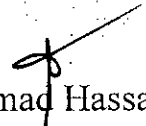



04.04.2018

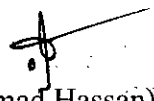
Counsel for the appellant and Addl; AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.06.2018 before D.B.

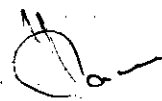

(Ahmad Hassan)
Member


(M. Hamid Mughal)
Member

06.06.2018

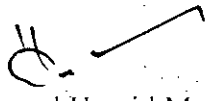
Learned counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. Adjournment requested. To come up for arguments on 08.08.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

07.08.2018

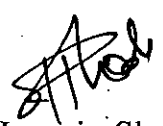
Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 02.10.2018 before D.B.



(Muhammad Hamid Mughal)
Member


(Muhammad Amin Kundi)
Member

02.10.2018

Appellant absent. Learned counsel for appellant absent. The present case pertains to the year 2015. Absence of appellant as well as learned counsel for appellant depicts disinterest of the appellant in the present case. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED.

02.10.2018

20.07.2017

Appellant in person present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 22.11.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

22.11.2017

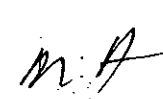
Clerk to counsel for the appellant present. Mr. Riaz Khan, Assistant Advocate General for the respondents present. Clerk to counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 30.01.2018 before D.B.



(Gul Zeb Khan)
MEMBER


(MUHAMMAD HAMID MUGHAL)
MEMBER

30.01.2018

Clerk of the counsel for appellant and Mr. Riaz Ahmed, Pinda Kheil, Assistant AG for the respondents present. Clerk of the counsel for appellant again seeks adjournment. The present appeal pertain to the year 2015 hence, last adjournment granted at the cost of Rs. 0/00/-. Adjourned. To come up for arguments on 04.04.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

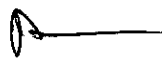
28.07.2016

Counsel for the appellant t and Addl. AG present. Written reply not submitted despite repeated adjournments including last opportunity which was further extended subject to payment of cost of Rs., 500/-. No further chance is granted. The appeal is assigned to D.B for rejoinder and final hearing for 2311.2016.


Chairman

23.11.2016


Counsel for the appellant and Additional AG for respondents present. Today the case was fixed for submission of rejoinder. Perusal of the previous order sheet reveals that the respondents have been placed ex-parte due to non-submission of written reply, therefore, there is no need to file rejoinder. To come up for arguments on 4.4.17 before D.B.


(ABDUL LATIF)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

04.04.2017

Counsel for the appellant and Mr. Adeel Butt, Addl: AG for the respondents present. Argument could not be heard due to incomplete bench. To come up for final hearing on 20.07.2017 before D.B.


Chairman

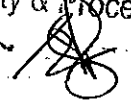
7 22.09.2015

Counsel for the appellant present. Security and process fee not deposited. The same be deposited within a week, where-after notices be issued to the respondents for written reply/comments for 30.11.2015 before S.B.


Chairman

30.11.2015

Counsel for the appellant present. Security and process fee not deposited. Requested for further adjournment. Last opportunity granted. The same be deposited within a three days, where-after notices be issued to the respondents for written reply/comments for 22.3.2016 before S.B.

Appellant Deposited
Security & Process Fee 


Chairman

22.03.2016

Counsel for the appellant and Mr. Zarghun Shah, AD alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 23.5.2016 before S.B.


Chairman

23.5.2016

Counsel for the appellant and Addl. AG for the respondents present. Written reply submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 500/- which shall be borne by respondents from their own pockets. To come up for written reply/comments of respondents and costs on 28.07.2016 before S.B.


Chairman

12.05.2015

Counsel for the appellant. Learned counsel for the appellant seeks adjournment. Adjourned to 26.05.2015 for preliminary hearing before S.B.


Chairman

4

26.05.2015

None present for appellant. Due to strike of the Bar adjourned for preliminary hearing to 9.6.2015 before S.B.


Chairman

5.

09.06.2015

Mr. Zeeshan Khalid, Advocate on behalf of counsel for the appellant present. Learned counsel for the appellant is stated indisposed. Adjourned to 23.06.2015 for preliminary hearing before S.B


Chairman

6

23.06.2015

Counsel for the appellant present. Learned counsel for the appellant argued that identical service appeals No. 1071, 1074, 1075, 1076, 1077 of 2014 etc have already been admitted to regular hearing.

In view of the above, this appeal is also admitted to regular hearing. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 22.9.2015 before S.B.


Chairman



Form- A

FORM OF ORDER SHEET

Court of

Case No

398/2015

S.No.	Date of Order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	05-05-2015	<p>The appeal of Mr. Shafi-ur-Rehman resubmitted today by Mr. Muhammad Imtiaz Khalil Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	11-5-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>12-5-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. SShafi-ur-Rehman son of Qandahar Khan Lecturer Commerce Got. College of Management Sciences Lakki Marwat received to-day i.e. on 23.04.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of pay roll mentioned in para-7 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Annexures of the appeal may be attested.
- 3- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal in file cover.

No. 628 /S.T,

Dt. 24/4 /2015

Reply: objection removed and Para no.1 of objection re-submitted correctly.
M. Imtiaz Khalil
Muhammad Imtiaz Khalil Adv. Pesh.

Imtiaz Khalil
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 398 of 2015.

Shafi ur Rehman Lecturer Appellant

VERSUS

Province of Khyber Pakhtunkhwa, through Chief Secretary,
Peshawar & others Respondents

INDEX

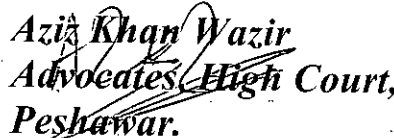
S.No.	Description of documents	Annexure	Pages
1.	Memo of appeal with affidavit and memo of addresses		1-8
2.	Copy of appointment order	"A"	9
3.	Copy of Extension of Contract	"B"	10
4.	Copy of the Act 2009	"C"	11-12
5.	Copy of the judgment dated 08/03/2012	"D"	13-27
6.	Copy of Notification dated 31/12/2012	"E"	28-32
7.	Copy of Departmental appeal	"F"	33
8.	Wakalat Nama	In original	34

Dated 15/04/2015

Appellant

Through


Muhammad Imtiaz Khalil


Aziz Khan Wazir
Advocates High Court,
Peshawar.
Cell # 0301-5945654

(12)

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 398 of 2015

Shafi ur Rehman Son of Qandahar Khan, Lecturer
Economics, Govt College of Management Sciences, Lakki
Marwat.

..... Appellant

A.W.F. Province
Service Tribunal

Diary No. 402

Dated 23-4-2015

VERSUS

- 1- Province of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar.
- 2- Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar.
- 3- Secretary, Industries, Commerce & Technical Education, Government of Khyber Pakhtunkhwa, Peshawar.
- 4- Director General, Technical Education & Manpower Training, Khyber Pakhtunkhwa, Benevolent Fund Building, Peshawar Saddar.
- 5- Director, Technical Education, FATA, FATA Secretariat, Wasak Road, Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1973 FOR PAYMENT OF SALARY TO THE APPELLANT FROM 1ST JANUARY 2009 TILL THE ISSUANCE OF THE OFFICE ORDER NO. SO III(IND)TE/3-9/2012 DATED 31/12/2012, WHEREBY THE APPELLANT'S SERVICES WERE (REGULARIZED UNDER KHYBER PAKHTUNKHWA) ACT, 2009 AND THE DETERMINATION OF HIS SENIORITY AS PER SECTION 4 OF THE SAID ACT.

Prayer in Appeal:

To treat the appellant as regularize from 1st January 2009 and to release him the salary from 1st January 2009 and seniority with all back benefits

Filed to-day
Registrar
23/4/15

re-submitted to-day
and filed.

Registrar
5/5/15

till the issuance of the notification dated 31/12/2012 and the determination of his seniority accordingly.

Humbly Sheweth;

Facts:

Facts leading to the institution of the instant appeal are as under:

- 1- That the appellant was appointed on contract vide Office Order Endst No. DTE/FATA/Admn/ Apptt:/332-36(1-5) dated 26/01/2007 as Instructor by the Directorate of Technical Education FATA, FATA Secretariat in Government College of Management Sciences Miran Shah, North Waziristan Agency. (True Copy of the appointment letter is annexed herewith as Mark "A").*
- 2- That the appellant was performing his duties to the best of his abilities and the respondents extended his services on contract from time to time. It is important to mention that the appellant was holding his post on contract 31st December 2008. (True Copy is annexed herewith as Mark "B").*
- 3- That the Provincial Government of Khyber Pakhtunkhwa passed an Act NWFP Employees (Regularization of Services) Act, 2009 (NWFP Act No. XVI of 2009) whereby the services of all the employees who were holding a post "on contract or Adhoc basis and holding that post on 31/12/2008 or till the commencement of this Act shall be deemed to have been validly appoint on regular basis having the same qualification and experience for a regular post".*

(True Copy of the Act is annexed herewith as Mark "C").

- 4- *That appellant being equally entitled to benefits granted through the Act, applied to the respondents for regularization of his services under the Act. And on refusal of the respondents, the appellant filed a writ petition before the Hon'ble Peshawar High Court, Peshawar. The relief sought by the appellant from the Hon'ble Court was the regularization of his services under the beneficial provisions of NWFP Employees (Regularization of Services) Act, 2009. It would be appropriate to mention that the respondents stopped payment of salaries to the appellant since 30th June 2010 and the appellant was performing his duty without getting any salary.*

- 5- *That the appellant writ petition was allowed by the Hon'ble Court vide judgment and order dated 08/03/2012 wherein directions were given in the following words " We therefore, issue writ in favour of the petitioners and against the respondents to the effect that the petitioners shall be deemed to be regular and permanent employees of respondent No.1 & 2 Department within the meaning of NWFP (Regularization of Services) Act, 2009 and the respondents are directed to issue notification of their regularization within a period of one month". (True Copy of Order dated 08/03/2012 are annexed as Mark "D").*

6- That in spite of the elapsed of one month period, respondents failed to comply with the clear directions of the Hon'ble Court. It was finally on 31/12/2012, that a notification was issued by the respondents whereby the services of the appellant were regularized under the Regularization Act of 2009. Relevant portion of the Notification is reproduced below:

"In pursuance of the Peshawar High Court, Peshawar judgment dated 08/03/2012 announced in Writ Petition No.1289/2010 the competent authority has been pleased to regularize the service of the following employees of Technical Education Under the NWFP (Regularization of Services) Act 2009 with immediate effect." (True Copy of the notification dated 31/12/2012 are annexed herewith as Mark "E").

7- That the Respondents regularize the services of the appellant under the Regularization Act of 2009 as mentioned in the Notification, however, the salary that has been given to the appellant is of fresh candidate. And except for appointment of the appellant on regular basis, the respondents have not given any benefit to the appellant to which he is entitled under the regularization Act. (~~True Copy of the pay Band~~
~~Annexed as Mark "E").~~

8- That the appellant duly filed his Departmental Representation before the competent authority, wherein he prayed for payment of his salary as per his entitlement under the Act (from the date of the regularization of his service i.e. 1st January, 2009) as extended to other contract employees whose services were regularize under the Act and also prayed for the release of his salary from 30/06/2010 till the date of his regularization. At the same time, the appellant also requested for determination of his seniority as per mandate of Section 4 of the Act, but no heed has been paid by the respondents to his representation. (True Copy of the Departmental Appeal is annexed herewith as mark "F").

9- That on failure of the respondents to decide his departmental representation dated 13/12/2014 dairy No.5449, within the statutory period of ninety (90) days, the appellant being dissatisfied by the action and inaction of the respondents, approaches this Hon'ble Tribunal and challenges and seeks the release of his salary / payment as per his entitlement in view his regularization of services under the Act and accordingly his seniority inter alia on the following grounds;

GROUND:

- A) Because the inaction of the respondents whereby the appellant services has not been regularized in accordance with the mandate of employees Regularization Act of 2009 and the refusal of the respondents to pay him his salaries from 1st January 2009 violates the right guaranteed and secured to him under the law.
- B) Because it offends the provision of Art; 4 of the Constitution to enjoy the protection of the law and to be treated in accordance with law which is the inalienable right of every citizen, wherever he may be and of every other person for the time being within Pakistan.
- C) Because the action of the respondents is discriminatory and in blatant violation of Article of every citizen, wherever he may be, and of every other person for the time being within Pakistan.
- D) Because the action of the respondents is bad in law.
- E) Because the appellant was entitled to regularization from the commencement of the employees regularization of services Act, and also entitled to the pay and other benefits from 1st January 2009. Moreover, the appellant was not paid any salary from 30th June, 2010 till the issuance of the aforementioned notification on 31st December, 2012 though he was performing his duty in the his College, malafide is apparent.
- F) Because the seniority of the appellant has also not yet been determined in spite of the specific

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provision provided for in the Act itself i.e. Section 4 of the Act.

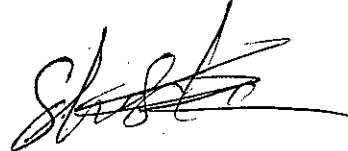

- G) Because the appellant crave fro leave to add further grounds at the time of his oral arguments before this Hon'ble Tribunal highlighting further contraventions of the provisions of the law which adversely affected the appellant.


It is, therefore, most humbly prayed that on acceptance of this appeal, may be allowed and his salary and seniority with all back benefits be determined in the light of NWFP (Regularization of Services) Act, 2009.

Any other better relief may also kindly be granted in the circumstances of the appellant's case.

Dated 15/04/2015

Appellant
Through



Muhammad Imtiaz Khalil


Azia Khan Wazir
Advocates, High Court,
Peshawar.

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____ of 2015

Shafi ur Rehman Lecturer **Appellant**

VERSUS

Province of Khyber Pakhtunkhwa, through Chief Secretary,
Peshawar & others **Respondents**

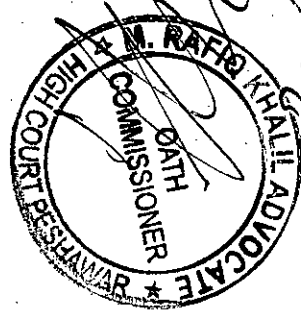
AFFIDAVIT

I, Shafi ur Rehman Son of Qandahar Khan, Lecturer Economics, Govt College of Management Sciences, Lakki Marwat do hereby solemnly affirm and declare on oath that the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

[Signature]
DEPONENT
ATTESTED

Identified by

[Signature]
Muhammad Imtiaz Khalil
Advocate High Court,
Peshawar



8

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____ of 2015

Shafi ur Rehman Lecturer **Appellant**

VERSUS

Province of Khyber Pakhtunkhwa, through Chief Secretary,
Peshawar & others **Respondents**

ADDRESSES OF THE PARTIES

Appellant

*Shafi ur Rehman Son of Qandahar Khan, Lecturer
Economics, Govt College of Management Sciences, Lakki
Marwat.*

Respondents

- 1- *Province of Khyber Pakhtunkhwa, through Chief
Secretary, Peshawar.*
- 2- *Additional Chief Secretary FATA, FATA Secretariat,
Warsak Road, Peshawar.*
- 3- *Secretary, Industries, Commerce & Technical
Education, Government of Khyber Pakhtunkhwa,
Peshawar.*
- 4- *Director General, Technical Education & Manpower
Training, Khyber Pakhtunkhwa, Benevolent Fund
Building, Peshawar Saddar.*
- 5- *Director, Technical Education, FATA, FATA
Secretariat, Wasak Road, Peshawar.*

Dated 15/04/2015

Appellant

Through

M. A. Q.
Muhammad Imtiaz Khalil

Aziz Khan Wazir
Aziz Khan Wazir
Advocates, High Court,
Peshawar.

Appendix A

(9)

DIRECTORATE OF TECHNICAL EDUCATION (DATA)
CIVIL SECRETARIAT (DATA)
WARSAK ROAD PESHAWAR.

OFFICE ORDER.

Mr. Shafi-ur-Rehman S/O Qandahar Khan is hereby appointed as Instructor (Business Administration) on fixed pay @ Rs. 8000/- P.M in Government College of Management Sciences, Miranshah (N.W. Agency) with effect from date of taking over the charge. His appointment is subject to the following terms and conditions:-

TERMS AND CONDITIONS:

1. His appointment will be on fixed pay for a period of one year or till the arrival of selectees of the NWFP Public Service Commission which ever is earlier.
2. His appointment on fixed pay shall not confer on him any right of appointment on regular basis.
3. He will not be entitled for any TADA for joining service.
4. If he wishes to accept the post on the above terms and conditions, he should report for duty to the Principal, Government College of Management Sciences, Miranshah (N.W. Agency) immediately failing which the offer of appointment will be treated as cancelled.

Sd/-
DEPUTY DIRECTOR (TE) DATA

Encls: No. DTE/FATA/Admn/Appnt/ 332-3671-5 Dated 26/01/2007
Copy forwarded for information and necessary action to:-

- 1) The A.C.P.R (Sub Office), Peshawar.
- 2) The Principal, GCMS, Miranshah (N.W. Agency).
- 3) The Political Agent, Miranshah (N.W. Agency).
- 4) Mr. Shafi-ur-Rehman S/O Qandahar Khan C/O Faridullah General Store Aurama Razmak Adda Miranshah.
- 5) Personal file of the officer/ official concerned.
- 6) Accounts Section.

(Signature)
(PARVEZ AHMAD RAJIT)
ASSISTANT DIRECTOR (TE) DATA

M. Raizaz

Attested
Answer

Attested to be
True copy

(Signature)

NOTIFICATION

The competent authority is pleased to re-appoint/ extend the services of the following fixed pay staff working in GTIs, and GCMS (FATA) on the existing terms and conditions w.e.f. 04-07-2009 to 30-06-2010.

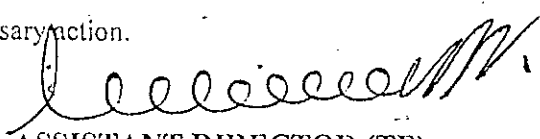
S.No.	Name and Designation
1)	Government College of Management Science, Jamrud (Khyber Agency)
1-	Sadat Khan, Instructor English
2-	Muhammad Fayaz Afridi, Instructor (C.S)
3-	Rahim Dad Khan, Instructor (Comp: Science)
4-	Waqar Ahmad, Instructor (Comp: Science)
2)	Government College of Management Science, Khar (Bajuar Agency)
1-	Irfan Ullah, Instructor (B:Admn)
2-	Snageen Khan, Instructor (B:Admn)
3-	Muhammad Ibrahim, Instructor (English)
4-	Muhammad Ilyas, Instructor (Physics)
5-	Hayat Ullah, Instructor (Physics)
6-	Abdul Qadoos, instructor (Computer Science)
7-	Ahmad Shah, (D.P.E)
3)	Government College of Management Science, Ghallani (Mohmand Agency)
1-	Irfan Qadar, Instructor (Comp: Science)
2-	Shaid Alam, Instructor (Comp:Science)
3-	Iltaf Hussain, Instructor(Comp: Science)
4-	Iftikhar Ali, Instructor (Physics)
5-	Asif Khan, Instructor (Physics)
6-	Sajjad Ahmad, Instructor (Comp: Science)
7-	Zeenat Shah, Instructor (B. Admn)
8-	Muhammad Iqbal, Instructor (B.Admn)
9-	Muhammad Ilyas, Instructor (B.Admn)
10-	Khal Bahader, Instructor (B.Admn)
11-	Sartaj Aziz, Instructor (B.Admn)
12-	Inam Khan, Instructor (Librarian)
13-	Rehan-ud-Din, Instructor (D.P.E)
4)	Government College of Management Science, Parachinar (Kurram Agency)
1-	Shaukat Hussain, Instructor (B.Admn)
2-	Amjad Ali, Instructor (B.Admn)
5)	Government College of Management Science, Miranshah (N.W. Agency)
1-	Noor Hassan, Instructor (C.Science)
2-	Jaffar Ali Khan, Instructor (B.Admn)
3-	Shafi-ur-Rehman, Instructor (B.Admn)
4-	Jamshid Alam, Instructor (D.P.E)
5-	Muhammad Tahir Shah, Instt:(English)
6-	Shaid Khan Masood, Instructor (Comp:Sciences)
6)	Government Technical Institute, Bara (Khyber Agency)
1-	Sajidullah, Instructor (English)
7)	Government Technical Institute, Ekka Ghund (Mohmand Agency)
1-	Muhammad Iqbal, Instructor (Telecom)
2-	Rehmat Khan, Instructor (Telecom)
3-	Muhammad Iqbal, Instructor (English)


sd/-
DIRECTOR,
 INDS: MENRAL & TECH: EDU: (FATA)

ENDST: No.DET/&MT/P&D/FATA/1-35/2102-16 Dated 1/8/2009.

Copy is forwarded for information to:-

- 1- The Accountant General,(PR). Sub-Officer, Peshawar.
- 2- P.S. to Secretary Admn &Coord FATA, Secretariat Peshawar.
- 3- All Principals, GCMS/GTIs in FATA.
- 4- Accountant H.Q, Peshawar for information & necessary action.


 ASSISTANT DIRECTOR (TE)

Attested to be
 True copy


Annex C (11)

Notifications

20th October 2010 | (N-W.F.P. ACT NO. XVI OF 2009)

THE NORTH-WEST FRONTIER PROVINCE EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009.

NOTIFICATION

Dated Peshawar, the 24th October, 2009.

No.PA/NWFP/Bills/2009/38472.—The North-West Frontier Province Employees (Regularization of Services) Bill, 2009 having been passed by the Provincial Assembly of North-West Frontier Province on 15th October, 2009 and assented to by the Governor of the North-West Frontier Province on 20th October, 2009 is hereby published as an Act of the Provincial Legislature of the North-West Frontier Province.

THE NORTH-WEST FRONTIER PROVINCE EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009 (N-W.F.P. ACT NO. XVI OF 2009)

(First published after having received the assent of the Governor of the

North-West Frontier Province in the Gazette of the N.W.F.P. (Extraordinary),

Dated the 24th October, 2009).

AN ACT

to provide for the regularization of the services of certain employees appointed on adhoc or contract basis.

Preamble. ---WHEREAS it is expedient to provide for the regularization of the services of certain employees appointed on adhoc or contract basis, in the public interest, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement. --- (1) This Act may be called the North- West Frontier Province Employees (Regularization of Services) Act, 2009.

(2) It shall come into force at once and shall be deemed to have been taken effect at the promulgation of the Ordinance.

2. Definitions. --- (1) In this Act, unless the context otherwise requires,-

(a) "Commission" means the North-West Frontier Province Public Service Commission;

(aa) "contract appointment" means appointment of a duly qualified person made other than in accordance with the prescribed method of recruitment;

(b) "employee" means an adhoc or contract employee appointed by Government on adhoc or contract basis on second shift/night shift but does not include the employees for project post or appointed on work charge basis or who are paid out of contingencies;

(c) "Government" means the Government of the North-West Frontier Province ;

(d) "Government Department" means any department constituted under rule 3 of the North-West Frontier Province Government Rules of Business, 1985;

(e) "law or rule" means the law or rule for the time being in force governing the

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17.10.09*

(2) The expressions "ad hoc appointment" and "civil servant" shall have the same meanings as respectively assigned to them in the North-West Frontier Province Civil Servants Act, 1973 (N.-W.F.P. Act No. XVIII of 1973).

3. Regularization of services of certain employees.--- All employees including recommendees of the High Court appointed on contract or ad hoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post:

Provided that the service promotion quota of all service cadres shall not be affected.

4. Determination of seniority.--- (1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority *inter se* of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

4A. Overriding effect.--- Notwithstanding any thing to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

5. Repeal.--- The North-West Frontier Province Employees (Regularization of Services) Ordinance, 2009 (N.-W.F.P. Ordinance No. VII of 2009) is hereby repealed.

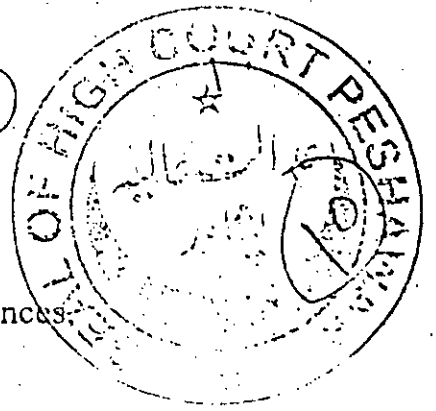
By the orders of Mr. Speaker
Provincial Assembly of Khyber Pakhtunkhwa
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

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M. [Signature]

IN THE PESHAWAR HIGH COURT
PESHAWAR

Annex D
W.P. No. 1145/2010

(13)



- 1- Noor Hasan Khan son of Gul Sher Khan,
Instructor in Government College of Management Sciences,
Miranshah, North Waziristan Agency.
- 2- Muhammad Fayyaz Afridi son of Shad Muhammad Afridi,
Instructor in Government College of Management Sciences,
Jamrud, Khyber Agency.
- 3- Waqar Ahmad son of Afsar Shah,
Instructor in Government College of Management Sciences,
Jamrud, Khyber Agency.
- 4- Saadat Khan son of Khanan Khan,
Instructor in Government College of Management Sciences,
Jamrud, Khyber Agency.
- 5- Rahimdad Khan son of Waris Khan,
Instructor in Government College of Management Sciences,
Jamrud, Khyber Agency.
- 6- Muhammad Tahir Shah son of Muhammad Subhan,
Instructor in Government College of Management Sciences,
Miranshah, North Waziristan Agency.
- 7- Jaffar Ali Khan son of Kashmir Khan,
Instructor in Government College of Management Sciences,
Miranshah, North Waziristan Agency.
- 8- Jamshaid Alam son of Shah Salam,
Instructor in Government College of Management Sciences,
Miranshah, North Waziristan Agency.
- 9- Shafi-ur-Rehman son of Qandahar Khan,
Instructor in Government College of Management Sciences,
Miranshah, North Waziristan Agency.

ATTESTED
EXCISE
Peshawar High Court.

FILED TODAY

Deputy Registrar
20 MAR 2010

Petitioners

Versus

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1- N.W.F.P.,
Through Chief Secretary,
Peshawar.

- 2- Additional Chief Secretary,
FATA Secretariat, Warsak Road,
Peshawar.
- 3- Secretary,
Industries & Tech. Education,
N.W.F.P,
Peshawar.
- 4- Director,
Technical Education and Manpower Training,
N.W.F.P, Peshawar.
- 5- Director,
Technical Education, FATA
Governor Secretariat, FATA,
Warsak Road, Peshawar.
- 6- Secretary to Governor,
Governor Secretariat,
Peshawar.
- 7- Accountant General Pakistan Revenue,
Peshawar.

(14)

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...Respondents

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

Respectfully sheweth:

- 1- That the Directorate of Technical and Manpower, Government of N.W.F.P invited applications, inter alia, for the post of Instructors (BPS-17) in various Disciplines for Government colleges in Federally Administered Tribal Areas ("FATA") vide advertisement date 21.08.2006.

(True Copy of the advertisement is annexed as marked
"A")

EXAMINER
Peshawar High Court

- 2- That the Petitioners duly applied for the said post and after going through test/interview, were declared successful and were appointed as Instructors in BPS-17 on Contract for 1 year in various

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JUDGMENT SHEET
PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT.

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W.P. No. 116 of Year 2010

JUDGMENT

Date of hearing: 8-3-2012

Appellant: *Patric Nade Hassan Khan ETC* by Mr. Jehanzeb
Respondent: *(G. Govt) by Mr. Waqar Ali Durrani*

MIAN FASIHUL MULK, J.- For the reasons recorded in our detailed judgment of even date in W.P. No.1289/2010, this writ petition is also accepted in the terms stated therein.

sd/ Miftach ul Din Khan
sd/ Mian Fasih ul Mulq

Announced
08.03.2012

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SP
Peshawar High Court Peshawar
Authorised Signatory of
The Court established under the Act of 1934
17/3/12

et/ce
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M. Raza*

(16)

JUDGMENT SHEET
PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT.

W.P. No. 1289 of Year 2010

JUDGMENT

Date of hearing: 8-3-2012

Appellant: Shri Ahmad Shah (P) by Mr. Khaled Amin Adv.
Respondent: (Govt NWFP) by Mr. Muz. Ali DAB and
Mr. Mahmood Alam Advocate & Respondents.

MIAN FASIHUL MULK; J.- Petitioners, through

instant petition, seek the indulgence of this Court by issuing directions to respondents to treat the petitioners as regularized employees under the NWFP Employees (Regularization of Services) Act, 2009. The petitioners in connected Writ Petitions No. 1143/2010, 1252/2010, 2639/2010, 1870/2011, 2992/2011, 3244/2011, 3285/2011 and 46/2012, have also similar grievances against the respondents, therefore, we propose to dispose of all the writ petitions through this common judgment in W.P. No.1289/2010.

2. In these petitions the common point of law involved is whether petitioners' appointment on various posts in the respondents' department in pursuance to the advertisement made in the newspapers was on contract basis so as to attract the provisions of Section 3 of

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Peshawar High Court

(17)

NWFP (Regularization of Services) Act, 2009 for their regularization or not.

3. To understand the position, we would take into account the advertisement made in the press, the appointment orders of petitioners, their salary slips and relevant provisions of the Act, 2009 but before that we may give here a brief resume of the facts and circumstances leading to filing of instant petitions.

4. The Director Technical Education & Man Power Training, Peshawar (respondent No.4) advertised certain posts of Instructors, Junior Instructors, Librarians etc. in BPS-14, 16 and 17 lying vacant in various Government Colleges of Management Sciences Ghalani, Khar Bajaur, Parachinar, Miranshah and Government Technical Institutes Bara, Yakka Ghund, Sadda Miranshah and Ghaljai on contract basis for one year extendable to a further period. Petitioners having requisite qualification for the respective posts applied for appointment.

5. A Recruitment Committee was constituted comprising of Deputy Secretary (P&D), Deputy Secretary (Admn), Director Technical Education, NWFP and Deputy Director Technical Education FATA assisted by subject specialists/experts. Merit list of the candidates for each category was prepared and submitted for

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approval of Governor, which was accordingly approved and petitioners were issued the appointment orders. (18)

6. On completion of one year term, the contract was extended from time to time without any break till the year 2009, when the NWFP (Regularization of Services) Act, 2009 was promulgated where under the employees appointed on adhoc or contract basis by the Government were given the status of regular employees. Petitioners represented against before respondent No.1 for their regularization but the same was denied to them on the ground that they were not appointed on contract basis rather their appointment was on fixed pay against the project posts; hence they were not qualifying the conditions as contained in the Act *ibid*.

7. We have heard learned counsel for the parties and have also gone through the record appended with these petitions.

8. A look at the advertisement at Annexure:A would disclose that the posts were on contract basis. The appointment orders issued to petitioners would reveal that though their appointments were made on fixed pay but Para-2 of the terms and conditions contained in the said appointment letters was to the effect that, "their period of selection was for one year or till the creation

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EXAMINER
Peshawar High Court.

of regular posts/arrival of NWFP Public Service Commission nominee which ever is earlier." (19)

From the above, no doubt remains that although appointment of petitioners was on fixed pay but the posts on which petitioners were appointed were not temporary posts rather regular one liable to be filled through regular appointment.

9. Except the bald allegation of respondents that petitioners were project employees and daily wages,

nothing has been brought on record to show that their appointments were made on the posts meant for a

Project. Annexure:E at Page-43 is the Summary for

Governor. According to it, the Governor was pleased to

upgrade the existing five Government Commercial

Training Institutes in FATA to the level of College of

Management Sciences so as to offer Bachelor's degree in

Business Administration and Information Technology to

the students. For the purpose, Schedule for New

Expenditure (SNE) was prepared to recruit the regular

staff and forwarded to SAFRON Division for sanction. It

further reveals that recruitment of staff being a lengthy

process, it was proposed that for the purpose of starting

the classes staff may be recruited on contract basis till

appointment of regular staff and their salaries may be

paid from ADP. From the above summary, which is duly

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approved by the Governor, it is very much evident that
neither the posts to be filled in were temporary nor the
same were meant for any Project except that their
salaries were to be paid from ADP. (20)

10. A similar question had arisen before the august
Supreme Court of Pakistan in the case of Ali Akbar vs.
The Government of NWFP (C.P. No.462-P of 2006)
decided on 05.05.2009, wherein it was held as under:-

*"The petitioner's appointment by office order
dated 04.02.1985 was as Research Officer in
BPS-16 and according to Para-7 of the said
order, it was a stop gap arrangement and on
ad-hoc basis till the regular appointee. The
petitioner's appointment order mentions
three different terms as regard his status,
namely, "on temporary basis", "stop gap
arrangement" and "one ad-hoc basis".
However, Para-7 of the order mentions his
appointment on ad-hoc basis to continue till
the post is filled up through regular
appointment. It follows that the post to which
the petitioner was appointed was not a
temporary post but a regular post liable to be
filled through regular appointment. The*

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order of appointment also does not mention anywhere that the post in question was a temporary one. Furthermore, the petitioner's appointment in a particular pay scale as Assistant Research Officer in the Directorate of Agriculture Research establishes that the petitioner's appointment was on ad-hoc basis on a regular post in the Directorate. By the same office order, the petitioner was posted against a vacancy in the Project Research on the Cultivation of Edible Mashroom in Pakistan. The order, therefore, had made a clear distinction against the petitioner's appointment and posting, whereas he was appointed in the Directorate of Agriculture Research, he was posted in a project against vacancy. It is, therefore, wrong to say that the petitioner was a project employee and termination of his service on that score cannot be maintained."

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11. The objection of respondents that petitioners were appointed against project posts in view of the advertisement and summary to Governor is not sustainable.

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EXAMINER
High Court.

12. As per Section 3 of the NWFP (Regularization of Services) Act, 2009, all employees appointed on contract or ad-hoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post. Under Section 2(b), the word "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees of project post or appointed on work charge basis or who are paid out of contingencies.

13. Admittedly, the posts were advertised on contract basis and petitioners were appointed on the posts having requisite qualification after going through the process of test and interview conducted by a Recruitment Committee. There is no mention in the appointment order that petitioners' appointment is against the project posts except that their appointment was made on fixed pay as against the terms of advertisement wherein the posts were clearly mentioned to be on contract basis. The salary slips of petitioners also indicate that though they were being paid fixed pay but their post is clearly written to be "contract" post. The

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petitioners also draw their salaries from the AGPR. The

(23)

other objection of the Department that the petitioners were appointed on fixed pay, hence their services could not be regularized is, therefore, also nothing but a trick

played by the respondents in the appointment orders to avoid monetary benefits of the posts to which the

petitioners under the law were entitled to get. The term

"fixed pay" has not been defined in service laws. As stated above, the petitioners' appointments were made in

pursuance to the advertisement published in the press against the posts on contract basis and it can, therefore,

be safely inferred that status of petitioners' was that of contract employees regardless of the words "fixed pay"

used in their appointment letters.

14. The respondents, during the course of proceedings in these writ petitions, sought time on so many occasions that the Government has in principles decided to regularize the petitioners by proposing legislation to cater therefore, and even copy of a bill contending to be placed before the Parliament, was also produced but till to-date nothing has been done.

15. The respondents while inviting the attention of this Court to Para-3 of Appointment letters, contended that as the petitioners have accepted the terms and

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EXAMINER
Court.

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conditions of their appointment. wherein it is categorically mentioned that petitioners will not be considered for regularization at any stage, at any time, being employees on fixed pay, therefore, the principle of estoppel would attract to their cases. We have not been impressed by the arguments on two counts; one that there can be no estoppel against Statute and second that an employee at the time of appointment has little choice to enforce any condition of his choice on the employer. In the case of Ikram Bari and 524 others vs. National Bank of Pakistan through President and another (2005 SCMR 100) it has been held by their lordships in the following words:-

"It is difficult to countenance the approach of the Bank, that the temporary Godown staff and the daily wages employees should be continued to be governed on disgraceful terms and conditions of service for an indefinite period. In view of section 24-A of the General Clauses Act 1897, the National Bank was required to act reasonably, fairly and justly. An employee being jobless and in fear of being shown the door had no option but to accept and continue with the appointment on whatever conditions it was offered by the Bank. In the case of Pakistan v. Public at Large P17-1987 SC 304, it was contended before the

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Shariat Appellate Bench of this Court that the provisions of law impugned therein amounted to a contract between the Government and the civil servant and thus they involved his consent. It was observed that in fact it was not in the nature of a free consent between the agents. On one hand, State power was projected in the form of a Statute and on the other; the civil servant had no choice of a bargain on those provisions when joining the service. He could not get it changed. In *Habibullah v. Government of the Punjab and 5 others* PLD 1980 Lah. 37, it was held that the employer being placed in a position of authority and strength could always coerce employees to waive their legal protection and accept contractual terms at the pains of losing his job.

15. We may observe here that firstly the respondents utilized the word "fixed pay" in their appointment letters purely as a means of evading their statutory obligations in terms of the service laws and also to save money by denying them the opportunity of pension/provident fund benefits etc. although their appointments were made in accordance with the prescribed method of recruitment and through a duly constituted Recruitment Committee and secondly, when

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SECRETARY
Peshawar High Court.

the right of their regularization accrued in view of the promulgation of the Act, 2009 they denied them such benefit and came up with lame excuses before this Court that they were project employees, daily wages and payee out of contingency. The petitioners, as is evident from the record, are neither project employees, nor daily wages nor receiving salary from contingency but were contract employees on regular posts and after promulgation of NWFP (Regularization of Services) Act, 2009, have now assumed the status of regular employees of the Department. The acts of respondents being reprehensible amounts to exploitation of petitioners at their own expense and are, therefore, liable to be declared as illegal and in excess of lawful jurisdiction.

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16. We, therefore, issue writ in favour of petitioners and against the respondents to the effect that petitioners shall be deemed to be regular and permanent employees of respondents' No.1 and 2 Department within the meaning of NWFP (Regularization of Services) Act, 2009 and the

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respondents are directed to issue notification of their regularization within a period of one month.

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Announced
08.03.2012

Sd/- Mir Tahir Din Khan - J
Sd/- Miran Fasihul Malik - J

17/3/12

17/3/12
Sd/-
17/3/12
17/3/12

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17/3/12
Peshawar
Authority
The Commission

12452

Application 15-P 15/3/12
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Preparation of Copy 30-
Preparation of Copy 17-3-12
Preparation For Delivery 17/3/12
Preparation of Copy 17/3/12
Sd/-

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ANNEX 2 E

NOTIFICATION

28

No. SO/II(IND)TE/3-9/2012.

In pursuance of the Peshawar High Court, Peshawar judgment dated 08-03-2012 announced in Writ Petition No.1289/2010 the Competent Authority has been pleased to regularize the services of the following employees of Technical Education under the NWFP (Regularization of Services) Act 2009 with immediate effect:-

SR#	NAME & FATHER NAME
1	Mr. Shahid Khan Masood S/o Sarfraz
2	Mr. Shahid Alam S/o Mohammad Nisar
3	Mr. Irfanullah S/o Amanullah
4	Mr. Asif Khan S/o Noor Rahim
5	Mr. Rahmat Khan S/o Gulzar Khan
6	Mr. Mohammad Iqbal S/o Ali Rehman
7	Mr. Inam Khan S/o Fazal Manan
8	Mr. Mohammad Iqbal S/o Gul Said
9	Mr. Ahmed Shah S/o Niaz Amin-
10	Mr. Iltaf Hussain S/o Maqbool Khan
11	Mr. Irfan Qadir S/o Fazal Qadir
12	Mr. Khial Bahada S/o Bahadar Khan
13	Mr. Rehanud Din S/o Shabud Din
14	Mr. Sajjad Ahmad S/o Abdul Ghafar
15	Mr. Sartaj Aziz S/o Zarabat Khan
16	Mr. Zeenat Shah S/o Mehraban Shan
17	Mr. Itikhar Ali S/o Mohammad Akbar
18	Mr. Ikhtiar Zada S/o Habibul Hassan
19	Mr. Hayat Ullah S/o Wahid Ullah
20	Mr. Abdul Qadoos S/o Mohammad Hazrat
21	Mr. Mohammad Ilyas S/o Khanzada
22	Mr. Mohammad Ibrahim S/o Kabal Khan
23	Muhammad Ilyas S/o Mohammad Akram
24	Mr. Sangeen Khan S/o Khair Mohammad
25	Mr. Sajjid Ullah S/o Sher Azam Khan
26	Mr. Jaffar Ali S/o Kashmir Khan
27	Mr. Jamshid Alam S/o Shah Salami
28	Mr. Shafiq Rehman S/o Qandahar Khan
29	Mohammad Tahir Shah S/o Mohammad Subhan

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30	Mr.Noor Hassan Shah S/o Gul Sher Khan
31	Mr. Waqar Ahmed S/o Afsar Shah
32	Mr. Saadat Khan S/o Khanan Khan -
33	Mr. Rahim Dad Khan S/o Waris Khan.
34	Mr. Mohammad Fayaz Afridi S/o Shad Mohammad
35	Mr. Amjid Ali S/o Shaban Ali
36	Mr. Mohammad Iqbal S/o Mohammad Hazrat
37	Mr. Shoukat Hussain S/o Gulab Hussain
38	Mr. Tahir Ayub S/o Mohammad Usman
39	Mr. Amjid Ali S/o Hussain Ali
40	Mr. Muhammad Iqbal S/o Fazal Rahim
41	Mr. Sallah Ud Din S/o Mohammad Rehman
42	Mr. Mohammad Ayub S/o Abdul Saeed Jan
43	Mr. Abdul Aziz S/o Rahim Badshah
44	Mr. Mumtaz Khan S/o Zahir Shah
45	Mr. Shahan Zeb S/o Sher Bahadar
46	Mr. Fareed Ullah S/o Essar Khan
47	Mr. Ikramullah S/o Noor Nawaz
48	Mr. Mohammad Hamayun S/o Ibrahim Ali
49	Mr. Said Badshah S/o Hazrat Badshah
50	Mr. Shah Zarin Khan S/o Naurang Khan
51	Mr. Noor Zada S/o Haya Khan.
52	Mr. Kashif Amin S/o Amin Ul Haq
53	Syed Athar Ali Shah S/o Syed Munawar Ali Shah
54	Syed Hussain Ali Shah S/o Kamran Ali Shah
55	Mr. Asif Ali S/o Ghulam Abbas

2. Consequent upon their regularization the following posting are hereby made as under:-

SR#	NAME & FATHER NAME	POSTING
1	Mr. Shahid Khan Masood S/o Sarfraz	As Lecturer (Computer Science). BPS-17 GCMS, D.I.Khan.
2	Mr. Shahid Alam S/o Mohammad Nisar	As Lecturer (Computer Science) BPS-17. GCMS Charsadda.
3	Mr. Irfanullah S/o Amanullah	As Lecturer (Commerce) BPS-17, GCMS Bannu.
4	Mr. Asif Khan S/o Noor Rahim	As Lecturer (Physics), BPS-17, GCT Swabi.
5	Mr. Rahmat Khan S/o Gulzar Khan	As Lecturer(Telecom), BPS-17, GTI Khar B/Agency.
6	Mr. Mohammad Iqbal S/o Ali Rehman	As Lecturer(Telecom), BPS-17, GTI Khar(B/Agency)
7	Mr. Inam Khan S/o Fazal Manan	As Librarian, BPS-17, GCT Kohat.
8	Mr. Mohammad Iqbal S/o Gul Said	As Lecturer(Commerce), BPS-17, GCMS Charsadda
9	Mr. Ahmed Shah S/o Niaz Amin	As Director Physical Education BPS-17, GCMS Chitral.

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10	Mr. Iltaf Hussain S/o Maqbool Khan	As Lecturer(Computer Science), BPS-17, GCMS Nowshera
11	Mr. Irfan Qadir S/o Fazal Qadir	As Lecturer(Computer Science), BPS-17, GCMS Mardan.
12	Mr. Khial Bahadar S/o Bahadar Khan	As Lecturer(Commerce), BPS-17, GCC No.02 Mardan.
13	Mr. Rehanud Din S/o Shabud Din	As Director Physical Education(DPE) BPS-17, GFI Bara Khyber Agency.
14	Mr. Sajjad Ahmad S/o Abdul.Ghaffar	As Lecturer(Computer Science), BPS-17, GCMS Sangota Swat.
15	Mr. Sartaj Aziz S/o Zarabat Khan	As Lecturer(Commerce), BPS-17, GCMS Thana
16	Mr. Zeenat Shah S/o Mehraban Shan	As Lecturer(Commerce), BPS-17, GCMS Kohat
17	Mr. Iftikhar Ali S/o Mohammad Akbar	As Lecturer(Physics), BPS-17, GPI Takht Bhai.
18	Mr. Ikhtiar Zada S/o Habibul Hassan	As Lecturer(Commerce), BPS-17, GCMS Sangota Swat.
19	Mr. Hayat Ullah S/o Wahid Ullah	As Lecturer(Physics), BPS-17, GCT Nowshera.
20	Mr. Abdul Qadoos, S/o Mohammad Hazrat	As Lecturer(Computer Science), BPS-17, GCMS Chitral.
21	Mr. Mohammad Ilyas S/o Khanzada	As Lecturer(Physics), BPS-17, GTI Miranshsh(NWA)
22	Mr. Mohammad Ibrahim S/o Kabal Khan	As Lecturer(English), BPS-17, GCMS Khar B/Agency.
23	Mr. Mohammad Ilyas S/o Mohammad Akram	As Lecturer(Commerce), BPS-17, GCMS Charsadda.
24	Mr. Sangeen Khan S/o Khair Mohammad	As Lecturer(Commerce), BPS-17, GCMS Charsadda.
25	Mr. Sajjid Ullah S/o Sher Azam Khan	As Lecturer(English), BPS-17, GCT Peshawar
26 ✓	Mr. Jaffar Ali S/o Kashmir Khan	As Lecturer(Commerce), BPS-17, GCMS(NWA)
27 ✓	Mr. Jamshid Alam, S/o Shah Salam	As Director Physical Education BPS-17, GCMS Parachinar (K/Agency),
28 ✓	Mr. Shafiur Rehman S/o Qandahar Khan	As Lecturer(Economics), BPS-17, GCMS Lakki
29	Mr. Mohammad Tahir Shah S/o Mohammad Subhan	As Lecturer(English), BPS-17, GCMS Kohat
30	Mr. Noor Hassan Shah S/o Gul Sher Khan	As Lecturer(Computer Science), BPS-17, GCMS Bannu.
31	Mr. Waqar Ahmed S/o Afsar Shah	As Lecturer(Computer Science), BPS-17, GCMS Charsadda
32	Mr. Saadat Khan S/o Khanan Khan	As Lecturer(English), BPS-17, GCMS Kohat
33	Mr. Rahim Dad Khan S/o Waris Khan	As Lecturer(Computer Science), BPS-17, GCMS Thana
34	Mr. Mohammad Fayaz Afridi S/o Shad Mohammad	As Lecturer(Computer Science), BPS-17, GCC Hangu.
35	Mr. Amjid Ali S/o Shaban Ali	As Librarian, BPS-17, GCMS Karak
36	Mr. Mohammad Iqbal S/o Mohammad Hazrat	As Lecturer(English), BPS-17, GCT Timergara (Lower Dir)
37	Mr. Shoukat Hussain S/o Gulab Hussain	As Lecturer(Commerce), BPS-17, GCMS Parachinar
38	Mr. Tahir Ayub S/o Mohammad Usman	As Lecturer(English), BPS-17, GTI Sadda K/Agency
39	Mr. Amjid Ali S/o Hussain Ali	As Lecturer(Commerce), BPS-17, GCMS Parachinar
40	Mr. Muhammad Iqbal S/o Fazal Rahim	As Lecturer(Commerce), BPS-17, GCMS Chitral.

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41	Mr. Sallah Ud Din S/o Mohammad Rehman	As Lecturer(Commerce), BPS-17, GCTL Wari(Dir Upper)
42	Mr. Mohammad Ayub S/o Abdul Saeed Jan	As Lecturer(English), BPS-17, GCMS Nowshera.
43	Mr. Abdul Aziz S/o Rahim Badshah	As Lecturer(Commerce), BPS-17, GCMS Chitral
44	Mr. Mumtaz Khan S/o Zahir Shah	As Lecturer(Computer Science), BPS-17, GCMS Lakki
45	Mr. Shahan Zeb S/o Shey Bahadar	As Lecturer(Commerce), BPS-17, GCMS Khar (B/Agency)
46	Mr. Fareed Ullah S/o Essar Khan	As Lecturer(Computer Science), BPS-17, GCMS D.I.Khan
47	Mr. Ikramullah S/o Noor Nawaz	As Lecturer(Computer Science), BPS-17, GCMS Lakki
48	Mr. Mohammad Hamayun S/o Ibrahim Ali	As Lecturer(Physics), BPS-17, GCMS Parachinar.
49	Mr. Said Badshah S/o Hazrat Badshahi	As Junior Instructor DAE(Telecom), BPS-14 GTI Ekkaghund
50--	Mr. Shah Zarin Khan S/o Naurang Khan	As Lecturer(Physics), GCT Tangi
51	Mr. Noor Zada S/o Haya Khan	As Lecturer(Computer Science), BPS-17, GCT Tangi
52	Mr. Kashif Amin S/o Amin Ul Haq	As Lecturer(Computer Science), GCMS Parachinar
53	Syed Athar Ali Shah S/o Syed Munawar Ali Shah	As Lecturer(Commerce), BPS-17, GCMS Parachinar
54	Syed Hussain Ali Shah S/o Kamran Ali Shah	As Lecturer(Commerce), BPS-17, GCMS Parachinar
55	Mr. Asif Ali S/o Ghulam Abbas	As Lecturer(Computer Science), BPS-17 GCMS Parachinar.

Terms and conditions of their Regular Appointment will be as under:-

- a. They will get pay at the minimum of BPS-17 including usual allowances as admissible under the rules. They will also be entitled to annual increments as per existing policy.
- b. They shall be governed by the Khyber Pakhtunkhwa, Civil Servants Act, 1973. all the laws applicable to the Civil Servants and rules made there-under.
- c. They shall for all intents and purposes, be Civil Servants except for purpose of pension & gratuity. In lieu of pension and gratuity, they shall be entitled to receive such amount as would be contributed by them towards Contributory Provident Fund(CPF) alongwith the contributions made by Government to their account in the said fund in the prescribed manner.
- d. Their employments in the department in purely temporary and their services are liable to be terminated without assigning any reason at thirty(30) days notice or on the payment of 30-days salary in lieu thereof. In case they wish to resign at any time, 30-days notice will be necessary or in lieu thereof 30-days pay will be forfeited.
- e. They shall, initially, be on probation for a period of two years extendable upto 3-years.
- f. Their seniority shall be determined in accordance with relevant rules but subject to section-4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009.

*Attested to be
True Copy*
m. R. J.

-Sd-
Secretary to Govt. of Khyber Pakhtunkhwa,
Industries, Commerce & Technical Education
Department

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Endst: No. SOIII(IND)TE/3-9/2012

Dated Pesh, the 31st December, 2012

Copy of the above is forwarded to the:-

1. Additional Chief Secretary(FATA), FATA Secretariat, Worsak Road Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
5. Secretary to Governor, Khyber Pakhtunkhwa
6. Accountant General, Khyber Pakhtunkhwa, Peshawar.
7. The Director General, Technical Education & Manpower Training, Khyber Pakhtunkhwa, Peshawar.
8. Director Technical Education, FATA, Khyber Pakhtunkhwa, Warsak Road Peshawar.
9. Director Information Khyber Pakhtunkhwa for wide publicity through media.
10. Agency/Districts Accounts Officers concerned.
11. Registrar Peshawar High Court, Peshawar.
12. Director Recruitment, Khyber Pakhtunkhwa, Public Service Commission Peshawar.
13. Section Officer(FATA), Education Wing, Governor Secretariat(FATA) Worsak Road Peshawar.
14. PS to Secretary, IC&TE Department.
15. P.A to Additional Secretary-I, IC&TE Department.
16. The Officer concerned.
17. O/O file.


(ANWAR-UL-HAQ)
DEPUTY SECRETARY-I

Attested to be
True copy
m. R. J.

ANNEX F

(33)

5449(01)

13/12/14

To

The Director General,
Technical Education & Manpower Training,
Khyber Pakhtunkhwa,
Peshawar.

Subject: REQUEST FOR SENIORITY, INCREMENTS & ARREARS.

R/Sir,

It is submitted that in pursuance of Peshawar High Court, Peshawar judgment dated 08-03-2012 announced in Writ Petition No. 1145/2010. My services alongwith my other colleagues were regularized under Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009, with immediate effect vide Government of Khyber Pakhtunkhwa, Industries, Commerce & Technical Education Department Notification No. SOIII(IND)TE/3-9/2012 dated 31-12-2012.

In this connection, it is stated that:-

- 1- After allowing seniority from 01-01-2009, according to section-4 of Khyber Pakhtunkhwa (Regularization of Services) Act, 2009, we were regularized with immediate effect were deprived from pay benefits, seniority, annual increments and arrears thereof from the back date i.e. 01-01-2009.
- 2- While accepting the Writ petition No. 1145/2010, the Peshawar High Court, Peshawar in last Para of its judgment announced on 08-03-2012, directed the respondents to issue notification of regularization of petitioner within a period of one month.
- 3- Instead of issuing notification of our regularization within one month as per direction of the Court the respondent delayed the desired on one pretext or the other. The required notification was finally issued on 31-12-2012 with immediate effect which amounts to deprivation of the petitioners from their pay, benefits, seniority, annual increments and arrears at least from the date of announcement of the judgment and in this respect various services appeals are penaling adjudication before service tribunal, Khyber Pakhtunkhwa.

In view of the above, it is humbly prayed that I may kindly be allowed pay benefits, seniority, annual increments and arrears from my actual date of regularization i.e. from 01-01-2009 according to Khyber Pakhtunkhwa (Regularization of Services) Act, 2009.

Yours Obediently,

(SHAFI-UR-REHMAN)
LECTURER (ECONOMICS),
GCMS, LAKKI MARWAT.

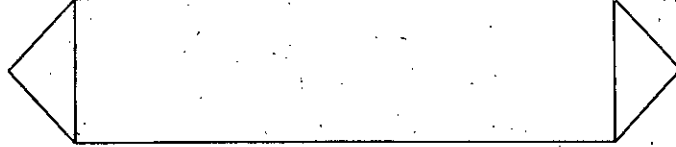
Attested to be
True copy

m. [Signature]

[Signature]

بعدالت جناب سروس ٹریبونل پشاور

34



2015ء منجانب اپیلانٹ
بنام چیف سیکریٹری

سٹی الرہمن

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

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

آن مقام پشاور کیلئے حکیمہ امتیاز خلیل کیلئے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Accepted by

[Signature]

20

ماہ الجریل

21

المرقوم

[Signature]

العندگ الواه الع

کے لئے منظور ہے۔

مقام