

**Before The Service Tribunal, KPK Peshawar**

COC NO. 599 / 2022  
In  
Service Appeal No .748/2018

16-2  
2023

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 3438

Dated 7-2-2023

Muhammad Hassan.....PETITIONER.

Versus

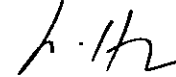
Muhammad Mohtasim Billah and others..... RESPONDENT.

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Dated. 07.02.2023

  
Appellant/ petitioner

Through   
Sultan Hussain

Advocate high court Peshawar

(1)

**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER  
PAKHTUNKHWA, PESHAWAR**

COC NO. 599/2022

In

Service Appeal No. 748/2018

**Muhammad Hassan**

Vs

**Muhammad Muhtasim Billah etc, Secretary Elementary and Secondary  
Education Department, Civil Secretariat Peshawar.**

**APPLICATION IN SHAPE OF OBJECTION FOR TAKING ACTION AGAINST THE  
RESPONDENTS WHILE DISOBEYING THE JUDGMENT AND ORDER  
DATED.20.01.2022 OF THIS HON'BLE TRIBUNAL IN THE ABOVE SERVICE  
APPEAL NO. 748/2018**

**Respectfully Sheweth:**

1. That the appellant / petitioner approached this Hon'ble court for implementation in COC proceeding pending for 16 .2 .2023.
2. That during pendency of the COC proceedings the respondents department regarding implementation of the judgment dated 20.1.2022 of this Hon'ble tribunal passed notification ~~(vide)~~ order dated 23.01.2023. (Copy of the Notification 23.01.2023 is annexed).
3. That the impugned notification dated 23.1.2023 is totally against the verdict of this Hon'ble tribunal.
4. That the impugned notification is almost based on the reply submitted by the respondents department in service appeal, the same stance by the department while has not considered or obey the judgment of this Hon'ble Court passed after

consideration of the stance of department in reply, but still has wrongly relying on it therefore, the respondents committed contempt again willfully knowing the judgment of the tribunal.

5. That the respondent department wrongly mentioned the qualification of the petitioner in the impugned notification as a qualified B.Ed degree holder while infact the petitioner / appellant have not yet passed the B.Ed examination because B.ed degree was not indispensable for the post (W.I) or SET (tech) in the year 1981- 82 and if the B.Ed degree of appellant is available with the respondent department, be produced before this Hon'ble tribunal. More over the stance regarding erroneous Date i.e. 6.4.1982 instead of 16.10.1991 is totally false and as per notification Dated, 21.3.2009 regarding upgradation from BPS, 16 to BPS, 17 the correct date of regular appointment at serial No, 12 has already been mentioned which is the correct position. (Copy of the Notification 21.03.2009 is annexed).

It is therefore humbly prayed that proper and necessary action under the law may please be taken in the pending COC and requested for the implementation of the judgment Dated, 20.01.2022 in the letter and spirit graciously.



Appellant /petitioner,

**Muhammad Hassan,**

Ex. Head Master.

**Before The Service Tribunal, KPK Peshawar**

COC NO. 599 / 2022  
In  
Service Appeal No .748/2018

Muhammad Hassan.....PETITIONER.

Versus

Muhammad Mohtasim Billah and others..... RESPONDENT

**AFFIDAVIT**

I, Muhammad Hassan son of hajji Malik Jabbar khan Retired head master GHS MIR Azam Koroona FR tank R/O 67.C circular road, university town, Peshawar (petitioner/appellant), do hereby affirm and declare on oath that the contents of the accompanying Application are true and correct to the best of my knowledge and belief to the best of my knowledge and belief and nothing has been concealed from this Hon'ble tribunal.



**Deponent**

CNIC No.21506-8827484-9

Dated.07.02.2023



7 FEB 2023



(4)

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION**  
**DEPARTMENT KHYBER PAKHTUNKHWA PESHAWAR**

**NOTIFICATION.**

1. Whereas, the appellant, namely Mr. Muhammad Hassan was appointed as SET (Technical) vide order dated 06-04-1982 on fixed pay & was subsequently regularized against the said post vide Notification dated 16-10-1991 on the grounds of acquiring the requisite professional qualification of B.Ed. However, during the course of service, the appellant was upgraded in BPS-17 (personal) vide Notification dated 21-3-2009, wherein, his date of regularization of service as SET/SST has erroneously been mentioned as 06-04-1982 instead of 16-10-1991 & the same arithmetical error has been rectified in the combined final Seniority list of SET/SSTs stood on 01-01-2018 by Respondent Department.
2. And whereas, feeling aggrieved, the appellant filed a Service Appeal No. 748/2018 under case titled Muhammad Hassan Vs Secretary E&SE Department Khyber Pakhtunkhwa & others before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar which was decided vide judgment dated 20-01-2022, whereby, *the case of the appellant has been remanded to the Respondents to examine the titled case a fresh in the light of the Notification dated 21-3-2009 along with the revision of Seniority of the appellant.*
3. And whereas, in the meantime, the appellant has filed Execution Petition No.599/2022 before the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar for implementation for the judgment dated 20-01-2022, whereupon, the Respondent Department has been directed for submission of compliance report on up-coming date of hearing fixed on 25-1-2023.
4. And whereas, in compliance of the judgment ibid, a meeting was held in the Secretariat of E&SE Department Khyber Pakhtunkhwa Peshawar under the Chairmanship of the Additional Secretary (G) E&SED KPK Peshawar, wherein, the Notification dated 21-3-2009 was thoroughly examined in the light of the relevant Seniority Rules & observed that the appellant be award Seniority from the date of passing B.Ed examination i.e. 16-10-1991 instead of his 1<sup>st</sup> appointment i.e. 4-11-1982 against the SET post under the rules in vogue.

Now therefore, in compliance of the judgment dated 20-01-2022 of the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in the titled Service Appeal, in consultation with the relevant provision of law, rules & policy in vogue & in exercise of the powers conferred upon the undersigned under Section-21 of the General Clauses Act, 1897 as amended in 1956, read with Section-8 of Civil Servant Act-1973 & relevant provisions of APT Rules-1989, the competent authority, is pleased to regret the plea of the appellant regarding the grant of Seniority w.e.f. 04-11-1982 against the SET/SST post along with re-calling the Notification dated 21-3-2009 to the extent of Serial No. 12 by inserting the correct date of regularization of Service of the Appellant as SET/SST w.e.f. 16-10-1991 instead of 04-11-1982 with immediate effect in the interest of public service.

DIRECTOR  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar.

Endst. No: 15305-16 /F.No.AD(Lit-II)SA#748/2018

Dated Peshawar the 28/01/2023

Copy forwarded for information & n/action to the:-

1. Learned Registrar Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. Learned AAG Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar.
3. PS to Secretary E&SE Department Khyber Pakhtunkhwa Peshawar.
4. Additional Director (NMDs) Khyber Pakhtunkhwa Peshawar.
5. Additional Director (Estab-M) E&SE Khyber Pakhtunkhwa Peshawar.
6. District Education Officer (Male) Khyber.
7. Section Officer (Lit-II) E&SE Department Khyber Pakhtunkhwa.
8. Official concerned.
9. Office Copy.

DEPUTY DIRECTOR (ESTAB)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar.

(5)

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR.

Contempt of Court  
In S.A.No.748/2018

Muhammad Hassan ..... Petitioner  
Versus  
Muhammad Mohtasim Billah and another..... Respondents

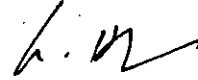
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Appellant/ Petitioner

Through



**Sultan Hussain**  
Advocate High Court  
Peshawar.

Dated: 11.10.2022

(6)  
①

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR.

Contempt of Court  
In S.A.No.748/2018

Muhammad Hassan son of Haji Malik Jabbar Khan  
Retired Head Master GHS Mir Azam Koroona FR Tank  
R/o 67-C Circular Road, University Town, Peshawar..... Petitioner  
Versus

- 1) Muhammad Mohtasim Billah, Secretary Elementary and Secondary  
Education Department, Civil Secretariat, Peshawar
- 2) Muhammad Ibrahim Khan, Director Elementary and Secondary  
Education Department, near GHSS No.1, G.T. Road, Peshawar  
..... Respondents

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APPLICATION FOR INITIATING  
CONTEMPT OF COURT PROCEEDING  
AGAINST THE RESPONDENT U/S 3/4 OF  
THE CONTEMPT OF COURT ORDINANCE  
2003 R/W ARTICLE 204 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC  
OF PAKISTAN.

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*Respectfully Sheweth;*

- 1) That the petitioner filed service appeal No.748/2018 before this Hon'ble Tribunal on 28.05.2018 which was decided on 20.01.2022. The petitioner during the pendency of service appeal has retired from service and after his retirement the case was decided but still the petitioner has not been treated legally and as per decision of the Hon'ble Service Tribunal. (Copy of order is attached).
- 2) That as per judgment and order dated 20.01.2022 this Hon'ble Tribunal was pleased to "partially accept the appeal and remand the case to the respondents to examine it afresh in light of notification dated 21.03.2009 and revise the seniority list accordingly"



- 3) That the petitioner presented the order of this Hon'ble Tribunal through written application dated 25.05.2022 to the respondent for reminding the implementation of the decision and judgment already presented to the respondent but is still not implementing the same, hence the present contempt application.
- 4) That the respondent willfully disobeyed and dishonor the worthy order of this Hon'ble Tribunal and thus is liable to be initiated under the contempt of court proceedings.
- 5) That omission of respondent to act upon the order of this Hon'ble Tribunal speaks of the fact that respondent has undermined the authority of this Hon'ble Tribunal and has not moved even an inch for implementation of the same.
- 6) That this omission/ act of respondent squarely falls within the ambit of contempt of court as respondent has conveniently ignored the direction given by this Hon'ble Court.

It is, therefore, humbly prayed that on acceptance of this application, the implementation may also be done along with contempt proceedings may kindly be initiated against the respondent and be punished in accordance with law.

Appellant/ Petitioner

Through

**Sultan Hussain**  
Advocate High Court  
Peshawar.



(8)

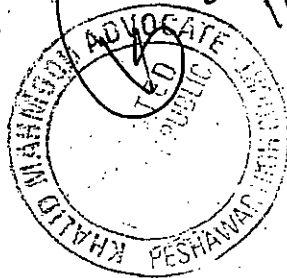
BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR.

Contempt of Court  
In S.A.No.748/2018

Muhammad Hassan ..... Petitioner  
Versus  
Muhammad Mohtasim Billah and another ..... Respondents

AFFIDAVIT

I, Muhammad Hassan son of Haji Malik Jabbar Khan Retired Head Master GHS Mir Azam Koroona FR Tank R/o 67-C Circular Road, University Town, Peshawar (petitioner/ appellant), do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



*Muhammad Hassan*  
Deponent

CNIC No.21506-8827484-9

19



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

In Re: Service Appeal No. 748 /2018.

1002  
28/5/2018

Muhammad Hassan

S/o Haji Malik Jabbar

R/o 67-C, Circular Road, University Town, Peshawar.

..... Appellant

**VERSUS**

1. Secretary to Govt of Khyber Pakhtunkhwa,  
Elementary & Secondary Education Department  
Civil Secretariat Peshawar.

DE + برایم - 2. Director Elementary & Secondary Education,  
SF KP C Khyber Pakhtunkhwa, near Firdous Cinema  
Peshawar

3. Director Education FATA,  
FATA Secretariat, Warsak Road, Peshawar.

..... Respondents

برایم  
28/5/18

**APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT AGAINST THE FINAL**

ATTESTED

Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

10

(S)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 748/2018

Date of Institution ... 28.05.2018

Date of Decision ... 20.01.2022



Muhammad Hassan S/o Haji Malik Jabbar R/o 67-C, Circular Road, University Town, Peshawar. (Appellant)

**VERSUS**

Secretary, to Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department Civil Secretariat Peshawar and others. (Respondents)

Muhammad Hassan Appellant ... In Person

Muhammad Adeel Butt, Additional Advocate General ... For respondents

**AHMAD SULTAN TAREEN** ... **CHAIRMAN**  
**ATIQU-UR-REHMAN WAZIR** ... **MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQU-UR-REHMAN WAZIR MEMBER (E):-** Brief facts of the case are

that the appellant was initially appointed as SET(Technical) vide order dated 06-04-1982 on fixed monthly pay and was subsequently confirmed as SET/SST vide order dated 04-11-1982. As per joint seniority list issued on 01-01-2018, name of the appellant was at serial No. 6 of the list, but date of regular appointment of the appellant was recorded as 16-10-1991, whereas the correct date as per stance of the appellant was 04-11-1982. Feeling aggrieved, the appellant filed departmental appeal dated 30-01-2018, which was not responded, hence the instant service appeal with prayers that the appellant date of regular appointment as SST may be declared as 04-11-1982 and to correct the final seniority list of SST, qua the appellant.

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(~~11~~) (11)

(J)

02. Appellant himself argued the case and contended that the impugned seniority list of SST dated 01-01-2018 is incorrect to the extent of him, as such needs rectification to that extent; that his services were confirmed/regularized vide order dated 04-11-1982 and the respondent No. 2 is estopped to make any change/alteration in the date of regularization of his service to the detriment of him; that his seniority as SST has to be reckoned from 04-11-1982, as reflected in the impugned seniority list; that insertion of 16-10-1991 as date of regularization of his service is glaring injustice and needs rectification; that the respondents have time and again confirmed that the date of regularization of his service as SET/SST is 04-11-1982 as reflected in notification dated 21-03-2009 of the respondent No. 1 and the respondents are prevented from any alteration in the same keeping in view the principle of locus poenitentiae; that by making alteration in the regularization of his service in the final seniority list made him junior to several other SST, who had joined service after him and are junior to the him.

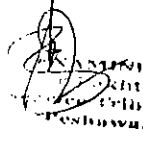
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03. Learned Additional Advocate General for the respondents has contended that the appellant was appointed against the post of SET/SST as an un-trained teacher and he has passed his B.Ed examination on 16-10-1991, from where he has been awarded seniority against the said post; that plea of the appellant regarding his confirmation against the mentioned post on 04-11-1982 is baseless and is liable to be dismissed; that the appellant is not entitled for the grant of seniority against the post of SET/SST for the un-trained period.

04. We have heard both the parties and have perused the record.

05. Placed on record is a notification dated 21-03-2009, where date of regular appointment of the appellant as SET/SST is 04-11-1982, whereas the same date has been changed in the seniority list dated 01-01-2018 and recorded as 16-10-1991. Stance of the respondents is that the appellant passed B.Ed examination on 16-10-1991; hence, he was regularized from that date. This Tribunal was not

ATTESTED

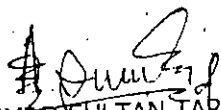
  
Secretary  
Tribunal  
Chennai

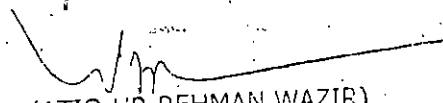
(12)

(11)

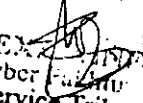
properly assisted by either party nor the record is complete to this effect, as nothing is available on record to show that services of the appellant were regularized from 1982 except notification dated 21-03-2009, where the appellant is shown as regularized with effect from 04-11-1982, hence we are constrained to partially accept the instant appeal and remand the case to the respondents to examine it afresh in light of notification dated 21-03-2009 and revise the seniority list accordingly. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
20.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

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

Certified to be true copy

  
EXCISE  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 29-4-22  
Number of Words 2000  
Copying Fee 2/-  
Urgent 4/-  
Total 26/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 29-4-22  
Date of Delivery of Copy 29-4-22

(13)

To,

The Worthy Secretary,  
Elementary & Secondary Education Department  
Civil Secretariat, Peshawar.

Subject: Implementation of Order & Judgment Dated 20.01.2022 of  
the Service Tribunal, Khyber Pakhtunkhwa, Peshawar in  
Appeal No.748/2018.

Respected Sir,

1. That service Appeal No 748/2018, has been decided vide order & judgment dated 20.01.2022 in case titled "Muhammad Hassan" accepted the appeal with the remarks to examine it afresh in light of notification dated 21.03.2009, and considered the date i.e. 04.11.1982 of regularization date instead of 16.10.1991.  
(Copy of the Order & Judgment is annex "A").  
(Copy of the Notification dated 21.03.2009 is annex "B").
2. That the petitioner prays to be facilitated and his service seniority be counted from 04.11.1982 instead of 16.10.1991.

It is therefore, humbly prayed that as per order/judgment dated 20.01.2022 passed by Hon'ble Service Tribunal Khyber Pakhtunkhwa Peshawar, the petitioner may be granted seniority from the actual regularization date i.e. 04.11.1982 as senior in the seniority list.

I will be thankful to you for this act of kindness.

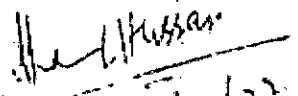
Thanks.

Secretary Diary

No: 1021  
Dated 25/5/22

Dated: 25.05.2022

Your most obedient,

  
Muhammad Hassan  
S/O Haji Malik Jabbar.  
Retired Head Master  
G.H.S. Mir Azam Koroono FR Tank.  
R/o 67-C, University Road, University  
Town, Peshawar.  
Cell: 0332-9964378  
0315-9933038

25/5/22

(108) (14)

PA

To,

The Hon'ble Director,  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, near Firdous  
Cinema, Peshawar

Subject: Implementation of Order & Judgment Dated 20.01.2022 of  
the Service Tribunal, Khyber Pakhtunkhwa, Peshawar in  
Appeal No.748/2018.

Respected Sir,

1. That service Appeal No.748/2018, has been decided vide order & Judgment dated 20.01.2022 in case titled "Muhammad Hassan" accepted the appeal with the remarks to examine it afresh in light of notification dated 21.03.2009, and considered the date i.e. 04.11.1982 of regularization date instead of 16.10.1991.  
(Copy of the Order & Judgment is annex "A").  
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2. That the petitioner prays to be facilitated and his service seniority be counted from 04.11.1982 instead of 16.10.1991.

It is therefore, humbly prayed that as per order/Judgment dated 20.01.2022 passed by Hon'ble Service Tribunal Khyber Pakhtunkhwa Peshawar, the petitioner may be granted seniority from the actual regularization date i.e. 04.11.1982, as senior in the seniority list.

I will be thankful to you for this act of kindness.

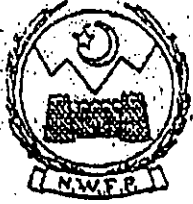
Thanks.

Your most obedient,

*Muhammad Hassan*  
25/5/22  
Muhammad Hassan  
S/O Haji Malik Jabbar.  
Retired Head Master  
G.H.S. Mir Azam Koroona FR Tank.  
R/o 67-C, University Road, University  
Town, Peshawar.  
Cell: 0332-9964378  
0315-9933038

Director E&S  
Diary # 737  
25/5/22

Dated: 25.05.2022



GOVERNMENT OF NWFP  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT.

Dated 21-03-09

NOTIFICATION

No.SO/PE/2-6/SET(B-16)Upgradation to B-17: The Competent Authority on the recommendation of Departmental Promotion Committee and in consultation with Finance Department is pleased to allow one time up gradation from B-16 to B-17 (Personal) to the following 163 SETs Male, 132 SETs Female and 14 SETs (Technical) with immediate effect subject to the condition that the posts of SET shall be downgraded from B-17 to B-16 as and when vacated by the incumbents:

i) 163 SETs Male(General)

S.No	Seniority List No.	Name of Officer	Date of Appointment as Regular SET	Present Place of Posting
1.	736A	Pasham Khan	27-11-85	A.A.E.O Office F.R.D.I.Khan
2.	838	Muhammad Shoaib	04-11-86	GHS Billitang Kohat
3.	869	Mohabbat Khan	14-12-86	GHS Kam- Shalman-Landi Kotal Khyber Agency
4.	870	Yousaf Hussain	01-11-86	GHS Shalozan Kurram
5.	879	Munir Hussain	16-12-86	GHS Zeran Kurram
6.	942	Javed Khan	24-02-87	GHS Dingl Haripur
7.	943	Bahadar Ali	24-02-87	GMS Alamgani Swat
8.	944	Mohammad Younis	25-02-87	GMS Alzal Abarl Mansehra
9.	953	Shamsher ali	04-03-87	ADO S/L DIK Surkamar (Khybur)



16

17

		Mehmood		
9	96	Muhammad Iqbal	25-04-85	GCMS #-3 Mardan
10.	99	Muhammad Zahir Shah	01-07-86	GHSS TOTAKAN Mkd Agency
11.	102	Ayaz Khan	30-10-86	GCHSS Kohat
12.	103	Muhammad Hassan	04-11-82	GHSS Jamrud Khyber Agency
13.	111	Ibad Ullah	16-10-89	GTHSS Gulbahar Peshawar
14.	113	Naqib Ullah	16-10-90	GEC Mir Ali Miran Shah

SECRETARY TO GOVT. OF NWFP  
ELEMENTARY AND SECONDARY  
EDUCATION DEPARTMENT.

Endst No: No.SO(PE)2-6/SET(B-16)Upgradation to B-17: Dated 21-03-09

Copy Forwarded to the :

1. The Accountant General NWFP Peshawar
2. Secretary to Govt. of NWFP Establishment Department
3. Secretary to Govt. of NWFP Finance Department
4. Director Elementary & Secondary Education NWFP Peshawar
5. Director PITE NWFP Peshawar
6. Director Education FATA NWFP Peshawar
7. All EDOs E&SE in NWFP
8. All District /Agency Accounts Officers
9. PS to Chief Secretary NWFP
10. Officers concerned
11. PS to Minister Elementary & Secondary Education NWFP
12. PS to Secretary Elementary & Secondary Education NWFP
13. Office Order File

ARIF JAMIL  
SECTION OFFICER (PRIMARY)

(17)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

Service Appeal No: 748/2018

Muhammad Hassan SST(G) GHS Sur Kamar, Jamrud Khyber Agency.....Appellant.

**VERSUS**

Secretary E&SE Department, Khyber Pakhtunkhwa and others.....Respondents

JOINT PARAWISE COMMENTS ON & FOR BEHALF OF RESPONDENTS No: 1-3.

Respectfully Sheweth :-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action locus standi.
- 2 That the instant Service Appeal is badly time barred.
- 3 That the Appellant has concealed material facts from this Honorable Tribunal in the instant service appeal.
- 4 That the instant Service Appeal is against the relevant provisions of law.
- 5 That the appellant has not come to this Honorable Tribunal with clean hands.
- 6 That the instant appeal is liable to be dismissed for mis-joinder & non-joinder of the necessary parties to the present appeal.
- 7 That the appellant is estopped by his own conduct to file the instant appeal.
- 8 That the instant Service Appeal is not maintainable in the present form & circumstances of the case.
- 9 That the instant Appeal is barred by law.
- 10 That the impugned seniority list dated 01/01/2018 is within legal sphere.
- 11 That the appellant has been inducted against the SET/SST(G) Post vide appointment order dated 06/4/1982 & has passed his B. Ed in 1991, which is the date for the grant of seniority on 16/10/1991 as per rules & criteria by the Respondent Department.
- 12 That the appellant is not entitled for the grant of seniority wef 04/11/1982 as he has been appointed as an un-trained SST in the Respondent Department & has been awarded seniority on 16/10/1991 after passing his B. Ed Examination.

(18)

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FACTS.

- 1 That Para-1, is incorrect & misleading on the grounds that as per the impugned seniority list as stood on 01/01/2018, the appellant was appointed against the SET/SST as an untrained SET/SST (M) teacher & he has passed his B Ed examination on 16/10/1991 from where he has been awarded seniority against the said post. Hence, the plea of the appellant regarding his confirmation against the mentioned post on 04/11/1982 is baseless & is liable to be dismissed. (Copies of the Notification dated 01/01/2018 & final seniority list of the same date are attached as annexure A&B).
- 2 That Para-2 is also incorrect & denied. The appellant was appointed against the SET/SST post vide appointment order dated 06/4/1982 & has passed his B. Ed on 16/10/1991 from where, the appellant has been regularized against the said post in the Respondent Department in accordance with the mandatory provisions of Section of Civil Servants Act 1973. Hence, the stand of the appellant is baseless & without any cogent reason & justification.
- 3 That Para-3 is incorrect & denied. No Departmental Appeal against the impugned seniority list dated 01/01/2018, has been filed by the appellant to the Respondents. Hence, the said seniority list has got finality in all respect against the appellant.
- 4 That Para-4 is incorrect & denied. The Respondents have acted as per law, rules & criteria for the grant of seniority to the appellant after acquiring the prescribed qualification of B. Ed.
- 5 That Para-5 is also incorrect & misleading. The Respondents have acted as per law, rules & criteria by allowing seniority to the appellant wef 16/10/1991 which is the date of his passing B Ed examination. Hence, the appeal; in hand is liable to be dismissed on the following grounds inter alia:-

GROUND.

- 1 Incorrect & denied. The impugned final seniority list as stood on 01/01/2018 is legally competent & is liable to be maintained.
- 2 Incorrect & denied. The stand of the appellant is baseless as he was appointed as an untrained SET teacher vide order dated 04/11/1982 & later on, he has passed his B. Ed examination on 16/10/1991 from where he has been allowed seniority against the said post, by the Respondent Department under cited provisions of law, rules & criteria.
- 3 Incorrect & misleading. The appellant is not entitled for the grant of seniority against the SSET/SET post for untrained period & has been made entitled for the grant of the same wef 16/10/1991 on which he has acquired the prescribed qualification of B.Ed.
- 4 Incorrect & denied. The stand of the appellant is without any cogent proof & justification in view of the foregoing discussion in the instant reply on behalf of the Respondents by allowing seniority wef 16/10/1991 after passing B Ed examination to the appellant against the SET/SST Post in (BPS-16).
- 5 Incorrect & denied. The stand of the appellant is without cogent reason & justification as the Respondents have acted as per law & rules by the awarding the seniority to the appellant from his due date of 16/10/1991 under the relevant provisions of law after acquiring B. Ed qualification.


(19)

Legal. However, the Respondents seek leave of this Honorable Tribunal to submit additional grounds/case law & record at the time of arguments on main appeal on the date fixed.


PRAYER

In view of the above made submissions, it is most humbly prayed that this Honorable, Tribunal may very graciously be pleased to dismiss the instant Service Appeal with cost in favour of the Respondent Department.

Dated \_\_\_ / \_\_\_ /2018

  
Director  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondents No: 2)


Director Education (FATA)  
FATA Secretariat Khyber Pakhtunkhwa  
Peshawar.  
(Respondent No: 3)

  
Secretary  
Govt: of Khyber Pakhtunkhwa,  
E&SE Department Peshawar  
(Respondent No: 1)

AFFADIVIT

I, Hameed ur Rehman, Asstt: Director (Lit: II) Directorate of E&SE Department Khyber Pakhtunkhwa, Peshawar is hereby solemnly affirm & declare on oath that the contents of the instant Joints Parawise Comments are true & correct to the best of my knowledge.



  
Deponent