

ORDER

14:01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondent present. Arguments heard and record perused.

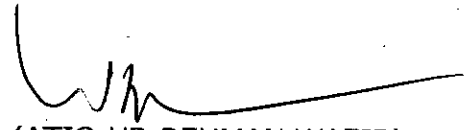
Vide our detailed judgment of today, Passed in service appeal bearing No. 1427/2011 "titled Manzoor Elahi Versus Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar and three others", the instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

14.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN




(ATIQU-UR-REHMAN WAZIR)
MEMBER (E)

10.01.2022

Mr. Noor Muhammad Khattak, Advocate for the
appellant present. Mr. Muhammad Adeel Butt, Additional
Advocate General for respondents present.

Arguments heard. To come up for order on
14.01.2022 before D.B.


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


Chairman

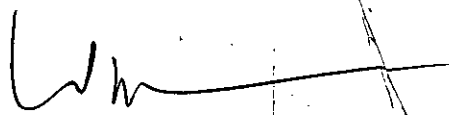
22.11.2021

Nemo for appellant.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General present.

Asif Yousafzai Advocate present before the Bench in some other case, also marked his attendance in the instant case who apprised this Bench in respect of the judgment of Larger Bench of this Tribunal vide which the appeal in hand was detached from other appeals and was directed to be fixed for individual hearing on merits. Office was directed to fix the date in proper routine but parties were not put on notice for the date fixed, therefore, both the parties be put on notice for 08.12.2021 before D.B.

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written
Syed Javed Ali Baidar
Noted.*



(Atiq ur Rehman Wazir)
Member (E)

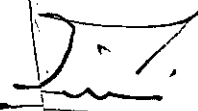


(Rozina Rehman)
Member (J)

08.12.2021

Mr. Taimur Ali Khan, Advocate for the appellant present. Mr. Asif Masood Ali Shah Deputy District Attorney for the respondents present.

The Worthy Chairman is on leave, therefore, the bench is incomplete. Adjourned. To come up for arguments on 20.01.2022 before the D.B.



(Sala-ud-Din)
Member (J)

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
		<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</u></p> <p style="text-align: center;">Appeal No. 1107/2016</p> <p style="text-align: center;">Date of Institution ... 27.10.2016 Date of Decision ... 06.07.2021</p> <p>Mr. Attaullah Jan, SST (Tech), GHSShinkiari District Mansehra. ... Appellant</p> <p style="text-align: center;"><u>Versus</u></p> <p>The Govt: of Khyber Pakhtunkhwa through Secretary E&SE Department, Khyber Pakhtunkhwa, Peshawar and three others. ... Respondents</p> <p>Present:</p> <p>Mr. Noor Muhammad Advocate --- For Appellant</p> <p>Syed Noman Ali Bukhari Advocate --- For Appellant</p> <p>Miss. Uzma Syed, Advocate in the above titled appeal --- For Appellants.</p> <p>MUHAMMAD ADEEL BUTT, Additional Advocate General --- For respondents.</p> <p>AHMAD SULTAN TAREEN --- CHAIRMAN SALAH-UD-DIN --- MEMBER(Judicial) ROZINA REHMAN --- MEMBER(Judicial) ATIQU-UR-REHMAN WAZIR --- MEMBER(Executive)</p>

ORDER:

By this order, we intend to settle a point of conflict arising from two judgment of this Tribunal in relation to jurisdiction in the case of Selection Grade.

02. There is an order dated 18.01.2018 in the above tilted Service Appeal No. 1107/2016 disclosing that when it come up for hearing before the DB at Camp Court Abbottabad, it was observed with reference to an argument that in some cases, this Tribunal had denied relief of Selection Grade on grounds of jurisdiction; as pressed on behalf of the appellant; and there was certain other judgment of this Tribunal wherein Selection Grade was granted to the civil servants. The counsel for the appellant in the said appeal was directed to search all such judgments and was given opportunity from time to time but he could not be able to bring on record copies of the conflicting judgments. In the meantime, similar point was raised in other appeals involving the claim of Selection Grade and were sent for decision of Larger bench. Similarly, vide order dated 27.11.2018, the above titled appeal was sent to the Larger Bench for hearing alongwith appeals No. 1427/2011, 67/2012, 406/2013. The said appeals and others because of similarity of the subject-matter as having been referred for hearing of the larger bench vide different orders in respective appeals, are listed below:-

1. Service Appeal# 1375/2011 titled "Jan Muhammad Vs. The DCO Charsadda and two others."
2. Service Appeal # 1427/2011 titled "Manzoor Elahi Vs. The

Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."

3. Service Appeal # 1428/2011 titled "Fida Mohammad Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
4. Service Appeal # 1429/2011 titled "Faiz Mohammad Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
5. Service Appeal # 1430/2011 titled "Shafqat Zaman Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
6. Service Appeal # 1431/2011 titled "Mohammad Arif Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
7. Service Appeal # 1432/2011 titled "Ahsan Shah Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
8. Service Appeal # 1441/2011 titled "Mohammad Riaz Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
9. Service Appeal # 1442/2011 titled "Haq Nawaz Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
10. Service Appeal # 679/2012 titled "Abdus Samad Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
11. Service Appeal # 680/2012 titled "Hamdullah Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
12. Service Appeal # 681/2012 titled "Rahim Shah Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
13. Service Appeal # 406/2013 titled "Gul Chaman Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."

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14. Service Appeal # 407/2013 titled "Javed Khan Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
15. Service Appeal # 408/2013 titled "Anwar Saeed Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
16. Service Appeal # 409/2013 titled "Khaliq Dad Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
17. Service Appeal # 410/2013 titled "Abdur Rasheed Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
18. Service Appeal # 411/2013 titled "Mohammad Daud Vs. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others."
19. Service Appeal# 412/2013 titled "Mohammad Haroon Vs. The DCO Charsadda and three others."
20. Service Appeal# 413/2013 titled "Mian Fareed Vs. The DCO Charsadda and three others."
21. Service Appeal# 463/2013 titled "Suliman Shah Vs. The DCO Charsadda and three others."
22. Service Appeal# 483/2013 titled "Fazal Akbar Vs. The DCO Charsadda and three others."

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3. Copies of the two judgments dated 07.08.2017 in service appeal No.1/2016 and the other dated 20.09.2017 in service appeal No. 467/2012 were produced to us during the course of arguments at the Bar. Copies of the said judgment as produced have been placed on this file. We have also got the copies of the reported judgments i.e. 2016 SCMR 1206 and 1990 SCMR 1106 as referred in the judgment dated 20.09.2017 of the Service Appeal No. 467/2012 and placed the same on file. The appeals

enumerated above were clubbed for hearing by the Larger Bench to settle the point of conflict in the similar matter having occurred in two judgments of this Tribunal, copies whereof are available on file. One was passed in Service Appeal No. 01/2016 on 07.08.2017 by a D.B comprising of Mr. Niaz Muhammad Khan, Chairman and Mr. Gul Zeb Khan, Member of this Tribunal; and the other judgment was passed in Service Appeal No. 467/2012 on 2.09.2017 by the D.B comprising of Mr. Niaz Muhammad Khan, Chairman and Mr. Muhammad Amin Khan Kundi, Member. By the judgment dated 07.08.2017, appeals respectively bearing No. 08/2016 and No. 02/2016 to 04/2016 claiming entitlement of the Selection Grade were accepted for grant of the Selection Grade as prayed for from the dates not later than the dates their juniors were awarded Selection Grades. By the judgment dated 20.09.2017, it was concluded that this Tribunal in number of cases involving the issue of Selection Grade, returned the appeal for want of jurisdiction on the basis of some judgment of august Supreme Court of Pakistan including *Khan Toti's* case reported as 2016 SCMR 1206 and another judgment reported as 1990 SCMR 1106. It was further observed therein that it had clearly been laid down that fixation and re-fixation of pay is a matter which falls within purview of the Civil Courts. Consequently, the appeal was returned to the appellant for want of jurisdiction.

R. Samad

4. In the *Khan Toti's* case, the petitioner and proforma respondents were employees of the District Judiciary Swat who

being aggrieved of some deductions from their salaries or pensions had instituted a civil suit and somehow, the case reached to the Hon'ble Peshawar High Court, Mingora Bench through a Civil Revision Petition, and the Hon'ble High Court after setting aside the judgment and decree of civil court, remanded the case to it with further directions to return the plaint to the petitioners-plaintiffs to approach the Provincial Service Tribunal. The august Supreme Court of Pakistan dealt with the question of jurisdiction of this Tribunal in relation to particular status of the employees of the District Judiciary under control of the Peshawar High Court, Peshawar and granted the relief to the petitioners invoking the jurisdiction conferred upon the august Supreme Court under Article 184(3) of the Constitution. There is no ruling in the said judgment relating to exclusion of jurisdiction of this Tribunal in issue of Selection Grade of the Government Servants. Similarly, the pronouncement in the case of "*Province of Punjab through Collector, Bahawalpur-vs- Ghulam Rasool and other*" (1990 SCMR 1106) dealt with a different factual position. According to the facts noted in the said judgment, the respondents in two civil petitions (Civil Petitions Nos.9 and 10 of 1984 before the august Supreme Court of Pakistan) had filed two separate civil suits for declaration that their pays had been fixed incorrectly; and that they were entitled to re-fixation of their pay in the proper scale and arrears of salary. The suits were decreed by the Senior Civil Judge at Bahawalpur. Provincial Government did not care to file appeals against the judgments and decrees of

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the Trial Court. However, during the course of execution proceedings, an objection was raised that the respondents were not entitled to the scales to which they had been held entitled under that decrees. The objection was rejected by the executing court followed by failure of appeal before the District Judge and the revision before the High Court. Consequently, leave was sought to appeal from the august Supreme Court of Pakistan. The said court while dismissing the petitions for leave to appeal observed as noted below:

"The contention which the learned Additional Advocate General wishes to raise in support of these petitions relates to the propriety of the decrees passed in favour of the respondents. It is well-settled that an executing Court cannot go behind the decree. It is no longer disputed that the Civil Court had the jurisdiction to entertain the suits of the respondents. We would, therefore, dismiss these petitions."

5. The reliance as placed upon the reported judgment (1990 SCMR 1106) in the judgment dated 20.09.2017 of this Tribunal is not befitting for its attraction in the present appeal due to distinguishable facts. Similarly, the cited pronouncement of august Supreme Court of Pakistan includes the jurisdiction of civil court in the matter of pay fixation of a civil servant but the same is not stretchable to exclude the jurisdiction of this Tribunal in issues of Selection Grade. Even otherwise, the conditions for grant of Selection Grade include the condition of seniority-cum-fitness and in turn, it stands linked with terms and conditions of service.

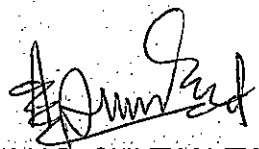
Dismissed

Learned counsels representing the respective appellants in the above listed appeals also made their submissions in favor of the assumption of jurisdiction by the Tribunal in cases of Selection Grade. We are also persuaded to hold that in absence of any express bar on jurisdiction of this Tribunal in issues of Selection Grade, the ouster of jurisdiction in such issues cannot be presumed by the Tribunal itself through inference; and particularly when it may not be possible to delink the Selection Grade from terms and conditions of a civil servant due to its having nexus with seniority-cum-fitness, as far as selection process for its grant is concerned.


6. For what has been discussed above, we hold that judgment dated 07.08.2017 of this Tribunal passed in Service appeal No. 01/2016 will hold the field as precedent notwithstanding its conflict with the judgment dated 20.09.2017 in Service Appeal No. 467/2020. Copy of this order be placed on files of all the above listed appeals and they be detached and put in the course for their individual hearing on respective merits and dates of hearing be fixed in proper routine.

Announced:
06.07.2021


(Salah-Ud-Din)
Member(J)


(AHMAD-SULTAN TAREEN)
CHAIRMAN

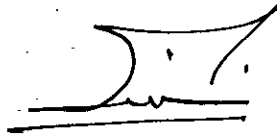

(Rozina Rehman)
Member(J)


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

01.07.2021

Syed Noman Ali Bukhari, Advocate, for the appellant present and submitted Vakalatnama in favor of the appellant, which is placed on file. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Arguments heard. To come up for order on 06.07.2021 before the Larger Bench.



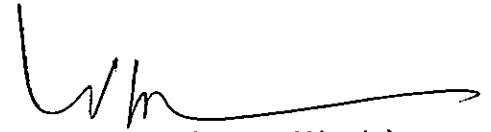
(Salah-ud-Din)
Member (J)




Chairman



(Rozina Rehman)
Member (J)

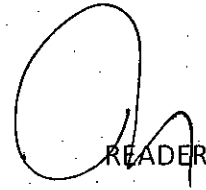


(Atiq-ur-Rehman Wazir)
Member (E)



09.03.2021

Due to incomplete Bench, the case is adjourned to
30.06.2021 for the same.



READER

30.06.2021

Learned counsel for the appellant present.

Muhammad Rasheed, Deputy District Attorney for
respondents present.

The Worthy Chairman is on leave, therefore, the
case is adjourned to 01.07.2021 for arguments before
Larger Bench.



(Rozina Rehman)
Member (Judicial)



(Salah Ud Din)
Member (Judicial)



(Attiq Ur Rehman Wazir)
Member(Executive)

10.11.2020

Junior counsel for appellant present.

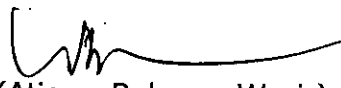
Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

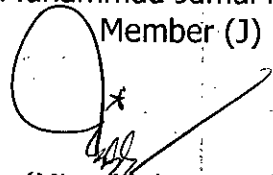
The Bar is observing general strike, therefore, the matter is adjourned to 09.02.2021 for hearing before the Larger Bench.


Chairman


(Rozina Rehman)
Member (J)

(Muhammad Jamal Khan)
Member (J)


(Atiq ur Rehman Wazir)
Member (E)


(Mian Muhammad)
Member (E)

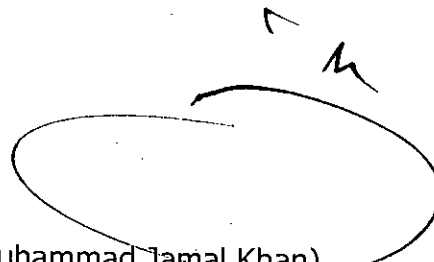
09.02.2021


Nemo for the appellant. Mr. Asif Masood, DDA for the respondents present.


Notices be issued to appellant/counsel for 09.03.2021 before the Larger Bench. On the date fixed arguments shall be addressed on behalf of the parties.

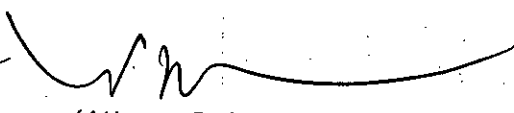
Masood
17/2/21


Chairman


(Muhammad Jamal Khan)
Member (J)


(Rozina Rehman)
Member (J)


(Mian Muhammad)
Member (E)


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

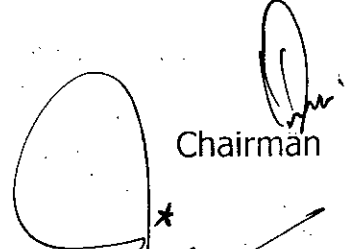
11.06.2020

Counsel for the appellant and Mr. Kabirullah Khattak Addl. AG
for the respondents present.

Due to incomplete Bench, the matter is adjourned to
20.08.2020 for arguments before the Larger Bench.



(M. Amin Khan Kundi)
Member



Chairman

(Mian Muhammad)
Member

20.08.2020

Due to summer vacation case to come up for the
same on 10.11.2020 before Larger Bench.





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13.01.2020

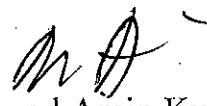
Nemo for the appellant. Mr. Zia Ullah learned Deputy District Attorney for respondents present.


Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant matter is adjourned to 12.03.2020 for arguments before Larger Bench.


(Chairman)


(Muhammad Hamid Mughal)
Member


(Ahmad Hassan)
Member



(Muhammad Amin Kundi)
Member


(Hussain Shah)
Member

12.03.2020

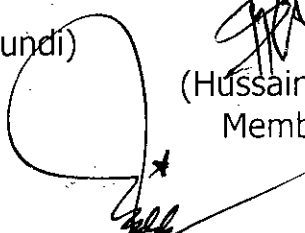
Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

The Worthy Chairman is on leave, therefore, the bench is incomplete. The matter is adjourned to 11.06.2020 for arguments before the Larger Bench.


(Muhammad Hamid Mughal)
Member

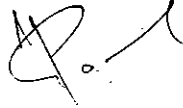

(M. Amin Khan Kundi)
Member


(Hussain Shah)
Member


(Mian Muhammad)
Member

29.08.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Mr. Muhammad Amin Khan Kundi Member of this Tribunal is on tour to Camp Court D.I Khan, therefore, the instant matter is adjourned to 14.11.2019 for arguments before Larger Bench.



(Muhammad Hamid Mughal)
Member



Chairman



(Hussain Shah)
Member



(Ahmed Hassan)
Member

14.11.2019

Counsel for the appellant and Addl. AG alongwith Hussain Akbar, Assistant for the respondents present.

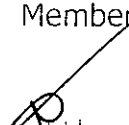
Due to paucity of time, the matter is adjourned to 13.01.2020 for arguments before the Larger Bench.



(M. Hamid Mughal)
Member



Chairman



(Ahmed Hassan)
Member



(M. Amin Khan Kundi)
Member



(Hussain Shah)
Member

02.05.2019

Counsel for the appellant and Addl: AG for respondents present.

Due to leave of one of learned Member (Mr. Ahmad Hassan), the instant matter is adjourned to 11.07.2019 for arguments before Larger Bench.



(Mr. Hamid Mughal)
Member



Chairman



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

11.07.2019

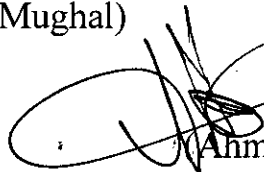
Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Due to engagement of Member of this Tribunal (Mr. Muhammad Amin Khan Kundi and Mr. Hussain Shah) at Camp Court Abbottabad, the instant matter is adjourned to 29.08.2019 before Larger Bench.



(Muhammad Hamid Mughal)
Member



Chairman



(Ahmad Hassan)
Member

A 14

18.02.2019 Learned counsel for the appellant and Mr. Zia Ullah Deputy District Attorney for the respondents present.

Learned counsel for the appellant stated at the outset that appeals involving similar proposition i.e jurisdiction of this tribunal in cases pertaining to selection grade, are pending disposal and are fixed before a larger bench on 14.03.2019, therefore, instant appeal may also be posted to the said date before the larger bench.

Order accordingly. The record pertaining to grant of selection grade to the appellant in the year 1991 shall be made available by the respondents on next date of hearing. To come up for arguments on 14.03.2019 before Larger Bench.


Member


Chairman

14.03.2019 Mr. Taimur Ali Khan, Advocate for learned counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present.

Learned Member of Tribunal (Mr. Hussain Shah) is still indisposed, therefore, this appeal is adjourned to 02.05.2019 for arguments before the Larger Bench.



(M. Hamid Mughal)
Member



(M. Amin Khan Kundi)
Member




Chairman



(Ahmad Hassan)
Member

08.10.2018

Learned counsel for appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for appellant seeks adjournment. Adjourn. To come up for arguments on 08.11.2018 before D.B


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

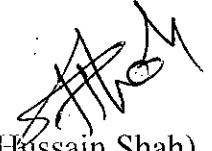
08.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 21.12.2018.


READER

21.12.2018


Learned counsel for the appellant Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Record mentioned in order sheet dated 02.06.2016 has not been furnish so far. Respondent are directed to furnish the same record on the next date positively. Adjourned. To come for record and arguments on 18.02.2019 before D.B.


(Hussain Shah)
Member


(Muhammad Amin Kundi)
Member

06.07.2018

Counsel for the appellant present. Mr. Sardar Shoukat Hayat, Addl: AG for respondents present. Arguments could not be heard due to incomplete bench. To come up for arguments on 17.08.2018 before D.B.


(Muhammad Amin Kundi)
Member

17.08.2018

Junior to counsel for the appellant and Mr. Usman Ghani learned District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 26.09.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

26.09.2018


Junior to counsel for appellant and Mr. Zia Ullah, learned Deputy District Attorney for the respondents present. Junior to counsel for appellant seeks adjournment as senior counsel is not in attendance. Adjourned by way of last chance. To come up for arguments on 08.10.2018 before D.B.



(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

08.02.2018

Counsel for the appellant present. Mr. Riaz Painsdakhel, Assistant AG for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.04.2018 before D.B.



(Gul Zeb Khan)
Member



(Muhammad Hamid Mughal)
Member

06.04.2018

~~Counsel for the appellant and Learned Deputy District Attorney present. Adjournment requested. To come up for further proceedings/arguments on 21.05.2018 before D.B.~~


relevant record regarding the grade of selection of the appellant in the year 1991. Similarly, the order side which set the grade was withdrawn be also re-examined on or before the date fixed. To come up for such record and arguments on 21.05.2018 before D.B.


(Ahmad Hassan)
Member


(M. Hamid Mughal)
Member

21.05.2018


Clerk to counsel for the appellant and Mr. Ziaullah, DDA for respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 06.04.2018 before D.B.



(Muhammad Amin Kundi)
Member

1375/2011

17.05.2017

Appellant in person present. Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Appellant requested for adjournment as his counsel is not available today. Adjourned. To come up for arguments on 07.09.2017 before D.B.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


07/09/2017

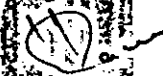
Due to general strike of the bar and bench is incomplete, the case is adjourned for arguments on 10/10/2017 before DB.


MUHAMMAD HAMID MUGHAL
MEMBER

10.10.2017

Appellant with counsel present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourn. To come up for arguments on 21.12.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

21.12.2017

Due to Judicial Officer's Conference today, case is adjourned to 08.02.2018 for the same before the D.B.

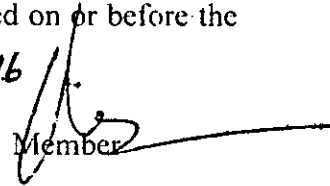

Reader

A 18

2.6.2016

Counsel for the appellant and Ziaullah, GP for respondents present. Since the relevant record not available before the court therefore, respondents are directed to make available all the relevant record regarding the grant of selection grade ~~awarded~~ to the appellant in the year 1991, ~~be requisitioned~~. Similarly, the order vide which selection grade was withdrawn be also requisitioned on or before the date fixed. To come up for arguments on 23.12.16

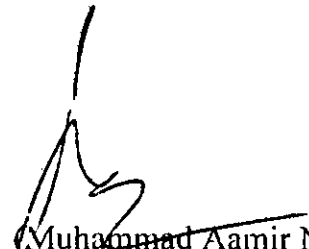

Member

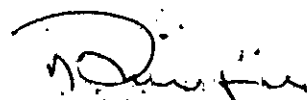

Member

23.12.2016

Appellant with counsel and Mr. Wisal Ahmad, ADO alongwith Mr. Muhammad Jan, GP for respondents present. Appellant requested for adjournment. Request accepted. To come up for arguments on

7.2.17


(Muhammad Aamir Nazir)
Member


(Ashfaque Taj)
Member

07.02.2017

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 17.05.2017 before D.B.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

29.07.2015

Appellant with counsel and Addl. AG for the respondents present. Arguments could not be heard as learned Member (Judicial) is on official tour to camp court D.I. Khan, therefore, the case is adjourned to 18.11.2015 for arguments.


Member

18.11.2015

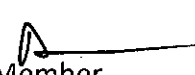
Appellant with counsel and Mr. Fazal Rabi, Legal Representative alongwith Mr. Muhammad Jan, GP for respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 18-2-2016 for arguments.


MEMBER

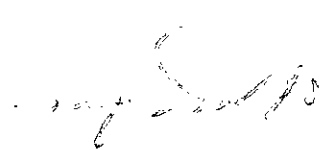

MEMBER

18.02.2016

Appellant with counsel and Mr. Wisal Ahmed, ADO alongwith Mr. Muhammad Jan, GP for respondents present. Due to paucity of time therefore, arguments could not be heard. To come up for arguments on 2.6.16


Member


Member



20.2.2014

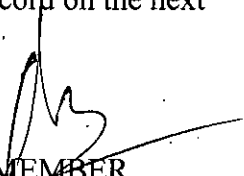
Appellant in person and Mr. Muhammad Adeel Butt, AAG present and requested for time to contact the respondents. To come up for arguments on 9.6.2014.


MEMBER

9.6.2014.

Counsel for the appellant and Mr. Muhammad Jan; GP present. The learned GP is directed to contact the respondents to depute their representatives alongwith relevant record on the next date. To come up for arguments on 03.10.2014.


MEMBER


MEMBER

03.10.2014

Appellant with counsel and Mr. Kabeerullah, Asstt. AG with Khursheed Khan, SO and Muhammad Irshad, Supdt. for the respondents present. Due to incomplete Bench, case is adjourned to 03.03.2015 for arguments.


MEMBER

3.3.2015

Appellant with counsel and Addl. A.G with Faqir Ahmad, Junior Clerk for the respondents present. The learned Member (Judicial) is on leave, therefore, case is adjourned to 29.7.2015 for arguments.


MEMBER

30.10.2012

Appellant present in person and Mr. Sherafgan Khattak, AAG with Muhammad Idrees ADO for the respondents No. 1 and 2 present. Respondent No. 3 has already been placed ex-parte. Appellant needs time to file rejoinder. To come up for rejoinder on 26.12.2012.


MEMBER

26.12.2012.

Counsel for the appellant and AAG with Muhammad Idrees, ADO for the respondents No. 1 and 2 present. Counsel for the appellant needs time to file rejoinder. To come up for arguments on 12.6.2013. Rejoinder, if any, in the meantime.


MEMBER


MEMBER

12.6.2013

Clerk to Counsel for the appellant, and Mr. Muhammad Jan, GP with Malak Habib, SI (Legal) for respondents present. In pursuance of promulgation of Khyber Pakhtunkhwa Service Tribunal (Amendment) Act 2013, the Tribunal is incomplete. To come up for the same on 10.10.2013.


READER

10.10.2013.

Counsel for the appellant, and Mr. Muhammad Jan, GP with Muhammad Idrees, ADO for the respondents present. Due to shortage of time, arguments could not be heard. To come up for arguments on 20.2.2014.


MEMBER


MEMBER

22.3.2012

Appellant in person and Mr. Sherafgan Khattak, AAG with Muhammad Aqeel, Assistant and Muhammad Idrees, ADO for the respondents present and requested for adjournment. To come up for reply on 16.4.2012.

MEMBER

MEMBER

16.4.2012

Counsel for the appellant, and Mr. Sherafgan Khattak, AAG with Muhammad Idrees, ADO and Shakeel Rohaila, Supdt. and Muhammad Aqeel, Assistant for the respondents present. Respondents need time. To come up for written reply on 14.6.2012.

MEMBER

MEMBER

14.6.2012

Appellant with counsel and Mr. Muhammad Zubair, AGP with Mashal Khan, L.O and Muhammad Idrees, ADO for respondents No. 1 and 2 present and written reply filed. Copy handed over to counsel for the appellant. None is available on behalf of respondent No. 3, hence placed ex parte. To come up for rejoinder on 6.9.2012.

MEMBER

MEMBER

6.9.2012

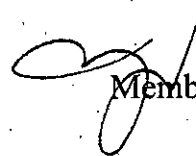
Clerk to counsel for the appellant and Mr. Sherafgan Khattak, AAG with Muhammad Irshad, S.O (Litigation) and Muhammad Idrees, ADO for the respondents present. Counsel for the appellant requested for time to file rejoinder. To come up for rejoinder on 30.10.2012.

MEMBER

MEMBER

6 23.12.2011

Counsel for the appellant, Fazal Rabi S/C and Irshad S.O for the respondents present. The latter requested for adjournment. Case adjourned to 20.1.2012 for reply/P.H.


Member

7. 20.1.2012

Counsel for the appellant present and heard on preliminary. Contends that the appellant has not been treated in accordance with law. He was awarded selection grade BPS-10 w..e.f. 31.12.1990 vide order dated 24.12.1991 but the same was withdrawn vide order dated 1.10.2000 after 10 years without any proper justification. Counsel for the appellant argued that once selection is granted to a civil servant the same could not be withdrawn from him under any rules. The appellant preferred a departmental appeal on 18.3.2011 but with no response. Points raised need consideration. The appeal is admitted to full hearing, subject to all legal objections. Security and process fee within 10 days. Notices be issued to the respondents for submission of written reply on 22.3.2012.

8. 20.1.2012

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


Member.


Chairman

4

12.10.2011

Counsel for the appellant alongwith the appellant present and preliminary arguments heard. Counsel for the appellant submitted that the appellant has been waiting for the benefits of selection grade since 2000 and therefore he has been continuously suffering financially. Counsel for the appellant stated that pre admission notice is indispensable in this matter. Preadmission notices be issued to the respondents. To come up for P.H /Written reply on 22.11.2011.



MEMBER

S. 22-11-2011

Counsel for the appellant present. No one is present for the respondents. Fresh notices be issued to them. Case adjourned to 23-12-2011 for Reply/ P.H.


Member.

Form- A
FORM OF ORDER SHEET

Court of -----

Case No. 1375/2011

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	23/7/11	<p>The appeal of Mr. <i>Jan Muhammad</i> submitted today by <i>Mr. M. Asif Yousafzai</i> Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	1-8-11	<p>This case is entrusted to Primary Bench for Preliminary Hearing to be put up there on <u>5-9-2011</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
03	5-9-11	<p>Counsel for the appellant present and requested for adjournment. Allowed. To come up for preliminary hearing on 12-10-2011</p> <p style="text-align: right;"><i>[Signature]</i> Member</p>

The appeal of Mr. Jan Muhammad PTC, GPS Nawa Keli Kangra Charsadda received to-day i.e. on 05/07.2011 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days:-

Copy of Impugned withdrawal order of selection grade mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

NO. 1026 /S.T

Dt. 06/07 /2011


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.

MR. M. ASIF YOUSAFZAI ADV. PESH.

Sir, the copy of withdrawal order is not available
the same may be requisitioned from the respect. Dept.

Re-submitted



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1375 /2011.

Mr. Jan Muhammad.

VS

Education Deptt:

INDEX

S.NO	DOCUMENTS	ANNEXURE	PAGE
1-	Memo of appeal.	---	1 - 3
2-	Service book	A	4 - 10
3-	Selection grade order	B	11 - 13
4-	Appeal.	C	14
5-	Vakalat nama	---	15

APPELLANT

THROUGH:



M.ASIF YOUSAFZAI
ADVOCATE.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1375 /2011.

K.P.S. Peshawar
Service Tribunal
Date: 25/7/2011
1277

Mr. Jan Muhammad, PTC,
GPS Nawa Keli Kangra, Charsadda.....Appellant.

VERSUS

- 1- The DCO Charsadda.
2- The EDO (E&SE) Charsadda.
3- The Secretary Finance Deptt: KPK Peshawar.....Respondents.

Ex-parte
14-6-2012

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 FOR DIRECTING THE RESPONDENTS TO FINALIZE THE SELECTION GRADE AWARD IN RESPECT OF APPELLANT AND AGAINST NOT TAKING ACTION ON THE APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS.

Filed to file
July
5/7/11

PRAYER:

That on acceptance of this appeal the respondents may be directed to finalize the award of selection grade BPS-10 in respect of appellant and to award the same to appellant with all consequential benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

re-submitted to copy and filed.

Received
23/7/2011

R.SHEWETH.

- 1- That initially the appellant joined the education Deptt: as Theology Teacher in BPS-6 vide order dated.26.2.1984 and then after passing PTC, the appellant was promoted/ adjusted as PTC vide order dated. 10.6.1989. All the dates of orders are

recorded in the service book the copy of which is attached as Annexure – A.

- 2- That the appellant has performed his duty at various stations as PTC and there is no adverse entry against the appellant.
- 3- That the appellant was awarded selection grade BPS-10 w.e.from 31.12.1990 vide order dated.24.12.1991. Copy of the order is attached as Annexure – B.
- 4- That while performing duties in Distt: Charsadda, the then DEO withdrew the selection grade order on 1.10.2000(after 10 years) with the wordings that it was not awarded properly and the proper order will be issued later on. The withdrawal order is recorded in the service book which is already attached as Annexure – A.
- 5- That the appellant waited more for further 10/11 years but still the selection graded award has not been finalized, therefore the appellant filed an appeal for his claims because the appellant is going to retire in near further and in case of non-inclusion of benefits of selection grade, the appellant would suffer a lot financially. That appeal has not been replied so far even the statutory period has also been lapsed. Copy of the appeal is attached as Annexure – C.
- 6- That now the appellant comes to this august tribunal on the following grounds amongst the others.

GROUND:

- A- That not deciding the appeal of appellant within 90 days and not finalizing the selection grade award by the respondents are against norms of justice and material on record, therefore not tenable.
- B- That the appellant has been waiting since 2000 for the benefits of selection grade which is not tenable in the eyes of law because the appellant has continuously been suffering financially.
- C- That even the withdrawal order of selection grade was illegal because the same was passed after the lapse of 10 years which under the principles of Locus Poenitentiae is not permitted.

- D- That the appellant has not been dealt according to law and rules and has been deprived from his legal right of selection grade in an illegal manner.
- E- That the appellant is an old employee and he is entitled to the benefits of selection grade as awarded in the year 1991.
- F- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT

جان محمد

JAN MUHAMMAD

THROUGH:

M. Asif Yousafzai

M.ASIF YOUSAFZAI
ADVOCATE.

(For use in Police Department only).

① Passed P.T.C (Comp II) under Rno 94232
(C.S no 3199) ^{Heirs,} obtaining ^{Percent} 42 ^{marks}

- 1.
- 2.
- 3.

General Clerk
23/11/58
 S.D.E.O. (M) NSR
 N. Wshera
 received back

Verification Roll No. , dated

County Attested
[Signature]
 S.D.E.O. (M)
 Sub. Divisional Education Officer
 (M) N. Wshera

Left thumb-impression. ✓

Passed the S.S.C. Exams. (1971) (Enpl.) in the third division under Roll No 605.18

Qualification *37/11*
 English
 Pashtu
 Urdu
 Plan-drawing
 Finger print
 Drill instructing
 Court duties
 Reserve duties

General Clerk
 S.D.E.O. (M) NSR
 Passed the S.S.C. Exam
 1971 from the B.I.S.E. Pesh.
 First Arts
 Under Roll No
 B. L. or B. A.

② Passed Fazil-i-Dinyat
 Pledership examination
 Exam from DARULULUM
 Training School Final examination
 JAMIA GHAUSIA Muarish
 Beron Yakatout
 PESHAWAR
 on 15 Shawal 1396

S.D.E.O. (M) NSR
 Sub. Divisional Education Officer
 N. Wshera
 Dist. Peshawar

Passed the 8th class exam from
 GHS Subhan Khawar Mohammad
 Agency Adm. No 1745 Date 7
 Issue of certificate by the H/M of
 School concerned 11/5-84

N. B.—A line to be drawn under the qualification possessed.

ATTESTED

[Signature]
 S.D.E.O. (M)
 Dist. Peshawar

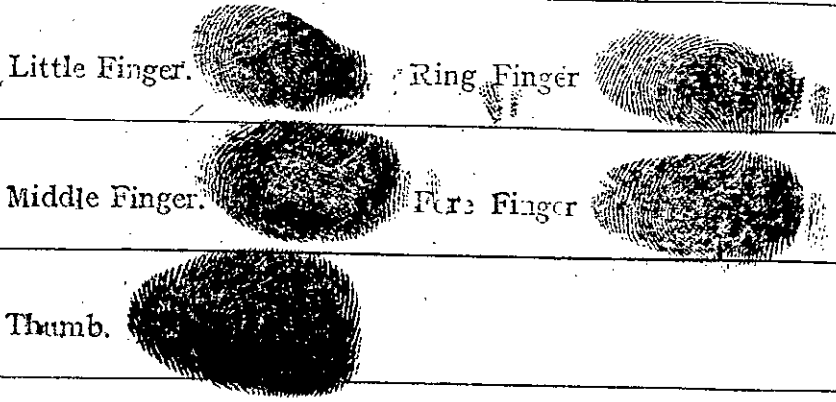
Note:—The entries in this page should be renewed or re-attested at least every five years and the signature in lines 9 and 10 should be dated.

- 1. Name *Jan mohammad*
- 2. Race *Afghan*
- 3. Residence *Kangra (Shabqaddar Fort) Teh. Charsadda Distt. Peshawar.*
- 4. Father's name and residence *.. Aclam Khan ✓*

- 5. Date of birth by Christian era as nearly as can be ascertained *15-4-1953*
Verified from the school record leaving certificate signed by the H.M. P. S. Kangra *Fifteenth April N.H. A fifty three*
- 6. Exact height by measurement *5-5*

Sub-Divisional Education Officer
(M) Nowshera
Distt. Peshawar

- 7. Personal marks for identification.. *mole on shoulder*
- 8. Left hand thumb and Finger impression of (non-gazetted) officer ..



- 9. Signature of Government servant .. *[Signature]*
- 10. Signature and designation of the Head of the Office, or other Attesting Officer. ..

[Signature]
SDEO, M. Nowshera
Sub-Divisional Education Officer
(M) Nowshera.
Distt. Peshawar.

ATTESTED
[Signature]

Exam -
Date
Beh.
ingyat
ulem
vanich
JAR
7620
NSR
ation Office
ETA
99781
m. from
Shamund
Date 7
M 7

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
Theology teacher			540-23-1020 560-23-1020				
P.M.S. Marolha Per			560/- P.M.			1-3-85	جان محمد جان محمد
-Do-			583/- P.M.			1-12-84	جان محمد
-Do-			606/- P.M.			1-12-85	جان محمد
Do			629/- P.M.			1-12-86	جان محمد
	Revised B-7	(750-31-1370)			جان محمد
do	do		843/- P.M.			1-7-87	جان محمد
do	do		874/-			1-12-87	جان محمد
do	do		905/-			1-12-88	جان محمد
do	do						جان محمد
do	do		905/-			11-6-89	جان محمد

National Scale of Pay 1987
 Paylized in the National Scale Pay (7)
 of Rs. 750 - 31 - 1370
 at Rs. 843/- P.M. w.e.f. 1-7-87
 with Next Increment on 1-12-87

Assistant Accounts Officer
 Assistant Accounts General
 N.W.F.P. Peshawar

TESTED

SDEO
 NSR
 CHAR

1	18	17	16	13	14	15
<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer (M) Nowshera Distt. Nowshera</p>	<p>Date of appointment</p> <p>30/11/84</p>	<p>Reason of transfer</p> <p>Incr</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer (M) Nowshera Distt. Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer (M) Nowshera Distt. Nowshera</p>
<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Date of appointment</p> <p>30/11/85</p>	<p>Reason of transfer</p> <p>Incr</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>
<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Date of appointment</p> <p>30/11/86</p>	<p>Reason of transfer</p> <p>Incr</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>
<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Date of appointment</p> <p>30/6/87</p>	<p>Reason of transfer</p> <p>Incr</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>
<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Date of appointment</p> <p>30/11/85</p>	<p>Reason of transfer</p> <p>Incr</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>
<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Date of appointment</p> <p>30/11/88</p>	<p>Reason of transfer</p> <p>Incr</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>
<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Date of appointment</p> <p>30/11/89</p>	<p>Reason of transfer</p> <p>Transfer</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>	<p>Signature and designation of the head of the office</p> <p><i>[Signature]</i> Sub-Divisional Education Officer Nowshera</p>

Appointed grant theology teacher post at R.M.S. Marob Teh. Nowshera vide D.E.O. (M) Peshawar End. No 1310-12 dated 26.2.1984.

Age relaxation

Sanction is hereby accorded the relaxation of upper age limit in R/o Jan Mohamud R/o Adam when appointed as a theology teacher period mentioned as below.

D/O Birth	D/O Appointment	Age Relaxation
5.4.1953	26.2.1984	10 months 11 days

Vide D.E.O. (M) Peshawar End. No 132 dated 27.2.1984.

Sub-Divisional Education Officer (M) Nowshera Distt. Nowshera

Service Verified w.e.f. 1-3-84 to 30-11-84 from the acq. Roll and other record of this office.

Sub-Divisional Education Officer (M) Nowshera

S.D.E.O. (M) NSR
 CHARSADDA.

ATTESTED

W.e.f. 1-1-87 to 31-12-87

[Signature]
 Sub-Divisional Education Officer (M) Nowshera

1260-1603-320-01

28

10	11	12	13	14	15
----	----	----	----	----	----

S.D.E.O. (M)
Peshawar
 16-9-89 (FN)
Transferred to Peshawar

S.D.E.O. (M)
Peshawar
 16-11-90
3me

S.D.E.O. (M)
Peshawar
 16-90
Transferred

S.D.E.O. (M)
Peshawar
 31-5-91
Pay Scale revised

Leave

Allocation of period of leave on average pay upto four months for which leave salary is payable to Government

Government habitable

Signature of the head of the office or other assessing officer

Reference to the record of punishment, of censure, or reward or grant of the Government

1260-1603-320-01

S.D.E.O. (M)
Charsadda
 30-11-91
Inc.

S.D.E.O. (M)
Charsadda

S.D.E.O. (M)
Charsadda

S.D.E.O. (M)
Nowshera

Service verified from 1-1-88 to 11-6-89 from (The Acy) roll and other records of this office

S.D.E.O. (M)
Nowshera

Fixation of pay

Pay on 31-12-90 B.P.S. 7 = Rs. 967/-

Pay on 31-12-90 B.P.S. 10 = Rs. 996/-

+ one P.M.D. = 996 + 42 = Rs. 1038/-

Service verified from 11-6-89 to 31-12-90 from the Acy roll and other records of this office

ATTESTED

S.D.E.O. (M)
Charsadda

S.D.E.O. (M)
Peshawar

PTC

GPS Shahi Bala

GPS

Bela Baramad Khel

Do

TC Do
EMPS ocha wala

do

do

do

off temp

do

do

do

do

do

If officiating state
(i) substantive appointment, or
(ii) whether service counts for pension under Art. 34 C. A. R.

BPS No. (17) 750-31-1370

Pay in substantive post

Additional Pay for officiating

Other emolument falling under the term "Pay"

Date of appointment

Signature of Government servant

Rs 905/- P.M.

12/6/89

Rs 905/- P.M.

16/9/89

Rs 936/- P.M.

1-12-89

Rs 967/- P.M.

1-12-90

Rs 967/- P.M.

12/17/90

Rs 975/-

BPS No-7 Rs 1095-60-1995

Rs 1455/- P.M.

1/9/91

Rs 1515/- P.M.

1/9/91

Awarated of grade 7 B.P.S. Nos. 870-42-1710 at the revised selection grade list S.No 24/1063 B vide D.E.O. in, Poy chausaddi

End No 3165 dated 24-12-91 w.e.f.

31-12-1990

Signature of Government servant

No

ATTN: STENO

Name of post	Whether existing or abolishing and whether government or temporary	If abolishing state (i) salientive appointment, or (ii) whether service counts for pension under Act. XVI of B. K.	Pay to be drawn	Gratuity	Other benefits	Date of abolition	Remarks
MPS No 1 Kangra	Do		Rs 2730/- PM	X		12/95	حالیہ تمام
do	Do		Rs 2837 DM			12/96	حالیہ تمام
do	Do		Rs 2944/- PM			12/97	حالیہ تمام
GPS Kangra	Do		Rs 3051/- PM			12/98	حالیہ تمام
do	do		Rs 3158/- PM			12/99	

Revised Entry B.7 u/To S(e)

CERTIFICATE

1750-31-1370/1-7-87	967/-
31/12/90	
137 (1095-60-1995) 1-6-91	1455/-
6/91	1515/-
12/91	1575/-
12/92	1635/-
12/93	
137 (1480-87-2695) 1-6-94	2209/-
6/94	2290/-
12/94	2371/-
12/95	2452/-
12/96	2533/-
12/97	2614/-
12/98	2695/-
12/99 B.S. 1540-88-886	2772/-
18/12	

Certified that the official concerned reverted from P.P.S No. 10 to P.P.S No. 7 vide D.O. MJP Chd and recovery has been started @ Rs 500/pm W.E.F. 1-10-2000

ATTENDED

[Handwritten signature]

Signature design head of other officer in of color

[Handwritten notes and signatures on the right margin]

10.525	B. Nooru l Qumar	Qamar Din	7.10.56	1.11.78	20.3.75	1.10.87	G.P.S. UMARZAI
10.526	B. Zafar Ali	Mohammad Hussain	13.3.53	17.12.73	4.5.76	30.11.87	G.P.S do
10.583	B. Midrar ullah	Hamdullah Jan	6.8.56	7.10.79	20.3.75	30.6.88	G.P.S. Daudat Pura
11.722	B. Laaqat Ali	Shir Dil Khan	1.3.53	5.10.79	20.3.75	1.6.88	G.M.F.S TAKNAB NO.1
12.777	B. Mukhtar Ahmad	Faiz mohd Khan	4.4.48	10.9.70	24.10.81	30.9.88	G.P.S Bariband (T i)
13.842	B. Waris Khan	Ahmad Jan	23.6.63	27.10.83	1.10.83	1.4.89	G.P.S. Sher Pao Kas Koroona
14.827	B. Mohd Nisar	Bakhti Jan	9.3.65	15.9.84	1.10.84	1.10.89	G.P.S. Harichand NO2
15.851	B. Mauraood Khan	Gul Khan	11.8.66	23.10.84	1.10.84	1.9.89	G.P.S. Nistta
16.899	B. Gul Naraz	Fazal Tabab	2.2.65	5.10.85	15.8.85	1.12.89	G,PS Allad Khil
17.914	B. Halilm SHah	A ab khan	22.1.46	9.9.68	14.7.86	1.6.90	G.P.S. NO1 Harichand
19.920	B. Hassan Nabi	Fazali ghani	12.2.52	1.8.86	21.10.75	1.7.90	do Basakhel N 4
19.953	B. Sadeeq Ullah	Asamat ullah	1.4.65	15.9.86	15.8.86	31.7.90	do NawanKilli
20.941	B. Akhtar Gul	Hamid Gul	16.9.65	17.9.86	15.8.86	31.7.90	do Sataion Koroona Tangi
21.941	B. Rabnawaz Khan	Musharafkhan	1.10.66	17.5.87	15.8.86	31.7.90	do seapao kanangar
22.10.89	B. Shahramahd	Fazli malik	1.4.66	17.9.88	15.8.87	do	do Dhulan Qadar
23.10.55	B. Tahsin ullah	Ghunchakhan	5.4.61	21.9.82	18.6.87	31.12.90	M.S Badshahgul Killi
24.1063	B. Gaveid S laer	YaqooburRAH man	3.5.64	22.3.84	29.11.87	31.12.90	G.P.S. Peinda Khel
25.995	B. Jan mahmd	Admmkhan	15.4.53	29.2.85	31.12.87	31.12.90	M.S Ochwala
	Bahaudlin	Fazalmohd	10.9.59	10.9.87	30.6.87	31.12.90	G.P.S Zuhzab gul.

23/12

(MAJAN AMANUL MULK KAKA KHEL)
 DISTRICT EDUCATION OFFICER
 (MALE) PRIMARY, CHARSAJDA

ATTESTED


(13)

(13)

Dist No

()

Director General of Education,

() Primary Education

Dist: No. 3165-76 Dated Charsadda the 24/12 1991.

Copy of the above is forwarded to the:-

- 1. Director of Primary, Education NWFP, Hayatabad Peshawar.
- 2. Directorate of Secondary Education Schools NWFP, Peshawar.
- 3. Divisional Director of Education (Schools) Peshawar Division Peshawar.
- 4. Accountant General NWFP, Peshawar.
- 5. District Account Officer Distt: Charsadda.
- 6. Sub-Divisional Education Officer (M) Tangi.
- 7. Sub-Divisional Education Officer (M) Charsadda.
- 8. A.D.E.O (Account) Local Office.
- 9. F.S. Secretary Education Govt: of NWFP.
- 10. P.S to honorable Adviser to the Chief Minister NWFP.
- 11. All above mentioned teachers.

Amjad Malik
 D.E.C (M), Charsadda
 P.S: Charsadda. 23-12-91

11. P.S. to the Chief Minister
 () Peshawar

ATTESTED

Handwritten notes in Urdu at the bottom of the page, including the number 500 and some illegible text.

B(11)

(1)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PRIMARY, CHARSADDA.

SUBJECT:- SELECTION GRADE IN BPS.10.

Memo: In continuation of this office order of award of selection Grade and correction ~~therein~~ endstt;no.2557-67/52 Dated 21.10.1991 therein are hereby ordered as under.

Under the provision of revised Basic Pay Scale 1982 the following PTC Teachers(BPS-7)Rs:750-31-1370 are hereby awarded Selection Grade in BPS-10)Rs;370-42-1710 w.e.from the dates noted againse each vide Govt: of NWFP, Finance Deptt:Letter No.SO(SR-1)F.D-2-45/75-V dated 17.6.1982 and Director of Education(Schools)

NWFP, Peshawar Endst:No.4632-770/A-256/S-Grade 1982, dated 26.6.1982.

S.NO	NO.in Award List.	Name of Teacher.	Father Name.	Date of Birth	Date of Appt.	Date of Passing PTC	Date of Award S/Grade.	Name of Schools.
1.	531 B.	Jan Alam.	Nazir Mohd.	26.6.1955	1.11.76	20.3.75	5.1.86	GPS.Umerzai.
2.	559 B.	Shahi Maula.	Mian Mazullah.	30.4.55	15.12.76	21.10.75	5.1.86	GPS.Saifur MianKili
3.	559 B.	Nasrullah Khan.	Saadullah Khan.	15.1.58	15.5.77	20.3.75	5.1.86	GPS.Sukar.
4.	571 B.	Mohd Sharif.	Mohd Shafi.	15.9.53	20.4.78	20.3.75	1.3.87	GPS.No.1 Charsadde.
5.	584 B.	Nasrullah Khan.	Gul Rahman.	24.6.54	4.5.78	20.3.75	1.9.87	GPS.Tala Shaha Tangi.
6.	598 B.	Parvez Shah.	Mahtab Shah.	15.1.59.	12.10.78	20.3.75	1.9.87	GPS.Sheikh Killi.
7.	603 B.	Serajullah.	Abdul Shafi.	5.7.56	3.10.78	21.10.78	1.9.87	GPS.Dheri S.K.Khan.

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AWESTED

حضرت ضیاء شہان والا ڈی سی ہسپتال چارسدہ

14
اپریل
1990

دردی ہسپتال سیکشن گریڈ 10

ضیاء عالی مددی خود اپنے گزارش کرتے ہیں کہ وہ سال 1984 میں لکھنؤ ہسپتال میں استاد کے طور پر آئے اور پھر 1989 کو لکھنؤ ہسپتال سے ریٹائر ہوئے۔ مددی نے 24-10-94 سے 31-12-1990 تک ڈی سی ہسپتال میں ڈی سی کے طور پر کام کیا اور وہ اس وقت ڈی سی کے طور پر کام کر رہے ہیں۔

ضیاء عالی مددی نے 1984 سے 1989 تک ڈی سی کے طور پر کام کیا اور پھر 1989 کو لکھنؤ ہسپتال سے ریٹائر ہوئے۔ مددی نے 24-10-94 سے 31-12-1990 تک ڈی سی ہسپتال میں ڈی سی کے طور پر کام کیا اور وہ اس وقت ڈی سی کے طور پر کام کر رہے ہیں۔

ان کے خلاف مزید 10 سال انتظار کیا گیا مگر تا حال مددی کے خلاف کوئی کارروائی نہیں ہوئی۔ اور مزید یہ کہ مددی نے ہسپتال میں اپنے کاموں کو جاری رکھا ہے اور اس کے حالات میں مددی کو کافی مالی نقصان اٹھانا پڑے گا۔

لہذا استدعا ہے کہ مددی کے خلاف سیکشن گریڈ 10 کے طور پر کام کرنے کے حوالے سے کوئی کارروائی ہو۔

آغا بلال مددی جان نگر ہسپتال
جان نگر ہسپتال
نور پور چارسدہ

الموجود
3-18-2011

ATTESTED

VAKALAT NAMA

APPEAL NO. _____/20

IN THE COURT OF Servic Tribunal Peshawar

Jan Muhammad

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Educational Dept.

(Respondent)
(Defendant)

I/We Jan Muhammad (appellant)

Do hereby appoint and constitute *M.Asif Yousafzai Advocate Peshawar*, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our counsel/advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other advocate/counsel on my/our costs.

I/we authorize the said advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The advocate/counsel is also at liberty to leave my/our case at any stage of the proceedings if his any fee left unpaid or is outstanding against me/us.

Dated. _____/20.

جان محمد
(CLIENT)

ACCEPTED

M.Asif Yousafzai
Advocate.

M.ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room NO.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph: 091-2211391.
0333 9103240.

Before the Service Tribunal Khyber Pakhtunkhwa Peshawar

Appeal No.1375 /2011

Mr. Jan Muhammad..... Appellant

14/6/12

Versus

3. District Coordination Officer Charsadda
4. Executive District Officer E&SE Charsadda Respondents

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5	Transfer order to Charsaadda District	---	10
6	Affidavit	---	11

Respondent
EDO (E&SE) Charsadda

P 10

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No.1375/2011

Jan Muhammad Appellant

VERSUS

1. The DCO Charsadda and others
2. The EDO E&SE Charsadda Respondents

Written reply on behalf of Respondents No.1 & 2

Respectfully Sheweth,

Preliminary objections:

1. That the appellant has no cause of action against the respondents
2. That the order is under law and rules
3. That the appellant has no right to file appeal against the respondents because the appellant given undertaking in his service book that if any irregularity found in the awarded selection grade, the Department shall draw it. Copy of that under taking is Annexed-A.
4. That the appeal of the appellant is hit by laches
5. That the appellant has not come to this Hon, able tribunal with clean hands
6. That the appellant has no locus standi to file appeal against the respondent
7. That the appeal is time barred
8. That the selection grade was withdrawn by the audit party AG office, copy of that is annexed-B.
9. That the appellant did not file appeal against necessary party.
10. That in the light of AD/DP, No. of the audit report the DDO (M) E&SE Primary Charsadda started recovery from the 339 teachers who were not entitled for award of selection grade. Copy of that arc annexed-C.
11. That according the entries of his service book the appellant was not posted in the year 1990 in District Charsadda. The appellant has made bogus entries in his service book which is very much clear from the entries in his service book.

FACTS:

1. Pertains to appellant
2. Its related to the record
3. Correct to the extent that appellant was awarded S/grade mistakenly and illegal which was withdrawn by the audit party AG office, copy of that is

Original Part of Audit Party

Advance Para No. 83

P. 4 Annexed
(B)
P. (4)

Name of Department	Education
Name of Office	SDEO (M) Primary Charsadda
Name / Desig: of Officer Responsible	SDEO (M) Priy Charsadda Ghani ur Rehman
Period of Irregularity	1999-2000
Month in which detected	7/2000
Name of Audit Officer	Hamid Hussain
Para No. of IR/Audit Note	7

OVERPAYMENT OF Rs. 22,499,701, DUE TO UNAUTHORIZED AWARD OF SELECTION GRADE TO PTC TEACHERS.

In the office of SDEO (M) Primary, Charsadda, Selection Grade was awarded in 1991 to 339 PTC Teachers, over and above the prescribed percentage of sanctioned strength (viz 33%), involving overpayment of Rs. 22,499,701.

The overpayment has been continuing since 1991, in spite of being pointed out by Audit time and again. An enquiry into the matter was conducted by the Department itself in November, 1998, which also confirmed the audit's point of view that these Teachers were not entitled to Selection Grade. But unfortunately, the stalemate continued till 29.06.2000, when the DEO issued formal orders for the withdrawal of Selection Grade from these Teachers as well as the recovery of past overpayment was ordered. Even thereafter no tangible step was taken by the Department till the last date of audit (viz 31.07.2000) for enforcing the recovery.

The local office stated that the recovery will be started shortly and it will be shown to Audit.

There is need for proper enquiry at appropriate level, to pinpoint responsibility for the lapses involved, which led to the continuance of the overpayment for almost a decade, in spite of being brought to notice from time to time; specially for neglecting the matter even after the findings of the departmental enquiry in November, 1998. Since a huge amount of more than Rs.22 millions is at stake, there is a need for firm assurance from the top level that the recovery will be started without any further delay, and that too in suitable installments, so as to complete recovery within a reasonable time.

U. A. Zaman

Director General

[Handwritten mark]

DEPUTY DIRECTOR I / 9

Annexed (C) P (9)

When the DEO issued formal orders for withdrawal of selection grade from these teachers as well as the recovery of past overpayment. Even thereafter no tangible step for enforcement of recovery was taken by the Department till the last date of order. (Viz- 31.07.2000).

When pointed out by audit in July 2000 the local office stated that the recovery would be started shortly and it would be shown to audit. In the special DAC meeting held in May 2001, the Department produce documents, showing that a recovery of Rupees 817578 /- had since been made. It was decided that the Para should stand till completion of recovery.

In the year 2002 an order awarding Selection Grade to the senior most teachers was again issued vide No.6256-87 Dated 20.04 2002 and Endst: No.11806-12 Dated 04.06.2003 respectively. The 339 teachers which were previously declared as not entitled for Selection Grade from the date of their award of Selection Grade, have also been considered and Selection Grade was awarded from the date from which they were actually entitled.

It is crystal clear from the record that recovery of overpayment from the teachers has been adjusted and nothing is outstanding of any overpayment against the effected teachers. As the audit has worked out over payment against each teacher right from 12/1988 till the date of audit i.e. up to 07/2000, but actually due to re-award of Selection Grade to the teachers the overpayment was for the lesser period than that worked out by the audit.

(Calculation is as under)

Total overpayment	Rs. 22499701/-
<u>Recovered Amount</u>	<u>Rs 03390000/-</u>
Balance Rs.	19109707/-
Amount adjusted due to re-award of	
<u>Authorized S/ grade</u>	<u>Rs.1910707/-</u>
Balance	Rs.---nil---

It is therefore requested that in the light of the above stated facts the long outstanding Para may kindly be dropped.

E. District Officer
 Elementary & Secondary Education
 Charsadda

Deputy District Officer
 Advisory Education

P- (11)

Before the Service Tribunal Khyber Pakhtunkhwa, Peshawar

Appeal No.1375/2011

Jan Muhammad.....Appellant

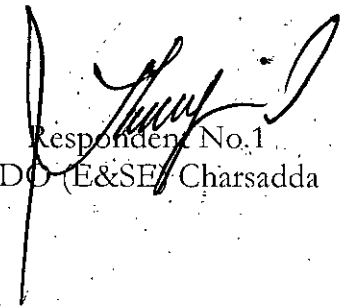
Versus

1. District Coordination Officer Charsadda
2. Executive District Officer E&SE Charsadda Respondents

Affidavit

I the following respondent do hereby solemnly affirms and declare on oath that the contents of the written reply of the said appeals are correct and the best of my knowledge and nothing has been concealed from the Hon, able Tribunal.

DEPONENT


Respondent No.1
EDO (E&SE) Charsadda

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.



APPEAL NO. 1375/2011

Jan Mohammad.

Vs

Education Deptt:

REJOINDER ON BEHALF OF APPELLANT.

PRELIMINARY OBJECTIONS:

1 TO 11- All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1- Admitted correct by the respondents so no comments.
- 2- Admitted correct by the respondents so no comments.
- 3- Partially admitted correct by the respondents. However it is added that the A.G has no authority to withdraw award of selection grade and even on transfer the seniority in a Deptt; cannot be lost. Thus the contention of respondents is correct.
- 4- Admitted correct by respondents so no comments.
- 5- Not replied according to the contents of para-5 of appeal. More over para-5 of appeal is correct.
- 6- Legal and appellant has every right to be awarded selection grade.

GROUND:

- A- Incorrect while para-A of appeal is correct.

B- Incorrect while para-B of appeal is correct. The appellant cannot be denied selection grade due to his transfer within the Deptt:

C- Incorrect while para-C of appeal is correct. An authority cannot reversed order after the lapse of ten years.

D- Incorrect while para-D of appeal is correct.

E- Incorrect and not replied accordingly. More over para-E of appeal is correct.

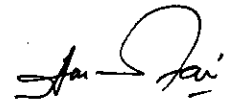
F- Legal.

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

APPELLANT

JAN MOHAMMAD

THROUGH;



M.ASIF YOUSAFZAI
ADVOCATE.

AFFIDAVIT.

It is affirmed that the contents of appeal and replication are true and correct.



DEPONENT.

ATTESTED





GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

No. SO(Lit-II)FD/2-1245/2011.

Dated Peshawar the 15-11-2012.

To

The Registrar,
Khyber Pakhtunkhwa Service Tribunal.
Peshawar.

987
6/12/12

Subject:

APPLICATION FOR SETTING ASIDE THE ORDER DATED
06/09/2012 WHEREIN EX-PARTE ORDER HAS BEEN ANNOUNCED
AGAINST RESPONDENT NO.3 ON THE GROUND OF NON FILING
OF COMMENTS.

Dear, Sir,

I am directed to refer to the subject noted above and to enclose herewith application on captioned subject for further necessary action. The case is fixed for hearing before the Honorable Final Bench-II on 26-12-2012.

Put up to the Court
with relevant appeal
for disposal.
Reader
Concerned,
16/11/12

Yours faithfully,


(GUL NAZIF KHAN)
SECTION OFFICER (LIT-II).

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR (MEMBER).

**Service Appeal No. 1375/2011 Mr. Jan Muhammad PTC
GPS Nawa Keli Kangra, Charsadda.**

...Appellant

VERSUS

1. The District Coordination Officer Charsadda.
2. The Executive District Officer (E&SE), Charsadda.
3. Govt: of Khyber Pakhtunkhwa Secretary Finance Department Peshawar.

...Respondents

Subject: **APPLICATION FOR SETTING ASIDE THE ORDER DATED 06/09/2012
WHEREIN RESPONDENT NO. 3 HAS BEEN DECLARED AS EX-PARTE ON THE
GROUND OF NON FILING OF PARAWISE COMMENTS.**

R/Shewith.

1. That above titled appeal was fixed for filing of reply before this Honorable Tribunal on 06-09-2012.
2. That this Honorable Tribunal (Final Bench-II) issued ex-parte orders against Respondent No.3 on 06-09-2012 on the grounds of non filing of reply.
3. That non filing of Parawise Comments by the respondent No.3 was not willful.
4. That delay in filing of Parawise comments was due to the circumstances beyond control of respondent No.3.
5. That in the best interest of justice the respondent No. 3 may be allowed to contest the case and file its reply.
6. That the application is within time.

It is therefore, prayed that on acceptance of this application the order regarding ex-parte against respondent No. 3 may please be set aside and he may be allowed to file the Para-wise comments and contest the case.


(GUL NAZIF KHAN)
SECTION OFFICER (Lit-II)
For Respondent No.3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR (MEMBER).

**Service Appeal No. 1375/2011 Mr. Jan Muhammad PTC
GPS Nawa Keli Kangra, Charsadda.**

...Appellant

VERSUS

1. The District Coordination Officer Charsadda.
2. The Executive District Officer (E&SE), Charsadda.
3. Govt: of Khyber Pakhtunkhwa Secretary Finance Department Peshawar.

...Respondents

Subject: **APPLICATION FOR SETTING ASIDE THE ORDER DATED 06/09/2012
WHEREIN RESPONDENT NO. 3 HAS BEEN DECLARED AS EX-PARTE ON THE
GROUND OF NON FILING OF PARAWISE COMMMENTS.**

R/Shewith.

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2. That this Honorable Tribunal (Final Bench-II) issued ex-parte orders against Respondent No.3 on 06-09-2012 on the grounds of non filing of reply.
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6. That the application is within time.

It is therefore, prayed that on acceptance of this application the order regarding ex-parte against respondent No. 3 may please be set aside and he may be allowed to file the Para-wise comments and contest the case.


(GUL NAZIF KHAN)
SECTION OFFICER (Lit-II)
For Respondent No.3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR (MEMBER).

**Service Appeal No. 1375/2011 Mr. Jan Muhammad PTC
GPS Nawa Keli Kangra, Charsadda.**

...Appellant

VERSUS

1. The District Coordination Officer Charsadda.
2. The Executive District Officer (E&SE), Charsadda.
3. Govt: of Khyber Pakhtunkhwa Secretary Finance Department Peshawar.


...Respondents

Subject: **APPLICATION FOR SETTING ASIDE THE ORDER DATED 06/09/2012
WHEREIN RESPONDENT NO. 3 HAS BEEN DECLARED AS EX-PARTE ON THE
GROUND OF NON FILING OF PARAWISE COMMMENTS.**

R/Shewith.

1. That above titled appeal was fixed for filing of reply before this Honorable Tribunal on 06-09-2012.
2. That this Honorable Tribunal (Final Bench-II) issued ex-parte orders against Respondent No.3 on 06-09-2012 on the grounds of non filing of reply.
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5. That in the best interest of justice the respondent No. 3 may be allowed to contest the case and file its reply.
6. That the application is within time.

It is therefore, prayed that on acceptance of this application the order regarding ex-parte against respondent No. 3 may please be set aside and he may be allowed to file the Para-wise comments and contest the case.


(GUL NAZIF KHAN)
SECTION OFFICER (Lit-II)
For Respondent No.3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR (MEMBER).

**Service Appeal No. 1375/2011 Mr. Jan Muhammad PTC
GPS Nawa Keli Kangra, Charsadda.**

...Appellant

VERSUS

1. The District Coordination Officer Charsadda.
2. The Executive District Officer (E&SE), Charsadda.
3. Govt: of Khyber Pakhtunkhwa Secretary Finance Department Peshawar.

...Respondents

**Subject: APPLICATION FOR SETTING ASIDE THE ORDER DATED 06/09/2012
WHEREIN RESPONDENT NO. 3 HAS BEEN DECLARED AS EX-PARTE ON THE
GROUND OF NON FILING OF PARAWISE COMMENTS.**

R/Shewith.

1. That above titled appeal was fixed for filing of reply before this Honorable Tribunal on 06-09-2012.
2. That this Honorable Tribunal (Final Bench-II) issued ex-parte orders against Respondent No.3 on 06-09-2012 on the grounds of non filing of reply.
3. That non filing of Parawise Comments by the respondent No.3 was not willful.
4. That delay in filing of Parawise comments was due to the circumstances beyond control of respondent No.3.
5. That in the best interest of justice the respondent No. 3 may be allowed to contest the case and file its reply.
6. That the application is within time.

It is therefore, prayed that on acceptance of this application the order regarding ex-parte against respondent No. 3 may please be set aside and he may be allowed to file the Para-wise comments and contest the case.


(GUL NAZIF KHAN)
SECTION OFFICER (Lit-II)
For Respondent No.3

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1375/2011

Jan Mohammad.

Vs

Education Deptt:

REJOINDER ON BEHALF OF APPELLANT.

PRELIMINARY OBJECTIONS:

1 TO 11- All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1- Admitted correct by the respondents so no comments.
- 2- Admitted correct by the respondents so no comments.
- 3- Partially admitted correct by the respondents. However it is added that the A.G has no authority to withdraw award of selection grade and even on transfer the seniority in a Deptt; cannot be lost. Thus the contention of respondents is correct.
- 4- Admitted correct by respondents so no comments.
- 5- Not replied according to the contents of para-5 of appeal. More over para-5 of appeal is correct.
- 6- Legal and appellant has every right to be awarded selection grade.

GROUNDS:

- A- Incorrect while para-A of appeal is correct.

B- Incorrect while para-B of appeal is correct. The appellant cannot be denied selection grade due to his transfer within the Deptt:

C- Incorrect while para-C of appeal is correct. An authority cannot reverse order after the lapse of ten years.

D- Incorrect while para-D of appeal is correct.

E- Incorrect and not replied accordingly. More over para-E of appeal is correct.

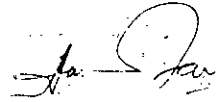
F- Legal.

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

APPELLANT

JAN MOHAMMAD

THROUGH;



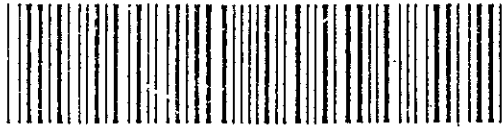
M.ASIF YOUSAFZAI

ADVOCATE.

AFFIDAVIT.

It is affirmed that the contents of appeal and replication are true and correct.


DEPONENT.



PNR: 19XWLNLR7

SHAHEEN AIR

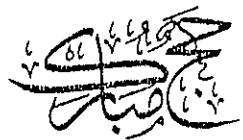


TRAVEL ITINERARY: 2014H/1435H

PRE-HAJJ FLIGHT		POST-HAJJ FLIGHT	
FLIGHT NO.	NL1250	FLIGHT NO.	NL2247
SECTOR	PEW/JED	SECTOR	JED/PEW
DEPARTURE DATE / TIME	SUN SEPTEMBER 29, 2014 17:30 (Local Time)	DEPARTURE DATE / TIME	SAT NOVEMBER 8, 2014 16:30 (Local Time)
DEPARTURE AIRPORT	Peshawar International Airport (PEW)	DEPARTURE AIRPORT	Hajj Terminal (JED)
ARRIVAL AIRPORT	Hajj Terminal (JED)	ARRIVAL AIRPORT	Peshawar International Airport (PEW)
STATUS	Confirmed	STATUS	Confirmed

PASSENGER DETAILS

TICKET ISSUED BY	E-HAJJ CTO (PEW) (S002J7)
TICKET ISSUED ON	15-SEP-2014 17:08
TICKET NO	7404212125833
PASSENGER NAME	JAN MUHAMMAD
PASSENGER CONTACT NO.	03335960100
APPLICATION NO.	771688-6
VISA NO.	
NATIONALITY	Pakistan
PASSPORT NO.	KC0152922
PASSPORT EXPIRY	16-APR-2019
MEHRAM NAME	
MEHRAM APPLICATION NO	



TERMS AND CONDITIONS OF CARRIAGE

REPORTING TIME (PAKISTAN) <ul style="list-style-type: none"> Passenger(s) should report at check-in counter at least 07 hours prior to flight departure. Check-in counters will close 03 hours prior to flight departure. All passengers will be required to show their Passport alongwith all relevant and valid documents at the time of Check-in. 	TICKET REFUNDS (HAJJ UNDER PRIVATE SCHEME) <ul style="list-style-type: none"> All Hajj tickets are strictly non-refundable but exemption may be granted in case of death of Passenger or Mehram. Refund shall be processed in case of submission of all relevant documents Only total fare (i.e. fare plus all taxes) of the unutilized sector would be refunded. Refund claims will be accepted at SAI Offices from December 01, 2014 till December 31, 2014. Only nominee (as mentioned in Hajj Application Form-2014H/1435H) shall be entitled for the refund. Nominee of the passenger will be required to submit claim (alongwith all relevant documents) through its travel agent. Shaheen Air International will issue a chautha in favor of the nominee within 15 days from the days of approval of the case. Shaheen Air International reserves the right to reject any incomplete refund claim.
REPORTING TIME (SAUDI ARABIA) <ul style="list-style-type: none"> Passenger(s) should report at check-in counter at least 08 hours prior to flight departure. Check-in counters will close 04 hours prior to flight departure All passengers will be required to show their Passport alongwith all relevant and valid documents at the time of Check-in 	
TICKET REFUNDS (HAJJ UNDER GOVERNMENT SCHEME) <ul style="list-style-type: none"> All Haj tickets are strictly non-refundable but exemption may be granted in case of death of Passenger or Mehram Refund shall be processed through Ministry of Religious Affairs, Pakistan. 	
Shaheen Air International assumes no liability for valuable items in the checked and un-checked baggage of the passenger. Flight duration or flight times shown in the ticket or elsewhere or making connection are not guaranteed. For denied or delayed boarding or cancelled or delayed flight, Shaheen Air International can be obligated to pay compensation only as per Conditions of Carriage. (Passenger) have read and accepted the Conditions of Carriage available on http://www.shaheenair.com/nl/assets/web/carrriage.pdf	

BAGGAGE ALLOWANCE

HAND CARRY BAGGAGE (per Adult or Child) <ul style="list-style-type: none"> 01 Hand Carry Bag per passenger-maximum 07 kg
BAGGAGE WEIGHT LIMITATION (per Adult or Child) <ul style="list-style-type: none"> Ex-PAK - 01 piece 20 Kg Ex-KSA - 01 piece 30 KG plus 10 liter Aab-o-Zam Zam (container wrapped and sealed in plastic bag.)

سایان کی حد
 سایان (بچی) کی سفر (بازن اور بے) ایک بگ ۷ کلو
 سایان کی حد وزن: (مادہ دینی سایان)
 پاکستان سے ۲۰ کلو
 سعودی عرب سے ۳۰ کلو اور ۱۰ لیٹر آب زم زم

EXCESS BAGGAGE RATES




<i>(Applicable on weights exceeding allowed limits)</i> <ul style="list-style-type: none"> Ex-LHE/ ISB/ PEW/ LYPI RYK - PKR 500 per kg Ex-KHI - PKR 400 per kg Ex-JED for LHE/ ISB/ PEW/ LYPI RYK - SAR 30 per kg Ex-JED for KHI - SAR 25 per kg
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پاکستان، ہندوستان،
 پشاور، لاہور، اسلام آباد، فیصل آباد، ریمپور خان سے فی اضافی کلو ۵۰۰ روپے
 کراچی سے فی اضافی کلو ۴۰۰ روپے
 ہندوستان، پاکستان سبز
 پشاور، لاہور، اسلام آباد، فیصل آباد، ریمپور خان سے فی اضافی کلو ۳۰ سعودی ریال
 ہندوستان سے کراچی، فی اضافی کلو ۲۵ سعودی ریال

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قیمت 50 روپے	82348	  
ایڈوکیٹ:	بار کونسل / ایسوسی ایشن نمبر:	
رابطہ نمبر:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: kp Saeed Ribold Peshawar

منجانب:	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
باعث تحریر آنکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام سپیٹرو کیلئے سب سے پہلے اس کے کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا مکمل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کر کے نوٹس ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل اگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ بلائے جائے اور رکارڈ اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ یا اختیار حاصل ہوں گے اور ان کا سختی پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے کیا گیا ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: Jan Mahmood

الع بد

مقام کے لیے منظور ہے۔