (Member).
5. Feroz Hussain Shah EDO (E&SE) DI Khan (Member).
6. Mushraf Ali AD (F&A) E&SE (Member).

TOR:

- To examine the appeals of the rest of the appellants including PST(M&F),CT(M&F),PET(M&F),DM(M&F),AT(M&F),TT(M&F) and Qaris (M&F) in the light of the judgment of Khyber Pakhtunkhwa Services Tribunal dated 27.10.2011 in Service Appeal No 1407/2010 and the others connected Service appeals.
- To examine, scrutinize the record of local office D.I.Khan regarding the appointments in the year 2007-08.


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Departmental Selection Committee after the vacancies have been advertised in the newspapers"

- 6. In case of appointment of the applicants the vacancies were not advertised and Departmental Selection Committee has not recommended the applicants for the appointment.
- 7. Appeals being merit less deserve to be dismissed on the analogy of the decision of the Khyber Pakhtunkhwa Services Tribunal decision under Para-9 (i) read with Para-8(b).

RECOMMENDATIONS:

The Committee heard personally and scrutinized the record and appeals of terminated PST (M&F), CT (M&F), DM (M&F), PET (M&F), AT (M&F), TT (M&F), Qari (M&F) teachers/officials lying in the office of the Executive District Officer (E&SE) D. I. Khan on case to case basis in accordance with Khyber Pakhtunkhwa Services Tribunal order dated 27.10.2011, and segregated /check/scrutinize their cases on the basis of different categories of Teachers/officials from 19.12.2011 to 24.12.2011,

All the appointments of the appellants against the posts of PST (M&F), CT (M&F), DM (M&F), PET (M&F), AT (M&F), TT (M&F), Qari (M&F) appended under various categories from S.No 1 to 41 have been made without observing code of formalities/procedure, Government Policy and Merit and in violation of Rule 10(2) of the NWFP (now Khyber Pakhtunkhwa) Civil Servants (Appointment, Promotion and Transfer Rules 1989. The appointments of the appellants are declared illegal and irregular. Cases being merit less deserves to be terminated. The following steps are recommended to be taken.

- a. Executive District Officer Elementary and Secondary Education D I Khan is required to issue proper termination orders of the above appellants and similar cases listed above under various categories PST (M&F), CT (M&F), DM (M&F), PET (M&F), AT (M&F), TT (M&F), Qari (M&F) teachers in the findings from S.No.1-41 excepts those who were working on lower posts and were appointed on higher posts in other categories, they may be reversed to their original posts.
- b. Executive District Officer Elementary and Secondary Education D I Khan is further required to release/activate the pay of those PST Male who were appointed on merit included in the joint appointment order of 309 candidates dated 02.07.2007 and PST Female who were appointed on merit included in the joint appointment order of 131 candidates dated 02.07.2007. (Annexure- E-1).
- c. Executive District Officer Elementary and Secondary Education D I Khan is required to advertise the vacant posts immediately and complete the recruitment process before 15 March, 2012 and the terminated teachers may be provide opportunity to compete if otherwise they have the qualification required for the post and further they may be awarded extra 2 marks per year of span of service rendered if they actually performed duty after appointment.
- d. District Coordination Officer D I Khan is required to recover the claim of appellants who have alleged performance of duty for the considerable

Nauman Akbar Khan
Advocate High Court
Dera Ismail Khan
Cell # 0300, 0345-5795002

time after their appointment and they have actually performed duty for certain period to be calculated by Executive District Officer Elementary and Secondary Education D I Khan through legal procedure in accordance with Khyber Pakhtunkhwa Services Tribunal order dated 27.10.2011.

[Handwritten signature]

1. Syed Feroz Hussain Shah
Executive District Officer
E & S E D I Khan (Member)

2. Ghulam Qasim
Executive District Officer
E & S E Tank (Member)

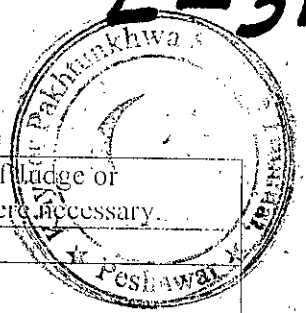
3. A-Wali Khan
Dy Director E&SE
Khyber Pakhtunkhwa.
(Member)

4. (Muhammad Rafiq Ichattal)
Director,
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.
(Member)

[Handwritten signature]
5. Muhammad Mushtaq Jadoon)
Secretary
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.
(Chairman)

[Handwritten signature]

Nauman Akbar Khan
Advocate High Court
Dera Ismail Khan
Cell # 0300, 0345-5795002



S.No.of Order or proceedings	Date of Order or proceeding	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
1	2	3
	14.03.2012	<p style="text-align: center;"><u>Execution Petition No.34/12</u></p> <p><u>Muhammad Hassan Khan etc..... (Petitioners)</u> <u>Versus</u> <u>Secretary, E&SE Department, KPK.etc. (Respondents).</u></p> <p>Counsel for the petitioners, Mr.Muhammad Rafique-Khattak, Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and Syed Feroz Hussain-Shah, EDO(E&SE) D.I.Khan in person alongwith Mashat Khan, L.O and Muhammad Nawaz, ADO on behalf of the respondents with AAG present. The respondents have already provided implementation report, which has been perused in the light of judgment of the Tribunal. The implementation report would show that after providing opportunity of hearing to the petitioners and appellants in the connected appeals, and scrutinizing record on case to case basis, the Committee made certain recommendations including issuance of termination/removal orders of those found illegally appointed and reversion to lower posts of those who were appointed on higher posts in other categories, and also releasing/activating pay of those PSTs (Male) and (Female) who were found validly appointed on merit. The Director (E&SE) KPK and EDO (E&SE) D.I.Khan stated at the Bar that they have already implemented recommendations of the Committee and issued the orders/letters accordingly, in accordance with the recommendations and letter and spirit of the judgment of the Tribunal dated 27.10.2011 in Service Appeal No. 1407/2010 titled 'Abdul Salam-vs-Province of KPK through Secretary, Elementary & Secondary Education, Peshawar etc.'. Be that as it may, the fact remains that in accordance with the afore-</p>

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ATTESTED

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EX-MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

mentioned judgment of the Tribunal, the respondent-department not only widely publicized hearing of cases of the petitioners and other appellants through publication in the newspapers but have also prepared list of those who appeared before the Committee in response to the publication and obtained their signatures on the list. The learned counsel for the petitioners also confirmed holding of meeting by the Committee at D.I.Khan and participation of the petitioners and other connected persons in the proceedings of the Committee. The implementation report also shows that each and every case has been examined by the Committee after providing opportunity of hearing to the petitioners/appellants, and in pursuance of such proceedings, recommendations have been made by the Committee which are being implemented by the respondent-department. In short, in accordance with the judgment dated 27.10.2011 of the Tribunal, the Secretary, E&SE, KPK, Peshawar (Respondent No.1) constituted a Committee, headed by him, and comprising five other officers of the Education Department including Director, E&SE, KPK, Peshawar and EDO(E&SE) D.I.Khan, conducted proceedings at D.I.Khan after widely publicizing the same through newspapers and thereby ensuring participation of the petitioners and other appellants and providing opportunity of hearing to them and also scrutinizing cases of the petitioners and other appellants on case to case basis and thereafter making certain recommendations which are being implemented through issuance of appropriate orders. As such, the judgment of the Tribunal stands implemented in its letter and spirit.

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ATTESTED


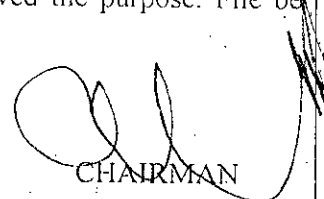
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

The learned counsel for the petitioners, however, raised

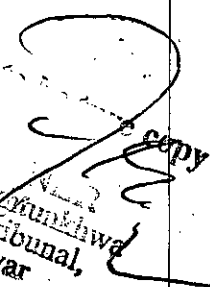
objections regarding the proceedings conducted by the Committee; but he was unable to augment his contentions in this regard with support of law; as fresh orders in pursuance of the proceedings and recommendations of the Committee would accrue a fresh cause of action for appeal or any other remedy prescribed by the law, which is, certainly, beyond the scope of the implementation/execution proceedings. The misgivings, probably, emanate from lack of knowledge about proceedings of the Committee, which have been provided to the Tribunal in the shape of a book, but not available either with the counsel for the petitioners or petitioners and other appellants. Therefore, the respondents are directed to place the report on the website of the department so that the petitioners, appellants and all concerned should get knowledge of the proceedings and recommendations and chalk out future course of action in accordance with law. The respondents are further directed to ensure compliance with the recommendations of the Committee forthwith, without further wastage of time, so that the aggrieved persons can seek remedy available to them under the law.

In view of the above, the implementation/execution petition is disposed of as having served the purpose. File be consigned to the record.

ANNOUNCED
14.03.2012

MEMBER  CHAIRMAN 

Date of Presentation of Application 19-3-12
 Number of Copies 1200
 Copying Fee 800
 Urgent 800
 Total 800
 Name of Copyist _____
 Date of Completion 20-3-12
 Date of Delivery 20-3-12

Certified 
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

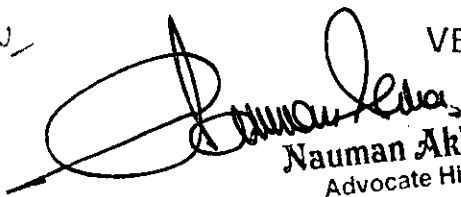
F-34

BEFORE THE PESHAWAR HIGH COURT BENCH DERA ISMAEL KHAN

Writ petition No. 481 of 2014.

1. Tahir Bashir S/O Sheikh Abdul hanan R/O Mohallah Kidmatgara Wala D.I.Khan.
2. Mohammad Kamran S/O Abdul Razaz R/O Mohallah Shew Shah D.I.Khan.
3. Shahid Nawaz S/O Rab Nawaz R/O Mohallah Qureshian Wala D.I.Khan.
4. Mohammad Ramzan S/O Mohammad Ashiq R/O Mohallah Juma Shah D.I.Khan.
5. Mohammad Azhar S/O Mohammad Akram R/O Shor Kot D.I.Khan.
6. Mohammad Ramzan S/O Mohammad Hakim R/O Yarik D.I.Khan.
7. Abdul Ghafar S/O Sona Khan R/O Yarik D.I.Khan.
8. Razia Sultana D/O Gulzar Khan R/O Shiekh Yousaf D.I.Khan.
9. Naeema Sadia D/O Khuda Baksh R/O Mohallah Qasaban D.I.Khan.
10. Shazia Malik D/O Ghias- Ul- Haq R/O Nad Ali Shah D.I.Khan.
11. Mehr-un-Nisa D/O Rahim Baksh R/O Zafar Abad Colony D.I.Khan.
12. Rehana Andaleeb W/O Iftakhar Hussain R/O Zafar Abad Colony D.I.Khan.
13. Inam Ullah S/o Abdul Razzaq R/O Rorri Tehsil Kulach D.I.Khan.
14. Mohammad Ali Abbas S/O Riaz Hussain R/O Mohallah Molvi Ahmad Sahib D.I.Khan.
15. Mohammad Asif Rizwan S/O Mohammad Aslam Khan R/O Mohallah Kumhran Wala D.I.Khan.
16. Mohammad Sohail S/O Abdul Majeed R/O haroon Shaheed Colony D.I.Khan.
17. Mumtaz Bibi W/O Asmat Ullah R/O Mosa Zai Sharif D.I.Khan.
18. Abdur Rehman S/O Ranjho Khan R/O Gomal University D.I.Khan.
19. Mohammad Ilyas S/O Farooq Azam R/O Gara Hayat D.I.Khan.
20. Humara Rehman D/O Fazal Rehman R/O Mohallah Hayat Ullah D.I.Khan.
21. Attia Naz D/ O Bashir Ahmaad R/O Eidgah Kalan D.I.Khan.
22. Mohammad Iqbal S/O Shiekh Abdul Hanan R/O Mohallah Khidmatgaran D.I.Khan.
23. Naseem Bibi W/O Naimat Ullah R/O Yarak D.I.Khan.
24. Nousheen Faiz D/O Faiz Mohammad R/O Naiwela D.I.Khan.

17/04/15


Nauman Akbar Khan
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Dera Ismail Khan
Cell # 0300, 0345-5795002

VERSUS

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EXAMINER

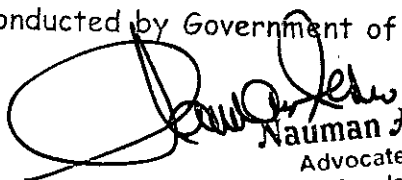
11/2/15

1. Government of Khyber Pukhtunkhwa through Secretary Elementary & Secondary Education Department K.P.K Peshawar.
2. Director of Education (E&S) Khyber Pukhtunkhwa Peshawar.
3. District Education Officer (Male).
4. District Education Officer (Female).
5. District Account Officer D.I.Khan.

WRIT PETITIONER UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.

RESPECTFULLY SHEWETH,

1. That the petitioners above named are peaceful respectable, law-abiding and bona fide citizen of District Dera Ismail Khan, Islamic republic of Pakistan. The petitioners have completed their Academic qualification and was appointed against the vacant posts of PST etc. Later on the basis of political victimization the Government in the year 2010 conducted an inquiry against the petitioner, which resultantly, the dismissal of the hundreds of the appointed teachers. Copy of order is Annexure A.
2. That feeling aggrieved from the termination orders, petitioners preferred an appeal before the service tribunal, which was decided vide its order dated 27-01-2011 directing the respondents to conduct an inquiry in the light of direction given by Hon'ble Service Tribunal. The copy of judgment is Annexure B.
3. That on the basis of the judgment dated 27-10-201, the so-called inquiry was conducted by Government of Khyber Pukhtunkhwa vide later No. SO (Lit) E &


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Dera Ismail Khan
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EXAMINOR

High Court

11/2/15

G-36

IN THE PESHAWAR HIGH COURT, D.I. KHAN BENCH

FORM OF ORDER SHEET

Date of order or proceedings	Order or other proceedings with signature of Judge(s).
(1)	(2)
03.02.2015.	<p><u>W.P.No.481-D/2014.</u></p> <p><u>Present:-</u> Mohammad Anwar Awan, Advocate for petitioners. A.A.G for respondents.</p> <p><u>IKRAMULLAH KHAN J:-</u> The matter was argued at some length. When learned counsel for petitioners was directed to point out any illegality in the impugned order, he was unable to do so and claimed that petitioners have been verbally informed about the termination of their services.</p> <p>2. On the other hand, learned A.A.G refuted the arguments of learned counsel for petitioners and argued that the petitioners have been dismissed from their services vide formal written orders. He provided a list of employees whose services were terminated.</p> <p>3. The termination orders passed by respondents be provided to the petitioners and copies thereof be placed on record of this petition. The petitioners may, if so advised, seek their relief before the appropriate legal forum, but in</p>

TESTED

EXAMINED

Peshawar High Court
D.I. Khan Bench 08/4/15



accordance with law.

4. This petition is disposed of accordingly

Announced
03.2.2015.
Aftab*


JUDGE


JUDGE

ATTESTED

EXAMINER

5/1/15

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Aftab
1/2

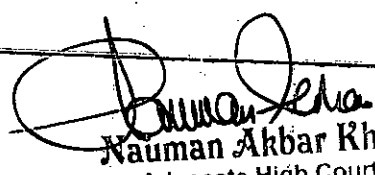
H-38

OFFICE THE EXECUTIVE DISTRICT OFFICER (E&SE) D.I.Khan

ORDER:

In pursuance of order dated 27-10-2011 of the KPK Service Tribunal in service appeal No. 1407/2010 and other connected appeals, committee headed by the Secretary to Govt. of Khyber Pakhtunkhwa (E&SE) Department considered the cases of the appellants and similar placed persons and came to the conclusion that the appointment of the following CT's (Female) was illegal, irregular and void ab-initio in terms of rule 10(2) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules 1989 and prescribed method of recruitment. On the recommendation of the committee contained at page 103-104 of the enquiry report, their so called services are hereby terminated.

S. No	Appeal No/Year	Name of appellant	Father's Name	School
1	Nil	Fateeha Niaz	Allah Bakhsh	GGMS Adil Sipra/Wanda Lali
2	1849/10	Shahnaz Bibi	Muhammad Nawaz	GGMS Musa Zai Sharif/GHS Kot Jai/GMS Paharpur
3	2592/10	Nasim Imrana	Choudhry Nabi Bakhsh	GGMS Athog
4	1532/10	Naheed Akhter	Muhammad Rafique	GGMS Bigwani Shu.nali/GGHS Musazai
5	Nil	Fozia Shaheen	Shah Nawaz	GGMS Potah
6	2181/10	Saima Aziz	Aziz ur Rehman	GGHS Rehmani khi/Kot Jai/No.4 DIKhan
7	2583/10	Azra Bibi	Ghulam Hussain	GGMS Kachi Koth Garh
8	2475/10	Shahnaz Akhter	Jehangir	GGHS No.9 Dinpur/GGHSS Kulachi
9	2495/10	Qazi Abdul Hafeez	Qazi Abdur Rahim	GGMS No .1 DIKhan
10	2625/10	Naila Yasmin	Muhammad Usman	GGHS Bahari Colony
11	2491/10	Rukhsana Bibi	Muhammad Shafi	GGMS Ruknow
12	1530/10	Samina Mustafa	Abdul Mustafa	GGMS Rahmani Khel/Chah Mughal Wala
13	3163/10	Tasleem Akhter	Gul Muhammad	GGMS Wanda Lali
14	2326/10	Sahira Hassan	Ahmed Hassan	GGHS Paharpur/Kech
15	2546/10	Saeeda Bibi	Imam Din	GGMS Roda
16	2723/10	Jamila Shaheen	Ubaid Ullah	GGMS Himat
17		Samina Nureen	Ahmad Din	GGMS Musazai
18	2038/10	Aneela Sarfarz	Sarfaraz	GGHS Kachi Paind Khan


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 Dera Ismail Khan
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19	3052/10	Lubna Sadiya	Qamar ud Din	GGMS Paharpur
20	Nil	Kousar Yasmeen	Ghulam Yaseen	GGMS Kiri Alizai
21	Nil	Tahira Anjum	Qamar un Din	GGHS Ratta Kulachi
22	2708	Kalsoom Bibi	Haji Muhammad Bakhsh	GGHS Bigwani Shumali
23	2499/10	Rehana Afzal	Muhammad Afzal	GGHS Muryali
24	2328/10	Rozina Nisar	Sher Bahadar	GGHS Kot Jai
25	1972/10	Amna Begum	Muhammad Sultan	GGMS SaraGara/GGHS Lar
26	2332/10	Ishrat Jehan	Khurshid Hussain	GGHS Paharpur
27	2492/10	Nazeera Bibi	Allah Nawaz	GGHSS Kulachi
28	2176/10	Rizwana Bibi	Rabnawaz Khan	GGHS Prova
29	2489/10	Neelam Nisar	Nisar Ahmed	GGMS Ijaz Abad
30	2794/10	Fozia Saeed	Saeedullah	GGHS No. 4 D I Khun
31	2367/10	Asma ul Husha	Ghulam Abass	GGMS Saidu Wali
32	2169/10	Ruqiya Bibi	Bahsir Ahmed	GGHSS Paharpur/GGHS Kiri Shamoza/Ramak/GGHSS Paroa
33	2504/10	Rubina Bibi	Fazal Rehman	GGHS No.9 DIKhan/GGHSS No.6 DIKhan
34	2506/10	Riffat Malik	Malik Nazir	GGMS Sara Garah/Jatta
35	2687/10	Saira Jabeen	Hamidullah	GGHS Muryali/Malana
36	2505/10	Attia Naz	Muhammad Bashir	GGHS Sadu Wali No.2
37	25 1/10	Ruqiya Bibi	Malik Illahi Bakhsh	GGHS Ramak/GGHSS Paroa/GGMS Dhapan Wali
38	2497/10	Asia Yasmin	Kaleemullah	GGHS No.6
39	2168/10	Kousar Parveen	Ghulam Farid	GGHS Prova
40	1966/10	Syed Hiza Batool	Syed Hasham Shah	GGHS Wanda Mozam
41	33 1/10	Gohar Sultana	Muhammad Nawaz	GGMS Gilotti
42	196 3/10	Fozia Malak	Malak Allah Nawaz	GGHS Kot Jai
43	2494/10	Sahrish	Ghulam Farid	GGHS No.9 Din Pur
44	2666/10	Shagufta Bibi	Abdul Qadoos	GGHS Paniala
45	2399/10	Mussrat Rashid	Abdur Rashid	GGMS Gilotti/Yarik
46	2508/10	Irum Ibrar	Abrar Hussain	GGHS No.2/No.4

Sd/-
 Nauman Akbar Khan
 Advocate High Court
 Dera Ismail Khan
 Cell # 0300, 0345-5795002

Sd/-
 Nauman Akbar Khan
 Advocate High Court
 Dera Ismail Khan
 Cell # 0300, 0345-5795002

47	2269/10	Shazia Zarin	Shah Muhammad	GGMS Gilotti/Roda
48	2273/10	Fozia Gul	Haji Ghulam Farid	GGHS Kulachi
49	1967/10	Humaira Mumtaz	Ghulam Ahmad	GGMS Saidu Wali
50	2668/10	Shazia	Muhammad Rouf Khan	GGMS Musa Zai Sharif
51	28	Ghazala Bibi	Muhammad Afzal	GGHSS Muryali/Dherwa
52	2642/10	Farzana Hakeem	Hakeemud ud Din	GGHSS No.2 DIKhan
53		Nasreen Khan	Mahmood Khan	GGHS Kacha Mali Khe/ GGMS Mithapur
54	2194/10	Adila Bashir	Muhammad Bashir	GGHS Musazai Sharif
55	2640/10	Zeenat Bibi	Faiz ullah	GGHSS Paharpur
56	261 9/10	Aisha Bibi	Ahmad Nawaz	GGHS No.6 Chah Syed Munawar
57		Fakhar Batool	Ghulzar Hussain	GGMS Athoge
58	2723/10	Jamila	Ghulam Shabir	GGHS Ramak
59		Chaman Zahra	Hanif Muhammad	GGHS No.5
60		Amber Noreen	Abdul Aziz	GGHS Wanda Mozam
61		Rukhsana Parveen	Ghulam Hussain	GGHS No.4 D I Khan
62		Mehrin Begum	Attaullah	GGMS Ajmal Abad
63	2712/10	Arjumand Bano	Mumtaz Hussain	GGHS Behari Colony
64	548/11	Shazia Bibi	Amanullah	GGMS Dhakki
65		Farkhanda	Rab Nawaz	GGMS Phulari Athog
66		Shabnam Afroz	Ghulam Yasin	GGMS Kachi Kath Garh
67		Abida Bibi	Habib Ullah	GGMS Madi
68		Farzana Khan	Haq Nawaz	GGHS Lar
69		Safia Mobeen	Muhammad Baksh	GGMS Kulachi Wala
70		Mehreen Iram	Imanullah	GGMS Sara Gara
71	2469/10	Samina Zaman	Muhammad Zaman	GGHS Naivela
72	1531 /10	Rukhsana Naz	Nazir Hussain shah	GGMS Gara Essa Khan
73	2330/10	Sadia Naz	Faiz Rasool	GGHS Kech
74	1813/10	Alia Iqbal bibi	Sadiq Hussain	GGHS No.2
75		Nadia	Asadullah Jan	GGMS Hisam

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Nasim Akbar Khan

Advocate High Court
Dera Ismail Khan
Cell # 0300, 0345-5795002

41

76		Farzana Bibi	Shah Nawaz	GGMS Sara Gara
77		Naheed Akhtar	Muhammad Iqbal	GGMS Kulschi Wala
78		Ambreen Mohab	Muhammad Aslam	GGHS Dhakki
79	32/11	Naila Naz	Qayum Nawaz	GGHS Lar

[Signature]

EXECUTIVE DISTRICT OFFICER
(E&SE) D.I.Khan

Ends No. 1520-1602

Dated D.I.Khan the 03/12/2012

Copy for information to

1. P.S to Secretary (E&SE) KPK.
2. P.A to Director (E&SE) Peshawar.
3. District Coordination Officer D.I.Khan.
4. District Officer (E&SE) (M/F) D.I.Khan
5. All concerned.

[Signature]

EXECUTIVE DISTRICT OFFICER
(E&SE) D.I.Khan

[Signature]
District Officer
D.I.Khan

[Signature]

Nauman Akbar Khan
Advocate High Court
Dera Ismail Khan
Cell # 0300, 0345-5795002

1-42

GOVERNMENT OF PAKISTAN
 ASSISTANT GENERAL KYDER PAKISTAN
 DEPT: PAF PAF SYSTEM

Sheet No 1

Sec: 002 Month: April 1978
 016031-0-0-(G&L + F-DIK (TEM))
 Min: Education School
 NTN:
 CPF #
 Old #

Emp # 00374219 Buckle.
 Name: MEHR-UN NISA
 Desg: M.T TEACHER
 NIC No 1210176701844

Interest Free
 Regular / Contract

DEPT: 0000 016031

PAYS AND ALLOWANCES		
6001 Basic Pay		4,280 00
1200 House Rent Allowance		1,146 00
1300-Medical Allowance		500 00
1903-Adhoc Relief-2009 (01-15)		556 00
Gross Pay and Allowances		6,782 00
DEDUCTIONS		
01 Balance	672 48 00	
001 Benevolent Fund		25 00
3511 Addl Group Insurance		7 00
3604-Group Insurance		67 00
3603-TEF NWF Fund		15 00
Total Deductions		741 00
NET AMOUNT PAYABLE		6,041 00

QUALIFYING SERVICE
 YNS: Year 00M: Month 030 Days
 To Government Contribution To TFF

D.O.B
 06 01 1978

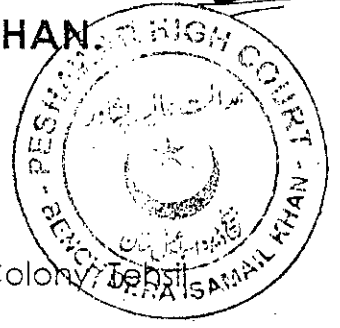
TEF Quota:
 M. B. P. TIGARAI GANJ DN. B. P. TIGARAI GAN
 2380-3
 124 00

BEFORE THE HONORABLE PESHAWAR HIGH
COURT BENCH DERA ISMAIL KHAN

43

Writ Petition No. 250 2015.
C.M No. 2015.

4



Mehrun Nisa.

D/O Rahim Bakhsh, R/O Zaffarabad Colony, Dera Ismail Khan.
&, District Dera Ismail Khan.

(Petitioner)

V E R S U S

- 1) **Government of Khyber Pukhtoonkhwa.**
Through Secretary, Elementary and Secondary
Education Peshawar.
- 2) **Director of Education (E&S).**
Khyber Pukhtoonkhwa, Peshawar.
- 3) **District Education Officer (Female).**
Dera Ismail Khan.
- 4) **District Account Officer.**
Dera Ismail Khan.

(Respondents)

**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN 1973.**

Note: addresses given above are sufficient for the
purpose of the summoning of the parties.

Filed today 10/8/15

Attest: Registrar.

9/9/15

Most respectfully the petitioner above named
submits asunder:-

- 1) That the petitioner above named is peaceful,
respectable, law abiding and bonafide citizen of
District Dera Ismail Khan, Islamic republic of
Pakistan. That the petitioner has completed her
Academic qualification and was appointed
against the vacant posts of CT, BPS 9 at the
Government Girls Middle School, Madina Town.

ATTESTED
21-9-15
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

K-244

FORM OF ORDER SHEET

8



Date of order or proceedings	Order or other proceedings with signature of Judge(s).
(1)	(2)
11.3.2019.	<p><u>W.P. No.250-D/2015 with C.M. No.269-D/2015.</u></p> <p><u>Present:-</u> Muhammad Youisaf Khan, Advocate for the petitioner.</p> <p>Mr. Adnan Ali, Asstt. A.G. alongwith Imran Ali Shah, Litigation Officer on behalf of respondents.</p> <p>***</p> <p><u>S.M. ATTIOUE SHAH.</u> :- Through the instant constitutional petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner Mehrun Nisa has prayed that:-</p> <p><i>“(A) By accepting the instant writ petition the Honourable Court may be pleased to pass order to the respondents to issue monthly salaries since April, 2014 with all back benefits upto now.</i></p> <p><i>(B) Pass any such other orders as this Honourable Court thinks fit and proper in view of the circumstances of the case”</i></p> <p>2. The above referred prayer of the petitioner squarely falls outside the jurisdiction of this Court in view of embargo placed by Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, however, the petitioner in view of peculiar facts and circumstances of the case, cannot be left forum-less. Therefore, the present writ petition is treated as</p>

Imran

ATTESTED
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

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appeal/representation and sent to the competent authority i.e. respondent No.2 for its decision strictly in accordance with law after providing due opportunity of hearing to the petitioner. However, it would be appreciated if the matter is decided within a period of thirty days. The writ petition is disposed of accordingly. Petitioner is directed to appear before respondent No.2 on 02.4.2019.

Announced.
Dt: 11.3.2019.

[Signature]
JUDGE

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JUDGE

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4060

G.R.No. _____
Application Received on 19-03-19
Copying Fee Deposited Rs _____
No of Pages 10/10
Copying Fee 20/-
Urgent Fee _____
Total Fee 40/-
Copy ready for delivery 21-03-19
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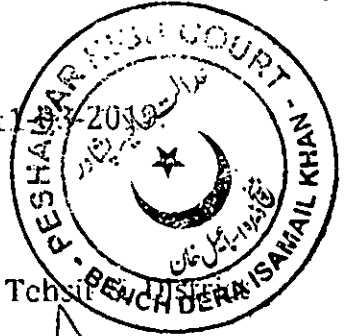
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Certified to be true Copy
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21-03-19
Examiner
Beshawar High Court
District & Sessions Judge
Beshawar

BEFORE THE HONORABLE PESHAWAR HIGH
COURT BENCH DERA ISMAIL KHAN.

2-46

Miscellaneous C.A No. _____ 2019 in
In Writ Petition No. 250-D/2015 decided on 11-03-2019



MEHR UN NISA.

D/O Rahim Baksh, R/O Zafferabad Colony, Tehsil

Dera Ismail Khan.

(Petitioner)

~~VERIFIED BY THE CLERK~~

1. HAFIZ MOHAMMAD IBRAHIM.

Director Elementary & Secondary Education, Peshawar.

(Respondent)

1) MISCELLANEOUS APPLICATION UNDER SECTION 151 CPC
READ WITH OTHER RELEVANT PROVISIONS FOR
IMPLEMENTING THE ORDER PASSED ON. 11-03-2019 IN
THE PRESENCE OF RESPONDENT WHEREBY THE WRIT
PETITION NO: 250-D/2015 WAS DECIDED WITH
MEANINGFUL, DIRECT AND EXPRESS INTENTION FOR
PERSONAL HEARING AND TO BE DECIDED BY
RESPONDENT NO. 2 AND / OR.

Mmy fekw.

2) IN THE WAKE OF ACTS OF OMISSION OF THE RESPONDENT
NO. 2 IN THE FORM OF DISREGARD OF THE ORDER DATED
11-03-2019, APPROPRIATE PROCEEDINGS OF CONTEMPT
OF COURT UNDER ORDINANCE 1 OF 2003 MAY KINDLY BE
INITIATED.

Note: Addresses given above are sufficient for the purpose of the
summoning of the parties.

ATTESTED

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

15/4/2019

M-47

Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar

NOTIFICATION

1. WHEREAS, Mst. Mehrun Nisa D/O Rahim Bakhsh, Resident of Zafar Abad District D.I.Khan filed a writ petition No.250/2015 under titled Mehru Nisa VS Sectary E&SE Department Khyber Pakhtunkhwa Peshawar and others before the Honorable Peshawar High Court Peshawar D.I.Khan Bench with the contention for the grant of direction to the responding department for the release of monthly salaries against the CT post in favor of petitioner.
2. AND WHEREAS, The titled petition was posted before the learned Bench on dated 11-03-2019 for disposal which was disposed off accordingly vide order dated 11-03-2019 with the directions to the Respondent No.2/ Director E&SE Khyber Pakhtunkhwa Peshawar for treating the petition of the petitioner as a Departmental Appeal along with providing an opportunity of personal hearing to the petitioner in accordance with relevant Law, Rules and procedure.
3. AND WHEREAS, In compliance of the order dated 11-03-2019 of Honorable Court the petitioner was directed vide letter No. 6997 dated 26-03-2019 to appear before the respondent No.02 on dated 02-04-2019 for her personal hearing in the Directorate of E&SE Khyber Pakhtunkhwa Peshawar at 11:00 AM.
4. AND WHEREAS, The Appellate Authority/ Respondent No.2 constituted a committee for conducting personal hearing of the petitioner in compliance of the order dated 11-03-2019 passed by the Honorable Peshawar High Court Peshawar, the petitioner appeared before the committee on the scheduled date along with record in support of her plea regarding the genuineness or otherwise of her appointment order and release of monthly salaries against the CT post in the Respondent Department.
5. AND WHEREAS, The Respondent No. 2 in consultation with the committee examined the facts and circumstances as well as record of the case of the petitioner and finally came to the conclusion that the appointment order of the petitioner against the CT post at GGMS New Zafar Abad Colony District D.I.Khan is not only fake and bogus but also not authentic and no cogent record is available in the office of District Education Officer (Female) D.I.Khan hence liable to be disowned by the Appellate Authority under the relevant provision of law and criteria.

6. NOW THEREFORE, in exercise of powers conferred upon under the Khyber Pakhtunkhwa Government Service (Efficiency & Discipline) Rules 2011 read with section 21 of General Clauses Act 1897 as amended in 1956, the respondent No.2/Appellate authority is pleased to reject the Departmental Appeal/Representation filed by the petitioner for the Release of Monthly salaries against the CT Female post on the grounds of being fake and bogus appointment order in the interest of public service.

Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 3426-34 /F.No 286/Litigation-I/WP No 250-D/2015 /Mehru Nisa VS Govt Of KPK/D.I.Khan
Dated Peshawar the 26/06 2019.

Copy forwarded with the:-

1. Registrar (Judicial) Peshawar High Court Peshawar D.I.Khan Bench.
2. P.S to Secretary.
3. District Accounts officer D.I.Khan.
4. P.A to Director E&SED, Khyber Pakhtunkhwa.
5. Section Officer (S/F) E&SED, Khyber Pakhtunkhwa.
6. District Education Officer (Female) D.I.Khan with the direction to take legal action and recover the outstanding amount from the appellant, if any already paid to her.
7. Deputy Director (F) Establishment Local Directorate.
8. Section officer litigation.
9. Mst. Mehrun Nisa D/O Rahim Baksh, Resident of Zafar Abad Distict D.I.Khan.

Hand
Deputy Director (F/Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

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27/6/19

N-49

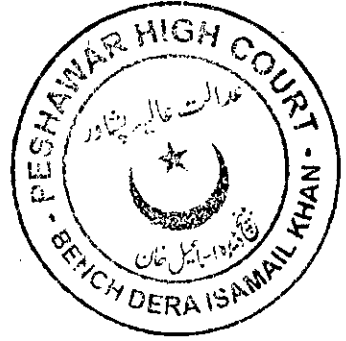
IN THE PESHAWAR HIGH COURT,
DERA ISMAIL KHAN BENCH.

(Judicial Department)

COC NO. 1022-D/2019 in
W.P No.250-D/2019

Mst. Mehrun Nisa.
Vs.

Hafiz Mohammad Ibrahim, Director
Elementary & Secondary Education, Peshawar.



JUDGEMENT.

Date of hearing 07.04.2021

For petitioner: Muhammad Yousaf Khan advocate.

For respondent: Nemo (in motion)

SAHIBZADA ASADULLAH, J.--- Through instant petition, the petitioner seeks initiation of Contempt of Court proceedings against the respondent for noncompliance the order of this Court, dated 11.03.2019, passed in WP #250-D/2019.

2. In essence the grievance of the petitioner is that, she has moved a writ petition #250-D/2019, requesting for release of her salaries since 2014 with all back benefits, which was decided by this court vide order dated 11.03.202019, with the following direction:

"The present writ petition is treated as appeal/ representation and sent to the competent authority i.e. respondent No.2 for its decision strictly in accordance with law aft er providing due opportunity of

ATTESTED

EXAMINOR

Peshawar High Court Bench,
Dera Ismail Khan

15/4/21

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hearing to the petitioner. However, it would be appreciated if the matter is decided within a period of thirty days. The writ petition is disposed of accordingly. Petitioner is directed to appear before the respondent No.2 on 02.04.2019."

The petitioner approached the respondent No.2, and placed her grievance before him, but up till now the grievance of petitioner has not been redressed, despite repeated requests, hence, the instant contempt of court petition.

3. Arguments of learned counsel for petitioner where heard and available record perused.

4. The record tells that the respondent i.e. Director Elementary & Secondary Education, Peshawar, in compliance of order/judgment of this court dated 11.03.2019, constituted a committee, who convened a meeting on 02.04.2019 at 11:00 a.m. for personal hearing of the petitioner with respect to genuineness of appointment order of petitioner and release of her salaries. The petitioner appeared before the committee, put her grievance before it, ultimately the committee reached to the conclusion that the appointment order of the petitioner against the CT post at Govt. Girls Middle School New Zafarabad Colony, District D.I.Khan is not only fake and bogus, but also not authentic and no cogent record is available in the office of the District Education officer (Female) D.I.Khan, so the appeal/ representation of the petitioner was

ATTESTED

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

15/4/19

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rejected. The report in this respect was sent to this court and all the concerned including the petitioner vide notification bearing Endst: No.5426-34/ F.No.286/ Litigation-1/ WP No. 250-D/ 2015/ Mehr-un-Nisa Vs Govt of KPK/D.I.Khan dated 28.06.2019. This Court vide order/ judgment dated 11.03.2019, has treated the writ petition of petitioner as representation and directed the respondent to decide the matter after providing opportunity of hearing to the petitioner in accordance with law, which order of this Court has been complied with in letter and spirit by the respondent and he has not violated the order/ judgment of this court, resultantly, this petition being having no force is dismissed. If the petitioner feels dissatisfied with the respect to dismissal of her representation by the respondent vide notification dated 28.06.2019, he is at liberty to approach proper forum, if need be.

Announced.
07.04.2021
*Azam/P.S*s

JUDGE.

JUDGE.

Office
12/4

(D.B)
Hon'ble Justice Mr. Abdul Shakoor and
Hon'ble Justice Mr. Sahibzada Asadullah

ATTESTED

EXAMINOR

Peshawar High Court Bench,
Dera Ismail Khan

WAKALAT NAMA

Nauman Akbar Khan

BEFORE HONORABLE SERVICE TRIBUNAL KHYBER

PAKHTUNKHWA, PESHAWAR.

FROM: PETITIONER

MEHR UN NISA

VERSUS GOVT OF KP & OTHERS

SUIT/ OFFENCE:

SERVICE APPEAL

DETAIL OF SUIT/OFFENCE:

I, MS MEHR UN NISA, do hereby appoint, MR. MOHAMMAD YOUSAF KHAN Advocate Supreme Court, Nauman Akbar Khan Advocate High Court Stationed at Dera Ismail Khan, in the above mentioned case, to do all or any of the following acts, deeds and things:

- 1) To appear, act and plead for me in the above mentioned case in this or any other court/tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
- 2) To sign, verify, file or withdraw all proceedings, petitions, appeals, applications and affidavits for compromise or withdrawal or submission to arbitration of the said case or any other documents as may be deemed necessary or advisable by him for the conduct, prosecution or defense of the said case at all its stages.
- 3) To receive payment and issue receipt for all money that may or become due and payable to me during the course of proceedings.
- 4) To employ any other legal practitioner authorizing him to exercise the power and authorities hereby conferred on the advocate whenever he may think fit to do so.

And hereby agree:

That the advocate shall be entitled to withdraw from the prosecution / defense of the case if the whole or any part of the agreed fees remains unpaid.

In witness whereof I/We have signed this Power of Attorney hereunder, the contents of which have been read/explained to me/us and fully understood by me/us on this 5TH day of, MAY 2021.

Attested & Accepted By:

Signature of Executant (s)

Meher Un Nisa

Nauman Akbar Khan