

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 980/2016

Date of Institution ... 07.09.2016

Date of Decision ... 27.12.2019

Muhammad Ismail, Principal, Government High School, Mashogagar, Tehsil and District Peshawar. ... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and four others. ... (Respondents)

MR. TAIMUR ALI KHAN,
Advocate

--- For appellant.

MR. MUHAMMAD JAN,
Deputy District Attorney

--- For respondents

MR. AHMAD HASSAN
MR. MUHAMMAD HAMID MUGHAL

--- MEMBER (Executive)
--- MEMBER (Judicial)

JUDGMENT:

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS:

02. Learned counsel for the appellant argued that he joined Cadet College Razmak, District North Waziristan as Lecturer/Master (BPS-17) in 2002. That on the recommendations of Khyber Pakhtunkhwa Public Service Commission, he was appointed as Subject Specialist (BPS-17) vide notification dated 19.09.2006. He was relieved by the Principal Cadet College Razmak on 25.08.2006. Needless to add, that he had applied for the above post through proper channel. The Finance Department through notification dated 04.06.2011 allowed pay protection to the

employees of the autonomous bodies who had adopted pay scales of the Provincial Government. These instructions were issued on the strength of judgment of Federal Service Tribunal dated 01.08.2009. The appellant filed departmental appeal on 05.11.2015 for extension of benefits of pay protection but the same was rejected vide order dated 20.04.2016. His appeal was rejected through a non-speaking order in violation of Section-24-A of General Clauses Act 1897 and case law reported as 1991 SCMR 2323. Learned counsel for the appellant further argued that recently the Supreme Court of Pakistan vide order dated 27.11.2019 upheld the judgment passed by this Tribunal in service appeal no. 476/2014. The case of the appellant is similar to the one decided by the apex court and the principle of consistency demands equal treatment be given to the appellant.

03. Learned Deputy District Attorney argued that notification dated 04.06.2011 was not applicable in the case of the appellant being an employee of the autonomous body/organization. His departmental appeal was rejected on the ground that the appellant joined the Provincial Government prior to issuance of notification referred to above. Moreover, the present service appeal was also barred by time.

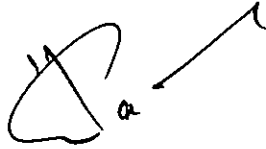
CONCLUSION:

04. It is not disputed that the appellant joined Cadet College Razmak, District North Waziristan as Lecturer/Master (BPS-17) in 2002. This college was financed out of funds initially provided by the SAFRON and now by the Provincial Government. Later on, he applied for the post of Subject Specialist (Pakistan Study) advertised by the Khyber Pakhtunkhwa Public Service Commission through proper channel and got selected vide notification dated 19.09.2006. He was relieved by the


Principal vide letter dated 25.08.2006. His request for grant of pay protection was regretted through order dated 20.04.2016 and that too through a non-speaking order. The respondents regretted the plea of the appellant on the sole ground that he was appointed as Lecturer in Cadet College Razmak prior to the issuance of notification dated 04.06.2011, wherein employees of autonomous body who had adopted government pay scales were provided benefits of pay protection for the service rendered in autonomous bodies. The stance of the respondents appears to be illogical and irrational. It was quite unjust to deny benefits of pay protection, to a civil servant on the sole ground that no policy was invogue/ infield. He otherwise fulfilled all the ^{conditions of} mentioned in letter dated 04.06.2011.

05. Now this point has been adequately elaborated/addressed by the august Supreme Court of Pakistan through order dated 27.11.2019 passed in civil appeal no. 1308/2019. The provincial government had challenged decision of Service Tribunal dated 07.03.2017 passed in service appeal no. 476/2014, wherein benefits of pay protection were allowed to Mian Farooq Iqbal, petitioner who had started his career in the University of Engineering and Technology Peshawar on 03.12.1986. Subsequently, he was appointed as Inspector of Mines in the Khyber Pakhtunkhwa Inspectorate of Mines vide notification dated 21.06.1989. In view of the above judgment the principle of consistency demands similar treatment be extended to the appellant in the service appeal in hand so as to meet the ends of justice. Being a financial matter limitation will not have any adverse implications on his claim.

06. As a sequel to the above, the instant appeal is accepted, impugned order dated 20.04.2016 is set aside and the respondents are directed to allow pay protection to the appellant as prayed for. Parties are left to bear their own costs. File be consigned to the record room.



(MUHAMMAD HAMID MUGHAL)
Member



(AHMAD HASSAN)
Member

ANNOUNCED
27.12.2019


ORDER

27.12.2019

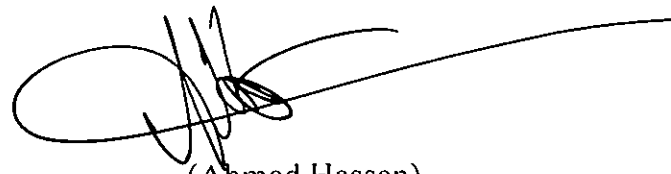
Counsel for the appellant present. Mr. Muhammad Jan, DDA
for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today of this Tribunal placed
on file, the instant appeal is accepted, impugned order dated
20.04.2016 is set aside and the respondents are directed to allow pay
protection to the appellant as prayed for. Parties are left to bear their
own cost. File be consigned to the record room.

Announced:
27.12.2019



(Muhammad Hamid Mughal)
Member



(Ahmad Hassan)
Member

28.06.2019

Counsel for the appellant and Mr. Muhammad Jan, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 29.07.2019 for arguments before D.B.


Member


Member

29.07.2019

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 22.10.2019 before D.B.



Member


Member

22.10.2019

Appellant in person present. Mr. Riaz Khan Painsdakhel learned Assistant Advocate General for the respondents present. Appellant requested for adjournment on the ground that his counsel is busy before the August Supreme Court of Pakistan. Adjourned. To come up for arguments on 27.12.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

19.12.2018

Junior to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Junior to counsel for the appellant requested for adjournment that as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 11.02.2019 before D.B.

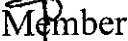

(Hussain Shah)
Member

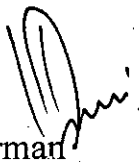

(Muhammad Amin Kundi)
Member

11.02.2019

Counsel for the appellant and Mr. Muhammad Jan, DDA for the respondents present.

Learned counsel for the appellant requests for adjournment in order to further prepare the brief. Adjourned to 24.04.2019 before the D.B.


Member



Chairman

24.04.2019

Counsel for the appellant and Mr. Muhammad Jan, DDA Addl. AG for the respondents present.

Learned counsel for the appellant requests for adjournment due to over work before this Tribunal today.


Adjourned to 28.06.2019 for arguments before the D.B.


Member


Chairman

13.07.2018

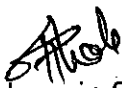
Learned counsel for the appellant and Mr. Usman Ghani, learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 18.09.2018 before D.B



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

10.09.2018

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up arguments on 31.10.2018 before D.B


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

31.10.2018

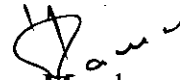
Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 19.12.2018.


READER

20.10.2017


Counsel for the appellant and Mr. Muhammad Jan, DDA for respondents present. Rejoinder on behalf of the appellant submitted which is place on file. To come up for arguments on 02.01.2018 before D.B.

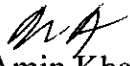

Member
(Executive)


Member
(Judicial)

02.01.2018

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 05.03.2018 before D.B.



(Ahmad Hassan)
Member(E)


(M. Amin Khan Kundi)
Member (J)

05.03.2018

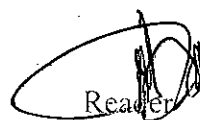
Junior counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Junior counsel for the appellant seeks adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 03.05.2018 before D.B.


(Muhammad Hamid Mughal)
Member


(Muhammad Amin Khan Kundi)
Member

03.05.2018

Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for same on 13.07.2018 before D.B


Reader

980/2016

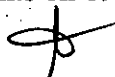
09.01.2017

Appellant with counsel, M/S Khurshid Khan, SO and Hameed-ur-Rehman, AD (lit.) alongwith Additional AG for the respondents present. Written statement by respondents 1 to 4 submitted. Learned Additional AG relies on the same on behalf of respondent No. 5. The appeal is assigned to D.B for rejoinder and final hearing for 01.03.2017.


Chairman

01.03.2017

Counsel for appellant and Mr. Hameed-ur-Rehman, AD (litigation) alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Rejoinder not submitted. Learned counsel for appellant requested for time for filing rejoinder. Request accepted. To come up for rejoinder and arguments on 19.06.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(ASHFAQUE TAJ)
MEMBER

19.06.2017

Counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Counsel for the appellant submitted fresh Wakalat Nama which is placed on file. Requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 20.10.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member

29.09.2016

Counsel for the appellant present. Preliminary arguments heard and case filed perused. Through the instant appeal, the appellant has impugned order dated 20.4.2016 vide which the appellant was regretted of fixation of pay protection. Against the impugned order the appellant filed departmental appeal which was also not accepted as per order dated 9.8.2016 hence, the instant service appeal.

Appellant Deposited
Security & Process Fee

Since the matter pertains to the terms and conditions of service of the appellant, therefore, the appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days where-after notices be issued to the respondents for written reply/comments for 30.11.2016 before S.B.

Member



30.11.2016

Appellant in person and Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply on 09.01.2017 before S.B.

Member

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 980/2016

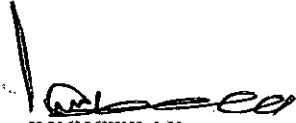
S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	19/09/2016	<p style="text-align: center;">The appeal of Mr. Muhammad Ismail resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>29-9-16</u></p> <p style="text-align: right;"> MEMBER</p>

The appeal of Mr. Muhammad Ismail Principal GHS Mashogagar Tehsil and Distt. Peshawar received today i.e. on 07.09.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

1- Annexure-C of the appeal is illegible which may be replaced by legible/better one.

No. 1469 /S.T,

Dt. 07/9 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Asif Yousafzai Adv. Pesh.

Sir,

Objections were removed and file re-submitted.

Yousafzai

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 980 /2016

Mr. Muhammad Ismail

V/S

Education Department

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	01-04
2.	Copy of Appointment at Cadet College Razmak	A	05
3.	copy of departmental permission	B	06
4.	Copy of Appointment as SS (Pak Study)	C	07-10
5.	Copy of relieving certificate	D	11
6.	Copy of notification 4.6.2011	E	12
7.	Copy of departmental appeal	F	13-14
8.	Copy of letter dated 26.2.2016	G	15
9.	Copy of rejection order	H	16
10.	Copy of communication	I	17
11.	Vakalat Nama	-----	18

APPELLANT

THROUGH:


(M.ASIF YOUSAFZAI)


(TAIMUR ALI-KHAN)


(S. NAUMAN BUKHARI)
ADVOCATES, PESHAWAR

①

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 980 /2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 970

Dated 07-9-2016

Mr. Muhammad Ismail, Principal,
Government High School, Mashogagar,
Tehsil and District Peshawar.

(APPELLANT)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Secretary, Education (E&SE) Department, Government of Khyber Pakhtunkhwa. Civil Secretariat, Peshawar.
- ✓ 3. The Secretary, Finance Department, Government of Khyber Pakhtunkhwa. Civil Secretariat, Peshawar.
4. The Director of Education (E&SE), Department, Khyber Pakhtunkhwa, Peshawar.
5. The Principal Cadet College Razmak NWA.

(RESPONDENTS)

.....

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 20.04.2016 COMMUNICATED TO THE APPELLANT ON 09.08.2016, WHEREBY THE APPELLANT HAS BEEN REFUSED PAY PROTECTION ON APPOINTMENT AGAINST PBS-17 IN EDUCATION.

Filed to-day

W. Qureshi
Registrar

7/9/16

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 20.04.2015 MAY BE SET ASIDE AND THE RESPONDENT DEPARTMENT MAY BE DIRECTED TO ALLOW PAY PROTECTION TO

Re-submitted to-day
and filed.

Singh
19/9/16
Registrar

APPELLANT ON APPOINTMENT IN BPS-17 BEING MADE WITH TROUGH PROPER CHANNEL WITH ALL BACK AND CONSEQUENTAIL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

.....

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed as Lecturer/Master in BPS-17 in the year 2002 in the Cadet College Razmak NWA.. (Copy of appointment order is attached as Annexure-A)
2. That Public Service Commission advertised posts of Subject Specialist in 2004 in which posts of SS (Pak Study) were also included. The appellant was eligible for the post of SS (Pak study), therefore he applied through proper for the post of SS (Pak study) and appointed as Subject Specialist (Pak Study) BPS-17 on recommendation of Public Service Commission vide Notification dated 19.09.2006 and the Principal Cadet College Razmak properly relieved the appellant vide relieving certificate dated 25.8.2006. (Copies of departmental permission, appointment Order dated 19.9.2006 and relieving certificate are attached as Annexure-B,C&D)
3. That the Finance Deptt: issued a notification on 4.6.2011 in which the benefits of pay protection has been allowed to the employees of autonomous bodies provided it has adopted pay scales of the Govt: in toto. The said notification was issued after the judgment of FST passed in a case of Sajjad Rasheed etc. (Copy of notification is attached as Annexure-E)
4. That after that the appellant filed departmental appeal 5.11.2015 for pay protection and the said appeal was forward to the Finance Deptt: vide letter dated 26.2.2016.

(Copies of departmental appeal and letter are attached as Annexure-F&G)

5. That the departmental appeal was finally rejected on 20.4.2016 and the said refusal was communicated to the appellant on dated 9.8.2016. (Copies of rejection order and communication of rejection order are attached as Annexure-H&I).
6. That now the appellant comes to this august Tribunal on the following ground amongst others

GROUND:

- A) That the order dated 20.04.2016, and not granting pay protection is against the law, facts, norms of justice and material on record, therefore, not tenable.
- B) That the appellant has not been treated according to law and rules and judgments of Courts of the point.
- C) That no reasons have been mentioned in the rejection order and therefore the same is a non speaking order which is in violation of Section 24 of the General Clauses Act and the Supreme court Judgment reported as 1991-SCMR 23230.
- D) That the appellant has been discrimination because previously many others employees have been given pay protection while the same benefits have been refused to appellant.
- E) That the appellant applied through proper channel after proper departmental permission, therefore, under the law and rules the appellant is legally entitled to pay protection. Because also the Cadet College Razmak adopted the Government pay / scale in toto.
- F) That the appellant has been deprived form the benefits of pay protection in an arbitrary manner which is not tenable under the principles of justice and fair pay.
- G) That the appellant seek permission to advance other grounds and proofs at the time of hearing.

4

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

APPELLANT
Muhammad Ismail

THROUGH:

(M.ASIF YOUSAFZAI)

(TAIMUR ALI KHAN)

(S. NAUMAN BUKHARI)
ADVOCATES, PESHAWAR

CADET COLLEGE, RAZMAK
(North Waziristan)

No. CCR/26/Adm

Dated: 28 March 2002

From: The Principal,
Cadet College, Razmak

To: Mr. Muhammad Ismail } Room No. B-2 Hareem Mansion
S/O }
Muhammad Yousof } Khyber Bazar, Peshawar City.

Subject: APPOINTMENT FOR THE POST OF -MASTER IN PAK STUDIES

Memo:-

Your interview for the above post held on 2nd March 2002 refers.

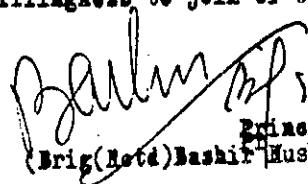
I am pleased to inform you that you have been selected for the Post of Master in PAK STUDIES in Cadet College Razmak, against a regular vacancy.

The appointment has been made on temporary basis on the Terms and Conditions mentioned below:-

1. Your initial Pay has been fixed at Rs.6210/- per month in Basic Pay Scale 17 (6210-525-75660) plus admissible allowances.
2. The Post is regular and is likely to continue.
3. The appointment is subject to your medical fitness by a Civil Surgeon. The medical fee in this connection is to be borne by you.
4. Probation period is for ~~3 years~~ extendable for an other one year. (College Rules 1992 para 9(1) refers).
5. The appointment is subject to satisfactory verification of your character and antecedents for which you are required to produce two character certificates from two persons in Pakistan serving in BPS-17 or above under the Federal or Provincial Governments.
6. Your services will be governed entirely under the College Rules, a Copy of which is enclosed herewith.
7. Partly furnished single accommodation will be provided at Campus.
8. Available Medical Care will be provided to you as and when required.
9. You are requested to report for duty to the Principal, Cadet College, Razmak, North Waziristan Agency on 1st May 2002(Fri), failing which the offer will be treated as cancelled.
10. The receipt of the appointment letter may be acknowledged and the Principal, Cadet College, Razmak may be immediately informed personally/telegraphically about your willingness to join or otherwise.

Copy to:-

1. Vice Principal.
2. Bursar/Acctt.
3. Personal file.


Principal
Brig (Retd) Bashir Hussain

ATTESTED


Annex "C"

Cadet College Razmak
(North Waziristan)
Tel. 0928-230006
Fax. 0928230029

No. CCR/1465 /Adm;

Dated 15 Dec' 2004

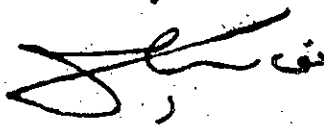
To

The Chairman/ Secretary
Public Service Commission
N.W.F.P Peshawar

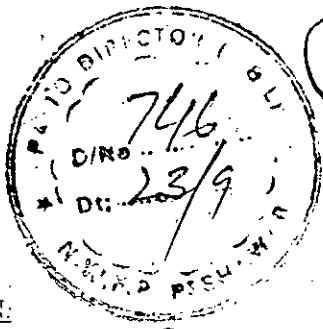
Subject :- (Apply Through Proper Channel)

Memo,

Enclosed find here with the original form and other relevant testimonials /Documents I/R Mr. Muhammad Ismail Master /Lecturer Pak; Studies Cadet College Razmak North Waziristan for the advertised post of Subject Specialist (Pak; Studies) BPS 17(Advertisement No 07/2004 Vacancy/Serial No.5 dated 1/12 /2004) ,for further necessary action please;


o/c Principal
Khan Muhammad Khalil

ATTESTED

24

Better copy
23/9

7

GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPTT.

DATED PESHAWAR THE 19-09-2006.

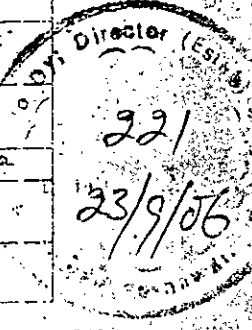
NOTIFICATION:

NO.SO(S)3-2/2006/SS(Male) Consequent upon the recommendations of the NWFP Public Service Commission, the Competent Authority has been pleased to appoint the following Subject Specialists in various subjects in BPS-17 (Rs.7140-535-17840) plus usual allowances as admissible under the rules on Regular basis but without pension and gratuity in terms of Section-19 of the Civil Servant Act 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005 with immediate effect under the provision of Establishment & Administration Department Circular bearing No.SOR-6(E&AD) 13-1/2005 dated 10-8-2005:

S.No	Name with Father's Name and address.
1-	Abdur Rauf S/O Muhammad Ibrahim, C/O Sona Khan Cycle Works Mesgran Bazar D.I.Khanh.
2-	Afsar Khan S/O Abdul Jalil, SET, Government High School, No.3, Kohat City.
3-	Anees Muhammad S/O Mohibat Khan, Bandi Dhanak, P.O. Chando Mera Way Havelian C/O Haroon Shopkeeper(Besan) Tehsil & District Abbottabad
4-	Anwar Zaman S/O Zarsnad Khan, Village & P.O. Parmeli, Mohallah Bazi Khel, Tehsil & District Swabi.
5-	Bakhtiar Muhammad S/O Abdul Wahab, Village & P.O. Batagram, Tehsil 7 District Batagram Hazara.
6-	Hayat Khan S/O Muhammad Miskeen, Village Kulhari Sherki P.O. Bafa, Tehsil & District Mansehra.
7-	Khurshid Alam S/O Qamar Zaman, Village & P.O. Allah Dhand Dheri Mohallah Azi Khel Malakandi Agency.
8-	Khalid Dad Khan S/O Sali Muhammad, SET, Government High School Miran Shah Bazar (NWA).
9-	Muhammad Khalid Mahmood S/O Gul Marjan C/O Jan Tailors Bitini Plaza Tank City.
10-	Muhammad Zahir S/O Azizur Rehman, House No.5 Noor Rehman Colony Talab Masjid Road Nothia Qadeem, Peshawar Cantt.
11-	Menhajud Din S/O Saadullah Khan, Village & P.O. Bogara Tehsil Tehsil Takhti Nasrati, District Karak.
12-	Muhammad Iqbal S/O Muhammad Nawaz, Village & P.O. Dhaki D.I.Khan.
13-	Muazzam Khan S/O Muhammad Aurangzeb Khan, Mohallah Haji Imami Pir Village & P.O. Serai Saleh, Tehsil & District Haripur.
14-	Nasrullah S/O Sabir Ullah, Village Salo(Toot Shan) P.O. Kalo (Lund Khawar) Tehsil Takht Bhai, District Mardan.
15-	Qazi Shafiqur Rehman S/O Qazi Fasih ud Din, Qazi Abad Daray-e-Kabai Railway Station Kalan, District Nowshera.
16-	Salman Anwar S/O Muhammad Anwar, Village & P.O. Takht Abad No.1, District Peshawar.
17-	Sher Ghulam Khan S/O Muhammad Iqbal Khan, Village Alam Khan P.O. Domel, Tehsil & District Bannu.
18-	Syed Fakhar-ud-Din Shah S/O Ghulam Abbas Shah, Gillani Town Main Street End District D.I.Khar.
19-	Ghulam Murtaza S/O Masal Khan, Village Shahi Payan P.O. Shahi Bela, Tehsil & District Peshawar
20-	Muhammad Riaz S/O Muhammad Saeed, Village Wazir Abad, P.O. Dargai, Tehsil Sama Ranizai, District Malakandi.
21-	Nisar Ahmad S/O Said Muhammad, Village & P.O. Sarsanai, Tehsil Kabai District Swat.
22-	Muhammad Amin S/O Ali Muhammad (Late), Village Isori Payan P.O. Akora Khattak, Tehsil & District Nowshera.
23-	Muhammad Ismail S/O Muhammad Yousaf, B-2 Haroon Menssion Khyber Bazar Peshawar City.
24-	Khanzada S/O Muhammad Sadiq, CO Sher Bahdar Shopkeeper Lissan Nawat, Tehsil & District Manshra.
25-	Bakhtiar Ahmad S/O Muhammad Zaheer-ud- Din, Mohallah Adezai Village Kot Ismailzai P.O. Garhi Kapura Tehsil & District Mardan.
26-	Abdur Rauf Shah S/O Zar Bad Shah, Village Mandai Mohallah Goli Khel, P.O. Berone Ganj Gate Bus Staff C/O Rtd. Subidar Mir Bat Khan Shopkeeper Tehsil & District Peshawar.
27-	Sanat Ullah S/O Saad Nawaz Khan, Village Yaghi Ghulam Khel P.O. Fatehsari Tehsil Takht Nasrati, District Karak.
28-	Muhammad Iqbal Khan S/O Abdul Sattar, Village Pano Dheri P.O. Tehsil & District Mansehra.
29-	Amir Muhammad S/O Haji Fazal Rabi, Mohallah Rahat Abad, Village & P.O. Hathian, Tehsil Takht Bhai, District Maran.
30-	Asimullah Jan S/O Muhammad Karim, Mohallah Khawazi Khel, Village & P.O. Utmanzai, Tehsil & District Charsadda.
31-	Athar Khalil S/O Khalil-ur-Rehman, Mohallah Khaizerzai Village & P.O. Mir Pur Khurd, Tehsil & District Abbottabad.
32-	Bakht Baidar S/O Muhammad Sadiq, Village & P.O. Bagh Maidan, Tehsil Lal Qilla District Dir Lower.
33-	Hassan Shah S/O Miskeen Shah, Village Botigran, P.O. Sari Kot, Tehsil Gaazi District Haripur.
34-	Ihsanullah S/O Muhammad Saleh, Mohallah Shaheed Abad, Village & P.O. Chakdara, Tehsil Adenzai, District Dir Lower.
35-	Jehangir Khan S/O Abdul Ghafoor Khan, Mohallah Nehar Abad Village & P.O. Mayar, Tehsil & District Mardan.

SIAE
23/9

13/11
23/9



ATTESTED
[Signature]

35-	Sher Ali Khan S/O Mir Hassan, Village Sabargul Killi P.O. Shakh No.6 Tehsil & District Charsadda.
37-	Sher-ur-Rehman S/O Shams-ur-Rehman Village Awazi Killah P.O. Bogara, Tehsil Takht Nasrati, District Karak.
38-	Muhammad Nawaz S/O Shahbaz Khan, C/O Karachi Febriks Shop No.47 Gulshan Plaza Wana Adda South Waziristan Agency.
39-	Muhammad Naveed Safdar S/O Muhammad Ramzan Safdar C/O Rahim Bakhsh, Qadir Bakhsh General Marchants Topawalan D.I.Khan.
40-	Muhammad Fayyaz Khan S/O Saifur Rehman, Village Qademi Kalan P.O. & Tehsil Dargai, District Malakand.
41-	Muhammad Amin S/O Muhammad Ayub, P.O. Dhodial(Gerwal) Tehsil & District Manshra.
42-	Muhammad Younas Khan S/O Dilawar Khan, House No.355/A Mohallah Nel Gram New Tenchi Bazar Bannu City.
43-	Zafar Ali Khan S/O Sarmast Khan (Late) C/O Sarfaraz Khan Head of Physics Deptt. PAF Degree College, Peshawar.
44-	Arif Sohail S/O Mir Janan, Village & P.O. Waran Dahi Khel Tehsil & District Karak.
45-	Aminullah S/O Nazar Ali Khan, C/O Hameed Jewlars Shop No.10 Chowk Bazar Bannu.
46-	Muhammad Iqbal S/O Mohibullah, Village Zarobi P.O. Tazagram Tehsil Takht Bhai District Mardan.
47-	Riaz Ahmad S/O Aziz-ur-Rehman, Mohallah Dhanda Village & P.O. Thana Malakand.
48-	Syed Farooq Shah S/O Sardar Khan, Village Nisar Khan P.O. Bharat, Tehsil & District Bannu.
49-	Muhammad Ali Saddiqui S/O Ghulam Sarwar, Government Centennial Modle High School(Boys), D.I.Khan.
50-	Muhammad Iqbal S/O Muhammad Ghulam, C/O Gul Stationery Near National Bank Lakki Marwat.
51-	Sajad Ali S/O Khair Muhammad, C/O Amir Khan Karyana Marchant Main Bazar Takht Bhai, District Mardan.
52-	Ahsan Saleem S/O Muhammad Saleem, H.No.112 LM Lower Malakpura(Chata Pul) District Abbottabad.
53-	Amjad Ali S/O Marizoor Hussain, H.No.MC-2296 Mohallah Khan Bahadar District Manshra.
54-	Jehangir Khan S/O Sarfaraz Khan, Village & P.O. Hatian Opposite Telephone Exchange Tehsil Takht Bhai, District Mardan.
55-	Liaqat Ali Khan S/O Bahadur Sher, Village & P.O. Parkhu Dheri, Tehsil Takht Bhai District Mardan.
56-	Naseem Muhammad S/O Siraj Muhammad, Mohallah Madi Khel Village & P.O. Shah Mansoor Tehsil & District Swabi.
57-	Noorul Wahab S/O Muhammad Ismail, C/O Nadeem Printing Press Mir Ali North Waziristan Agency.

2- On their appointment they are posted in Government Higher Secondary Schools as noted against each subject to the conditions given below:

S.No	Name.	To be posted as.	Remarks
1-	Abdur Rauf S/O Muhammad Ibrahim.	SS(Pak. Studies), GHSS, Nagrai Buner.	Against Vacant Post
2-	Afsar Khan S/O Abdul Jalil.	SS(Pak.Studies), GHSS, Dallah Hangu.	-do-
3-	Anees Muhammad S/O Mohabat Khan.	SS(Pak.Studies), GHSS, Dalola, Abbottabad	-do-
4-	Anwar Zaman S/O Zarshad Khan.	SS(Pak.Studies), GHSS, Ismaila, Swabi.	-do-
5-	Bakhtiar Muhammad S/O Abdul Wahab.	SS(Pak.Studies), GHSS, Kuza Banda Battagram.	-do-
6-	Hayat Khan S/O Muhammad Maskeen.	SS(Pak.Studies), GHSS, Battal Manshra. L).	-do-
7-	Khurshid Alam S/O Qamar Zaman.	SS(Pak. Studies), GHSS, Mian Brangola, Dir Lower.	-do-
8-	Khaliq Dad Khan S/O Silli Marjan.	SS(Pak.Studies), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for furthr posting.	-
9-	Muhammad Khalid Mahmood S/O Gul Marjan	SS(Pak.Studies), GHSS, Gul Imam Tank.	Against Vacant Post.
10-	Muhammad Zahir S/O Aziz-ur-Rehman.	SS(Pak.Studies), GHSS, Shabqadar Fort, Charsadda.	-do-
11-	Mennajud Din S/O Saadullah Khan.	SS(Pak. Studies), GHSS, Utmanzai Charsadda.	-do-
12-	Muhammad Iqbal S/O Muhammad Nawaz.	SS(Pak. Studies), GHSS, Daraban Kalan, D.I.Khan.	-do-
13-	Muazzam Khan S/O Muhammad Aurangzeb Khan.	SS(Pak. Studies), GCMHSS, Haripur.	-do-
14-	Nasrullah S/O Sabirullah	SS(Pak.Studies), GGHSS, Manki Sharif, Nowshera.	-do-
15-	Qazi Shafiqur Rehman S/O Qazi Fasihud Din	SS(Pak.Studies), GHSS, Ziarat Kaka Sahib Nowshera.	-do-
16-	Salman Anwar S/O Muhammad Anwar	SS(Pak.Studies), GHSS, Dosehra, Charsadda.	-do-
17-	Sher Ghulam Khar. S/O Muhammad Iqbal Khan.	SS(Pak. Studies), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for furthr posting.	-

ATTESTED



19-	Syed Fakharud Din Shah S/O Syed Ghulam Abbas Shah.	SS(Pak.Studies), GHSS No.2 D.I.Khan.	Against Vacant Pos
19-	Ghulam Murtaza S/O Masal Khan.	SS(Pak.Studies), GHSS, Nisata, Charsadda	-do-
20-	Muhammad Riaz S/O Muhammad Saeed.	SS(Pak.Studies), GHSS, Kot, Malakand.	-do-
21-	Nisar Ahmad S/O Said Muhammad.	SS(Pak.Studies), GHSS, Kabal, Swat.	-do-
22-	Muhammad Amin S/O Ali Muhammad (Late)	SS(Pak.Studies), GHSS, Jaloza, Nowshera.	-do-
23-	Muhammad Ismail S/O Muhammad Yousaf	SS(Pak.Studies), GHSS, Sheikhan, Peshawar.	-do-
24-	Khanzada S/O Muhammad Sadiq	SS(Pak.Studies), GHSS, Behali, Mansehra.	-do-
25-	Bakhtiar Ahmad S/O Muhammad Zahirur Din.	SS(Pak.Studies), GHSS, Garhi Kapura, Mardan.	-do-
26-	Abdur Rauf Shah S/O Zar Bad Shah.	SS(Pak.Studies), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for further posting.	-
27-	Sanat Ullah S/O Said Nawaz Khan	SS(Pak.Studies), GHSS, Dheri Lakpami, Mardan.	Against Vacant Pos
28-	Muhammad Iqbal Khan S/O Abdul Sattar.	SS(Pak.Studies), GHSS, Jared Mansehra.	-do-
29-	Aamer Muhammad S/O Haji Fazal Rabani.	SS(Mathas), GHSS, Pir Sadi, Mardan.	-do-
30-	Asimullah Jan S/O Muhammad Karim.	SS(Mathas), GHSS, Kishawara, Swat.	-do-
31-	Athar Khalil S/O Khalil-ur-Rehman.	SS(Mathas), GHSS, Khnispur, Abbottabad.	-do-
32-	Bakht Baidar S/O Muhammad Sadiq.	SS(Mathas), GHSS, Ziam Dara, Dir Lower.	-do-
33-	Hassan Shah S/O Maskeen Shah.	SS(Mathas), GHSS, Ziarat Masoom, Abbottabad.	-do-
34-	Ihsanullah S/O Muhammad Saleh.	SS(Mathas), GHSS, Ouch, Dir Lower.	-do-
35-	Jehangir Khan S/O Abdul Ghafoor Khan.	SS(Mathas), GHSS, Kabgani, Swabi.	-do-
36-	Sher Ali Khan S/O Mir Hassan.	SS(Mathas), GHSS, Dosehra, Charsadda.	-do-
37-	Sher-ur-Rehman S/O Shamsur Rehman.	SS(Mathas), GHSS, Gumbat, Kohat.	-do-
38-	Muhammad Nawaz S/O Shahbaz Khan.	SS(Mathas), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for further posting.	-
39-	Muhammad Naveed Safdar S/O Muhammad Ramzan Safdar.	SS(Mathas), GHSS, Daraban Kalan, D.I.Khan.	Against Vacant Pos.
40-	Muhammad Fayyaz Khan S/O Saifur Rehman.	SS(Mathas), GHSS, Palai, Malakand.	-do-
41-	Muhammad Amin S/O Muhammad Ayub.	SS(Mathas), GHSS, Lissan Tikral, Mansehra.	-do-
42-	Muhammad Younas Khan S/O Dilawar Khan.	SS(Mathas), GHSS, Landiwa, Lakki Marwat.	-do-
43-	Zafar Ali Khan S. O Sarmast Khan (Late).	SS(Mathas), GHSS, Kohi Barmole, Mardan.	-do-
44-	Arif Sohail S/O Mir Janan	SS(Mathas), GHSS, Warana, Karak.	-do-
45-	Amin Ullah S/O Nazar Ali Khan.	SS(Mathas), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for further posting.	-
46-	Muhammad Iqbal S/O Mohibullah	SS(Mathas), GHSS, Jawar, Buner.	Against Vacant Pos
47-	Riaz Ahmad S/O Aziz-ur-Rehman.	SS(Mathas), GHSS, Nawagai, Buner.	-do-
48-	Syed Farood Sah S/O Sardar Khan.	SS(Mathas), GHSS, Aba Khel, Lakki Marwat.	-do-
49-	Muhammad Ali Saddiqui S/O Ghulam Sarwar.	SS(Mathas), GHSS, Dhakki, D.I.Khan.	-do-
50-	Muhammad Iqbal S/O Muhammad Ghulam.	SS(Mathas), GHSS, Aba Khel, Lakki Marwat.	-do-
51-	Sajjad Ali S/O Kadir Muhammad.	SS(Mathas), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for further posting.	-

ATTESTED



2-	Ahsan Saleem S/O Muhammad Saleem.	SS(Physics), GHSS, Bandi Dhonda, Abbottabad.	Against Vacant Post.
3-	Anjad Ali S/O Manzoor Hussain.	SS(Physics), GHSS, Barfa Manshra.	-do-
4-	Jehangir Khan S/O Sarfaraz Khan.	SS(Physics), GHSS, Nagrai, Buner.	-do-
5-	Liaqat Ali Khan S/O Bahadur Sher.	SS(Physics), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for further posting.	
6-	Naseem Muhammad S/O Siraj Muhammad.	SS(Physics), GHSS, Zarabi, Swabi.	Against Vacant Post.
7-	Noorul Wahab S/O Muhammad Ismail.	SS(Physics), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for further posting.	

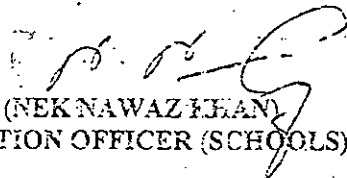
TERMS & CONDITIONS.

- 1- Their services will be considered regular but without pension or Gratuity in term of Section-19 of the NWFP Civil Servant Act, 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005. They will however be entitled to Contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
- 2- Their services will be liable to termination on one month's notice from either side. In case of resignation without notice their two month's pay/allowances, shall be forfeited to Government.
- 3- The appointee should join his post within 30-days of the issue of this notification. The Director, Schools & Literacy, NWFP, Peshawar would furnish a certificate to the effect that the candidates have joined the post or otherwise, after one month of the issue of this Notification, failing which his candidature will expire automatically and no subsequent appeal etc shall be entertained.
- 4- They would be on probation for a period of two years extendable for another one year.
- 5- They will be governed by such rules and regulations as may be issued from time to time by the Government.
- 6- Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they will be proceeded against under the NWFP Removal from Service (Special Power) Ordinance, 2000 and the Rules framed from time to time.
- 7- Charge report should be submitted to all concerned.
- 8- No TA/DA will be allowed to the appointees for joining their duty.

SECRETARY.

ENDST. NO. & DATE EVEN.

- Copy forwarded for information & necessary action to:
- 1- Accountant General, NWFP, Peshawar.
 - 2- Director, Schools & Literacy, NWFP, Peshawar.
 - 3- Director of Education (FATA), NWFP, Peshawar.
 - 4- District Accounts Officers Concerned.
 - 5- EDOs, S&L Concerned.
 - 6- PS to Minister for Education, NWFP, Peshawar.
 - 7- PS to Chief Secretary, NWFP, Peshawar.
 - 8- PS to Secretary, Schools & Literacy Deptt. NWFP, Peshawar.
 - 9- Candidates Concerned.
 - 10- Director Recruitment NWFP Public Service Commission, Peshawar.
 - 11- Principal Concerned.
 - 12- PA to Additional Secretary, S&L Deptt. NWFP.
 - 13- PA to Deputy Secretary (Admn) S&L Deptt. Peshawar.
 - 14- Office order file.


 (NEK NAWAZ KHAN)
 SECTION OFFICER (SCHOOLS).

M.S. KHATTAK/
 AJ MUHAMMAD.

ATTESTED

Attention M. Ismail &
Arif So. C.R.

GOVERNMENT OF N.W.F.P.
SCHOOLS & LITERACY DEPARTT.
DATED PESHAWAR THE 19-09-2006

NOTIFICATION

NO.SO (S)3-2/2006 SS(Male :- Consequent upon the recommendation of the N.W.F.P Public service commission the Competent Authority has been pleased to appoint the following Subject Specialists in various subjects in BPS -17 (Rs7140-535-17840) plus usual allowances as admissable under the rule on Regular basis but without pension and gratuity terms of Section-19 of the Civil Servant Act 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2003 with immediate effect, under the provision of Establishment & Administration Department Circular bearing No SOR-5/PR/AD/13-1-2003 dated 19-09-2006:

S.No	Name with Father's Name and address.
1-	Abdur Rauf S/O Muhammad Ibrahim, C/O Soan Khan Cycle Works Mesquita Bazar D.I.Khanh.
2-	Alsar Khan S/O Abdul Jalil, SFT, Government High School, No.3, Kohat City.
3-	Anees Muhammad S/O Mohiud Khan, Bandi Dhanak, P.O. Chando Mera Way Havelian C/O Haroon Shopkeeper, Dist. F, Tehsil & District Abbottabad
4-	Anwar Zaman S/O Zarshad Khan, Village & P.O. Parmeli, Mohallah Bazi Khel, Tehsil & District Swabi.
5-	Bakhtiar Muhammad S/O Abdul Wahab, Village & P.O. Badgram, Tehsil 7 District Badgram
6-	Hawal Khan S/O Muhammad Muskeen, Village Kullani Sherki, P.O. Bafa, Tehsil & District Mardan.
7-	Khushna Alam S/O Qasim Zaman Village & P.O. Allah Khan, Mohallah Az Khel Malakand Agency.
8-	Yousaf Dost Khan S/O Saif Muhammad, SFT, Government High School Minori Shar, Duzer (N.W.F.P.)
9-	Muhammad Khan S/O Muhammad S/O Gul Mazhar C/O Jan Tailors Bani Plaza, Tank City.
10-	Muhammad Zahir S/O Azizur Rehman, House No.3 Noor Rehman Colony Talab Masjid Road Notra Quaker, Peshawar Cantt.
11-	Muhammad Din S/O Saadullah Khan, Village & P.O. Bogara Tehsil Tehsil Takhti Nasrati, District Karak.
12-	Muhammad Iqbal S/O Muhammad Nawaz, Village & P.O. Dhaki D.I.Khan
13-	Muazzam Khan S/O Muhammad Aurangzeb Khan, Mohallah Itaji Imam Par Village & P.O. Serai Saich, Tehsil & District Haripur.
14-	Nasrullah S/O Saif Ullah, Village Safo (Toot Shih) P.O. Kato (Lurd Khawar) Tehsil Takhti Bhan, District Mardan
15-	Qazi Shaheer Rehman S/O Qazi Fasih ud Din, Qazi Abad Daray-e-Kabal Railway Station Kalam, District Nowshera.
16-	Sulaiman Anwar S/O Muhammad Anwar, Village & P.O. Tanki Abad No.1, District Peshawar.
17-	Shah Ghulam Khan S/O Muhammad Iqbal Khan, Village Alam Khan P.O. Domet, Tehsil & District Bannu.
18-	Syed Fakhar-ud-Din Shah S/O Ghulam Abbas Shah, Giliani Town Main Street End District D.I.Khan
19-	Ghulam Murtaza S/O Masof Khan, Village Ghani Payan P.O. Shahi Bala, Tehsil & District Peshawar
20-	Muhammad Riaz S/O Muhammad Saeed, Village Wazar Abad, P.O. Dargan, Tehsil Sama Kanwai, District Malakand.
21-	Nisar Ahmad S/O Saif Muhammad, Village & P.O. Sarsara, Tehsil Kabal, District Swat.
22-	Muhammad Aman S/O Ali Muhammad (Late), Village Isori Payan P.O. Akora Khattak, Tehsil & District Nowshera.
23-	Muhamma Ismail S/O Muhammad yousaf, B-2 Haroon Mansion Khyber Bazar Peshawar City
24-	Khanam S/O Muhammad Saad, C/O Sher Khan, Shopkeeper Lissan Nawab, Tehsil & District Mardan.
25-	Bakhtiar Ahmad S/O Muhammad Zahoor-ud-Din, Mohallah Azezi Village Kot Ismailza P.O. Carri Karak Tehsil & District Mardan.
26-	Abdur Rauf Shah S/O Saif Bad Shah, Village Mohallah Gohi Khel, P.O. Berone Ganj Gate 2 is Staff C/O Gul Shaban, Dist. Kohat Shopkeeper, Tehsil & District Peshawar.
27-	Sana Ullah S/O Ghulam Khan, Village Yaghi, Mohallah Gohi Khel P.O. Fatcheheri, Tehsil Takhti Nasrati, District Karak.
28-	Muhammad Iqbal Khan S/O Abdul Samad, Village Jany Dost, P.O. Tehsil & District Mardan.
29-	Arif Muhammad S/O Haji Fazal Rabb, Mohallah Bani Abad, Village & P.O. Raddan, Tehsil Takhti Bhan, District Nowshera.
30-	Asadullah Khan S/O Muhammad Karam, Mohallah Gohi Khel, Village & P.O. Umanza, Tehsil & District Charsada.
31-	Athar Kashi S/O Khalid-ur-Rahman, Mohallah Khatreeza Village & P.O. Mir Pur Khurd, Tehsil & District Abbottabad.
32-	Bunna Bander S/O Muhammad Saadiq, Village & P.O. Bagh Mardan, Tehsil Tal Qilla District Dir Lower
33-	Hassan Shah S/O Muskeen Shah, Village Badgram, P.O. Sar Kot, Tehsil Ghazi, District Haripur.
34-	Ishakullah S/O Muhammad Saleh, Mohallah Shafiq Abad, Village & P.O. Chakdara, Tehsil Achenza, District Dir Lower.
35-	Jehangir Khan S/O Abdul Ghaffoor Khan, Mohallah Nehar Abad Village & P.O. Mayar, Tehsil & District Mardan.

ATTESTED
Arif



8

1-	Sher Ali Khan S/O Mir Hassan, Village Sabargi Killa P.O. Shikh No.6 Tehsil & District Charsadda.
2-	Sher-ur-Rehman S/O Shams-ur-Rehman Village Awazi Killa P.O. Bogara, Tehsil Takht Nasrati, District Karak.
3-	Muhammad Nawaz S/O Shanzar Khan, C/O Karachi Febricks Shop No.47 Gulshan Plaza Wana Adaa South Waziristan Agency.
4-	Muhammad Naveed Saifur S/O Muhammad Karizan Saifur C/O Rahimi Bakshi. Qadir Baksh General Merchant Topawalan D.I.Khan.
5-	Muhammad Fayyaz Khan S/O Saifur Rehman, Village Qademi Kalan P.O. & Tehsil Dargan, District Malakand.
6-	Muhammad Amin S/O Muhammad Ayub, P.O. Dhodial(Gerwal) Tehsil & District Mansehra.
7-	Muhammad Younis Khan S/O Dilawar Khan, House No.355/A Mohallah Neel Gram New Tenchi, Bazar Dargay City.
8-	Zafar Ali Khan S/O Sarfraz Khan (Law) C/O Sarfraz Khan Head. of Physics Dept. PAF Degree College, Peshawar.
9-	Arif Sahai S/O Mir Anwar, Village & P.O. Wagon Dahi Khel Tehsil & District Karak.
10-	Amrullah S/O Nazir Ali Khan, C/O Hamzad Jewellery Shop No.10 Chowk Bazar Banaru
11-	Muhammad Iqbal S/O Mohibullah, Village Zarabi P.O. Tazagram Tehsil Takht Bhai District Mardan.
12-	Rizq Ahmad S/O Riz-ur-Rehman, Mohallah Dhanda Village & P.O. Thana Malakand.
13-	Syed Farooq Shah S/O Sardar Khan, Village Nisar Khan P.O. Bharu, Tehsil & District Bannu.
14-	Muhammad Ali Saadique S/O Ghulam Sarwar, Government Centennial Middle High School(Boys), D.I.Khan.
15-	Muhammad Iqbal S/O Muhammad Ghulam, C/O Gul Stationary Near National Bank Lakki Marwat.
16-	Sajad Ali S/O Khar Muhammad, C/O Amir Khan Karyana Main Bazar Takht Bhai, District Mardan.
17-	Ahsan Saleem S/O Muhammad Saleem, H.No.12 LM Lower, Chakpura(Chakra Pul) District Abbottabad.
18-	Amjad Ali S/O Manzoor Hussain, H.No.MC-2296 Mohallah Khan Bahadar District Mansehra.
19-	Jehangir Khan S/O Sarfraz Khan, Village & P.O. Hanar Opposite Telephone Exchange Tehsil Takht Bhai, District Mardan.
20-	Liaqat Ali Khan S/O Bahadur Sher, Village & P.O. Parkha Dheri, Tehsil Takht Bhai District Mardan.
21-	Naseem Muhammad S/O Siraj Muhammad, Mohallah Madi Khel Village & P.O. Shah Mansoor Tehsil & District Swabi.
22-	Noorul Wahab S/O Muhammad Ismail, C/O Nadeem Printing Press Mir Ali North Waziristan Agency.

2 On their appointment they are posted in Government Higher Secondary Schools as noted against each subject to the conditions given below:

S No	Name	To be posted as	Remarks
1	Abdur Rauf S/O Muhammad Ibrahim	SS(Pak. Studies), GHSS, Nagrai Buner.	Ageinst Vacant Post
2	Afsar Khan S/O Abdul Jalil	SS(Pak.Studies),GHSS,Dalran Banga.	-do-
3	Anees Muhammad S/O Mohabat Khan	SS(Pak.Studies), GHSS, Dalola, Abbottabad	-do-
4	Anwar Zaman S/O Zarshad Khan	SS(Pak.Studies), GHSS, Ismailia, Swabi.	-do-
5	Bakhtiar Muhammad S/O Abdul Wahab	SS(Pak.Studies), GHSS, Kuza Banda Banagram	-do-
6	Hayat Khan S/O Muhammad Maskeen	SS(Pak.Studies), GHSS, Baital Mansehra. L.	-do-
7	Khurshid Alam S/O Qamar Zaman	SS(Pak. Studies), GHSS, Mian Brangola, Dir Lower.	-do-
8	Khalq Dad Khan S/O Sahi Marjan	SS(Pak.Studies), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for further posting.	
9	Muhammad Khalid Mahmood S/O Gul Mustafa	SS(Pak.Studies), GHSS, Gulistan Tank.	Ageinst Vacant Post.
10	Muhammad Zafar S/O Aziz-ur-Rehman	SS(Pak.Studies), GHSS, Shebqadar Fort, Charsadda.	-do-
11	Muhammad Din S/O Saadullah Khan	SS(Pak. Studies), GHSS, Utmanzai Charsadda.	-do-
12	Muhammad Iqbal S/O Muhammad Nawaz	SS(Pak. Studies), GHSS, Daraban Kalan, D.I.Khan.	-do-
13	Muazzam Khan S/O Muhammad Ahsan Habib Khan	SS(Pak. Studies), GCMHSS, Haripur.	-do-
14	Nasrullah S/O Saadullah	SS(Pak.Studies), GCMHSS, Manki Sherif, Nowshera.	-do-
15	Qazi Shaifur Rehman S/O Qazi Fasihul Din	SS(Pak.Studies), GHSS, Ziarat Kaka Sahib Nowshera.	-do-
16	Saamir Anwar S/O Muhammad Anwar	SS(Pak.Studies), GHSS, Dosehra, Charsadda.	-do-
17	Sher Ghulam Khan S/O Muhammad Iqbal Khan	SS(Pak. Studies), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for further posting.	

ATTESTED



9

Sr.	Name	Qualification	Remarks
8.	Syed Fakharud Din Shah S/O Syed Ghulam Abbas Shah.	SS(Pak.Studies), GHSS No.2 D.I.Khan.	Against Vacant Post.
9.	Ghulam Murtaza S/O Masal Khan.	SS(Pak.Studies), GHSS, Nisata, Charsadda.	-do-
10.	Muhammad Riaz S/O Muhammad Saeed.	SS(Pak.Studies), GHSS, Kot, Malakand.	-do-
11.	Nisar Ahmad S/O Said Muhammad.	SS(Pak.Studies), GHSS, Kabal, Swat.	-do-
12.	Muhammad Amin S/O Ali Muhammad (Late)	SS(Pak.Studies), GHSS, Jalozai, Nowshera.	-do-
13.	Muhammad Ismail S/O Muhammad Younis	SS(Pak.Studies), GHSS, Sheikhan, Peshawar.	-do-
14.	Khan S/O Muhammad Sadiq	SS(Pak.Studies), GHSS, Behali, Mansehra.	-do-
15.	Bakhtiar Ahmad S/O Muhammad Zahirur Din.	SS(Pak.Studies), GHSS, Garhi Kapura, Mardan.	-do-
16.	Abdur Rauf Shah S/O Zar Bad Shah.	SS(Pak.Studies), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for further posting.	
17.	Sanat Ullah S/O Said Nawaz Khan	SS(Pak.Studies), GHSS, Dheri Lakpani, Mardan.	Against Vacant Post.
18.	Muhammad Iqbal Khan S/O Abdul Sattar.	SS(Pak.Studies), GHSS, Jared Mansehra.	-do-
19.	Aamer Muhammad S/O Haji Sazid Rabbani.	SS(Maths), GHSS, Pir Sadi, Mardan.	-do-
20.	Asimullah Jan S/O Muhammad Karim.	SS(Maths), GHSS, Kishawara, Swat.	-do-
21.	Athar Khalil S/O Khalil-ur-Rehman.	SS(Maths), GHSS, Khnispur, Abbottabad.	-do-
22.	Bakht Baidar S/O Muhammad Sadiq.	SS(Maths), GHSS, Ziam Daru, Dir Lower.	-do-
23.	Hassan Shah S/O Maskeen Shah.	SS(Maths), GHSS, Ziarat Masoom, Abbottabad.	-do-
24.	Ihsanullah S/O Muhammad Saleh.	SS(Maths), GHSS, Ouch, Dir Lower.	-do-
25.	Jehangir Khan S/O Abdul Ghafoor Khan.	SS(Maths), GHSS, Kabgani, Swabi.	-do-
26.	Sher Ali Khan S/O Mir Hassan.	SS(Maths), GHSS, Dosehra, Charsadda.	-do-
27.	Sher-ur-Rehman S/O Shamsur Rehman.	SS(Maths), GHSS, Gumbat, Kohat.	-do-
28.	Muhammad Nawaz S/O Shahbaz Khan.	SS(Maths), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for further posting.	
29.	Muhammad Naveed Safdar S/O Muhammad Ramzan Safdar.	SS(Maths), GHSS, Daraban Kalan, D.I.Khan.	Against Vacant Post.
30.	Muhammad Fayyaz Khan S/O Saifur Rehman.	SS(Maths), GHSS, Palsi, Malakand.	-do-
31.	Muhammad Amin S/O Muhammad Ayub.	SS(Maths), GHSS, Lissan Tikral, Mansehra.	-do-
32.	Muhammad Younas Khan S/O Dilawar Khan.	SS(Maths), GHSS, Landiwa, Lakki Marwat.	-do-
33.	Zafar Ali Khan S/O Sarmast Khan (Late).	SS(Maths), GHSS, Kohi Barmole, Mardan.	-do-
34.	Arif Sohail S/O Mir Janan	SS(Maths), GHSS, Warana, Karak.	-do-
35.	Aamir S/O Nazir Ali Khan.	SS(Maths), Services placed at the disposal of Directorate of Education (FATA), NWFP, Peshawar for further posting.	
36.	Muhammad Iqbal S/O Mohibullah	SS(Maths), GHSS, Jawer, Buner.	Against Vacant Post.
37.	Riaz Ahmad S/O Aziz-ur-Rehman.	SS(Maths), GHSS, Nawagai, Buner.	-do-
38.	Syed Farood San S/O Sardar Khan.	SS(Maths), GHSS, Aba Khel, Lakki Marwat.	-do-
39.	Muhammad Ali Saadiquei S/O Ghulam Sarwar.	SS(Maths), GHSS, Dhakki, D.I.Khan.	-do-
40.	Muhammad Iqbal S/O Muhammad Ghulam	SS(Maths), GHSS, Abdul Khel, Lakki Marwat.	-do-
41.	Muhammad S/O Ghulam	SS(Maths), Services placed at the disposal of	

ATTESTED
/s/

(10)

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52-	Ahsan Saleem S/O Muhammad Saleem.	SS(Physics), GHSS, Bungi Bhonda, Abbottabad.	Against Vacant Post
53-	Amyad Ali S/O Manzoor Hussain.	SS(Physics), GHSS, Jaffa Manshra.	-do-
54-	Jehangir Khan S/O Sartaraz Khan.	SS(Physics), GHSS, Nagrai, Duner.	-do-
55-	Liaqat Ali Khan S/O Bahadur Sher.	SS(Physics), Services placed at the disposal of Directorate of Education (PA/TA), NWFP, Peshawar for further posting	
56-	Nasceem Muhammad S/O Siraj Muhammad.	SS(Physics), GHSS, Zarabi, Swabi.	Against Vacant Post
57-	Noorul Wahab S/O Muhammad Ismail.	SS(Physics), Services placed at the disposal of Directorate of Education (PA/TA), NWFP, Peshawar for further posting	

TERMS & CONDITIONS.

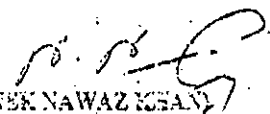
- 1- Their services will be considered regular but without pension or gratuity in term of Section-19 of the NWFP Civil Servant Act, 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005. They will however be entitled to Contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
- 2- Their services will be liable to termination on one month's notice from either side. In case of resignation without notice their two month's pay/allowances, shall be forfeited to Government.
- 3- The appointee should join his post within 30-days of the issue of this notification. The Director, Schools & Literacy, NWFP, Peshawar would furnish a certificate to the effect that the candidates have joined the post or otherwise, after one month of the issue of this Notification, failing which his candidature will expire automatically and no subsequent appeal etc shall be entertained.
- 4- They would be on probation for a period of two years extendable for another one year.
- 5- They will be governed by such rules and regulations as may be issued from time to time by the Government.
- 6- Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they will be proceeded against under the NWFP Removal from Service (Special Power) Ordinance, 2000 and the Rules framed from time to time.
- 7- Charge report should be submitted to all concerned.
- 8- No TADA will be allowed to the appointees for joining their duty.

SECRETARY.

ENDST. NO. & DATE EVEN.

Copy forwarded for information & necessary action to:

- 1- Accountant General, NWFP, Peshawar.
- 2- Director, Schools & Literacy, NWFP, Peshawar.
- 3- Director of Education (PA/TA), NWFP, Peshawar.
- 4- District Accounts Officers Concerned.
- 5- EDOs, S&L Concerned.
- 6- PS to Minister for Education, NWFP, Peshawar.
- 7- PS to Chief Secretary, NWFP, Peshawar.
- 8- PS to Secretary, Schools & Literacy Deptt. NWFP, Peshawar.
- 9- Candidates Concerned.
- 10- Director Recruitment, NWFP Public Service Commission, Peshawar.
- 11- Principal Concerned.
- 12- PA to Additional Secretary, S&L Deptt. NWFP.
- 13- PA to Deputy Secretary (Admin) S&L Deptt. Peshawar.
- 14- Office order file.


 (NEK NAWAZ KHAN)
 SECTION OFFICER (SCHOOLS)

M.S. KHATTAK
TAJ MUHAMMAD

ATTESTED




D (11)

Cadet College Razmak
(North Waziristan)
Tel. 0928-230006
Fax. 0928-230029

No. CCR/ 1106 /Adm

dated 25 Sep' 2006

From: The Principal,
Cadet College Razmak.

To: The Principal,
Govt. Higher Secondary School,
Sheikhan, Peshawar.

SUBJECT: RELIEVING CERTIFICATE

Government of NWFP, Schools & Literacy Department Notification No. SO (S) 3-2/2006/SS (Male) dated 19 September 2006, consequent upon the appointment in Education Department for Govt. Higher Secondary Schools, Muhammad Ismail, Master in Pak-Studies (BPS-17) of this College has been relieved of his duties w.e.f. 22 September 2006 (AN) under the College Rules having been instructed to report to your office on 23rd September 2006 (FN).

[Signature]
Principal
Khan Muhammad Khalil
o/c

Copy to: -

1. The Secretary Education, Schools & Literacy Department, Civil Secretariat, NWFP, Peshawar.
2. Accountant General Pakistan Revenue, Sub Office, Peshawar.
3. Individual
4. Personal File
5. Record

ATTESTED
[Signature]

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION BRANCH)

E 12
12

NO. FD (SR-1) 12-1/2011
Dated Peshawar the: 4th June, 2011

TO:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa.
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. All District Coordination Officers in Khyber Pakhtunkhwa.
10. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
11. The Registrar, Peshawar High Court, Peshawar.
12. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
13. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: FIXATION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.

Dear Sir,

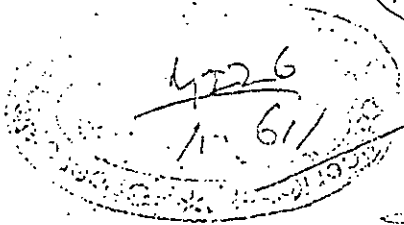
I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No.FNo.4(2)R-II/1996-235/2010, dated 08-06-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(R) CS/2005 in respect of Mr. Sajjad Rashid and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government offices, provided they have applied for the post through proper channel.

(MASOOD KHAN)
Deputy Secretary (Reg-II)

Ends: of even No. & date.

Copy forwarded for information to:

1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa.
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Comptrollers of Accounts, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FMIU, Finance Department
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. P.S to Secretary Finance.
8. PA to Spl: Secretary Finance.



(KHURSHID ALAM)
Section Officer (SR-I)

ATTESTED

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13

OFFICE OF THE PRINCIPAL GHS MASHOGAGAR PESHAWAR
NO.....559..... DATED...5...../.....11...../2015

To

The District Education Officer, (Male)
Peshawar.

Subject: - **(Comprehensive History of the Case for Fixation of Pay Protection I/R Muhammad Ismail, Principal GHS Mashogagar)**

Memo,

Refer to your Letter No.3237 dated Peshawar the, 30/10/2015 on the subject cited above the comprehensive history is as follow.

1. I was selected as lecturer P.S. (BPS 17) in Cadet College Razmak NWA joined on 1st May 2002. (Annexture -A)
2. I was then selected through PSC KPK as Subject Specialist Pak; Studies vide Notification NO.SO(S) 3-2/2006/SS (Male), Dated PESHAWAR THE, 19-09-2006 at GHSS Sheikhan Peshawar. (Annexture -B)
3. It is pointed out that I was regular employee of Cadet College Razmak and have applied through proper channel vide Letter No.CCR/1465/Adm; Dated 15Dec'2004, earlier NOC was issued to me for applying anywhere vide Letter No.CCR/ 451/Adm; Dated 01 July 2004.I was relieved on 22nd Sept: 2006 (A.N.) by the Office of Principal Cadet College Razmak vide Letter No.CCR/1060/Adm, Dated 20 Sep'2006,Letter NO.CCR/1099/Adm; Dated 23Sep'2006 and Letter No.CCR/1106/Adm; Dated 25 Sep'2006, along with Experience certificates, LPC, Pay Slip of August 2006 and a Clearance Certificate dully countersigned by the Principal Cadet College Razmak. (Annexture -C)
4. On my arrival to GHSS Sheikhan Peshawar on 23rd Sept: /2006(F.N.), I submitted an application vide Endst; No.38/Dated Sheikhan the 29/9/2006 for pay slip under consideration of LPC Razmak at Pay Roll 3 section of Account Office Peshawar, But the same was refused as at that time no pay protection was allowed to employees of Autonomous Bodies on appointment to Govt; Services, so a fresh pay slip of BPS 17 was issued to me. (Annexture-D)
5. I was then transferred to GHSS Adezai Peshawar vide Notification No. SO(S) 4-16/2007/General Posting/Transfer/SS (Male) Dated Peshawar the 31-07-2007. (Annexture-E)

ATTESTED
[Signature]

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6. In 2015, I was promoted to BPS 18 in 2nd Phase of 4-tier and posted as Principal BPS 18 at GHS Mashogagar Peshawar Vide Notification No. SO(S/M) E&SED/1-3/2014/PromotionBS-17 to BS-18/4-tier 2nd Phase: Peshawar the April 16, 2015. (Annexture-F)
7. Now vide a Notification NO.FD(SR-1) 12 -1/2011,Dated Peshawar the : 4th June ,2011 the Finance Department Khyber Pukhtunkhawa has validated the Pay Protection /Fixation for those autonomous bodies who follow the same BPS scheme as the Govt ; has, if applied Through Proper Channel .As my other colleagues of Cadet College Razmak, who have recently recommended by PSC KPK as Assistant Professors in Higher Education, has now availed the pay protection under the above notification such as Muhammad Saleem Assistant Professor Urdu ,Degree College Kohat and Burhanullah Assistant Professor Computer Science Degree College Bannu, so in view of this I applied to the Account Office Pay Roll 3 Section to reconsider my pay fixation vide Letter Endst NO.550/Dated Mashogagar Peshawar the10/08/2015. In response to this the Account Office, Pay Roll 3 Section has issued a letter NO.PR-3(M)/2015-16/1242,Dated:14/09/2015, requiring the pay protection order by the competent Authority of E&SED department I/R the applicant(the copy of the above letter has also been sent to DEO Peshawar as well)


(Annexture- G)

8. In view of the above I filed the case of Pay Fixation /Protection Notification vide letter NO.557 dated 16/09/2015 for further necessary action please;

(Annexture-H)

(All the relevant documents are once again attached.)

I will be very thankful to facilitate the matter.


Principal
GHS Mashogagar
Peshawar

ATTESTED




**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

No.SO (B&A)1-16/01/Fixation of pay
Dated Peshawar, the 26.02.2016

To

The Secretary to,
Govt. of Khyber Pakhtunkhwa,
Finance Department.

Subject: - **REQUEST FOR FIXATION OF PAY PROTECTION.**

I am directed to refer to the subject cited above and to enclose herewith the necessary documents regarding fixation of pay protection in respect of Mr. Ismail Principal GHSS Mashogagar. Brief history of the case as per DEO(M) Peshawar is as under;

1. He was selected as lecturer P.S. (BPS 17) in Cadet College Razmak NWA. He joined on 1st May 2002(Annex-A).
2. He was then selected through PSC Khyber Pakhtunkhwa as Subject Specialist Pak; Studies vide Notification NO.SO(S) 3-2/2006/SS (Male), Dated Peshawar the, 19-09-2006 and posted at GHSS Sheikhhan Peshawar (Annex-B).
3. He was regular employee of Cadet College Razmak and have applied through proper channel vide Letter No.CCR/1465/Adm; Dated 15 Dec'2004, earlier NOC was issued to him for applying anywhere vide Letter No.CCR/451/Adm; Dated 01 July 2004. He was relieved on 22nd Sept: 2006 (A.N.) by the Office of Principal Cadet College Razmak vide Letter No.CCR/1060/Adm. Dated 20 Sep'2006, vide letter No.CCR/1099/Adm; Dated 23 Sep' 2006 vide letter No.CRR/1106/Adm; Dated 25 Sep'2006, along with experience certificates, L.P.C. Pay Slip of August 2006 and a clearance certificate duly countersigned by the Principal Cadet College Razmak(Annex-C).
4. On his arrival to GHSS Sheikhhan Peshawar on 23rd Sept./2006 (F.N), he submitted an application vide Endst; No.38/Dated Sheikhhan the 29/09/2006 for pay slip under consideration of L.P.C Razmak at Pay Roll 3 section of Account Office Peshawar, but the same was refused as at that time no pay protection was allowed to employees of autonomous bodies on appointment to Govt. Services, so a fresh pay slip of BPS 17 was issued to him (Annex-D).
5. He was then transferred to GHSS Adzai Peshawar vide Notification No.SO(S)4-16/2007/General Posting/Transfer/SS(Male) 31-07-2007 (Annex-E).
6. In 2015, he was promoted to BPS 18 in 2nd Phase of 4-tier and posted as Principal BPS 18 at GHSS Mashogagar Peshawar Vide Notification No. SO(S/M)E&SED/1-3/2014/Promotions BS-17 to BS-18/4-tier 2nd Phase: dated 16.04.2015 (Annex-F).
7. Now vide a Notification No. FD(SR-1)12-1/2011, Dated 04.06.2011, the Finance Department Khyber Pakhtunkhwa has validated the pay protection/fixation for those autonomous bodies who follow the same BPS scheme as the Govt; has, if applied through proper channel. As his other colleagues of Cadet College Razmak, who have recently recommended by PSC Khyber Pakhtunkhwa as Assistant Professors in Higher Education, has now availed the pay protection under the above notification such as Muhammad Saleem Assistant Professor Urdu, Degree College Kohat and Burhanullah Assistan Professor Computer Science Degree College Bannu, so in view of this he applied to the Account Office Pay Roll 3 Section to reconsider his pay fixation vide Letter Endst NO.550/Dated Mashogagar dated 10.08.2015. In response to this the Account Office, Pay Roll 3 Section has issued a letter NO/PR-3(M)/2015-16/1242, Dated: 14.09.2015, requiring the pay protection order by the competent Authority of E&SED Department in respect of the applicant (Annex-G).

I am, therefore, directed and to request to offer your views for further processing in the matter whether he is entitled or otherwise.

Encl: As above.

ATTESTED
[Signature]

Yours faithfully,

[Signature]
(NOOR ALAM KHAN WAZIR), 26/02/2016
SECTION OFFICER (BUDGET)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

H. 16

NO. FD (SOSR-1) 12-4 / 2016
Dated Peshawar the: 20-04-2016

To:

The Section Officer (Budget),
Elementary & Secondary Education Deptt:
Peshawar.

Subject: - REQUEST FOR FIXATION OF PAY PROTECTION IN R/O
MR. MUHAMMAD ISMAIL, PRINCIPAL, GHS MASHO GAGAR
PESHAWAR

I am directed to refer to your letter No.SO(B&A)1-16/01/Fixation of Pay dated 11-04-2016 on the subject noted above and to state that Finance Department regrets its inability to accede to the request on the ground that the applicant has joined the Provincial Government prior to the issuance / effectiveness of this Deptt's circular letter i.e. 4th June, 2011, please.



SECTION OFFICER (SR-1)

ATTESTED


70
OFFICE OF THE DISTRICT EDUCATION OFFICER (Male) PESHAWAR


✓ Endst No 5015 /Dated Peshawar the 9/8 /2016

Copy of the above is along a photo copy of letter No So(B&A)1-16/01/Fixation of pay dated 25/4/2016 and the photo copy of the letter No FD(SOSR-1)12-4/2016,dated 20/4/2016 is forwarded to Mr.Mohammad Ismail principal GHS Masho Gaghar Peshawar for information.


DY: DISTRICT EDUCATION
OFFICE(MALE) PESHAWAR

Endost:No 5015 date 9/8/2016

1 P.A to Director of Elementary and Secondary Education Khyber Pakhtoon Khwa Peshawar.


DY: DISTRICT EDUCATION
OFFICE(MALE) PESHAWAR

ATTESTED


() ()

**DIRECTORATE OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA PESHAWAR**

No. 358 /A-12/E-1/PF M.Ismail BS-18

Dated Peshawar the 16/5 /2016.

To

The District Education Officer
(Male) Peshawar

SUBJECT: REQUEST FOR FIXATION OF PAY PROTECTION.

Memo:-

I am directed to refer to your letter No. 5547, dated 23.11.2015 on the subject noted above and to enclose herewith a photo copy of letter No. SO(B&A)1-16/01/Fixation of pay, dated 25.4.2016 alongwith the photo copy of letter No. FD(SOSR-1)12-4/2016, dated 20.4.2016 received from Section Officer (Budget) Govt: of Khyber Pakhtunkhwa E&SE Department for further necessary action and with the remarks that the Principal GHS Mashogagar Peshawar may be informed accordingly.

Encls: As Above

Encls: No. _____

Copy to the:-

1. Section Officer (Budget) Govt: of Khyber Pakhtunkhwa E&SE Department with reference to his letter No. and dated cited above.
2. P.A. to Director (E&SE) Khyber Pakhtunkhwa Peshawar.

()

Deputy Director (Establishment)

ATTESTED

A

VAKALAT NAMA

NO. _____/20

IN THE COURT OF K.P.K Service Tribunal, Peshawa-

Mr. Muhammed Ismail (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Education Deptt (Respondent)
(Defendant)

I/We Muhammed Ismail

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

Muhammed Ismail
(CLIENT)

ACCEPTED

M. Asif Yousafzai
M. ASIF YOUSAFZAI
Advocate

Taimus Ali Khan
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

M. Asif Yousafzai
Advocate High Court Peshawar.
Room No FR-8, Fourth Floor
Bilour Plaza Peshawar Saddar.
Cell: 0333-9103240

31

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No:980 /2016.

Muhammad Ismail Principal GHS Masho Gagar District Peshawar.

.....Appellant.

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & others.Respondent

PARAWISE COMMENTS ON&FOR BEHALF OF RESPONDENTS.

Respectfully Sheweth :-

Respondent submitted 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.
- 4 That the instant service appeal is based on malafide intentions.
- 5 That the appellant has not come to this Honorable Tribunal with clean hands.
- 6 That the appellant is not entitled for the relief he has sought from this Honorable Tribunal.
- 7 That the instant Service Appeal is against the prevailing law & rules.
- 8 That the appellant is estopped by his own conduct to file the instant case.
- 9 That the appellant has been treated as per law rules & Policy.
- 10 That the appeal is not maintainable in its present form.
- 11 That the appeal is bad for mis joinder & non joinder of the necessary parties.
- 12 That the instant Service Appeal is barred by law.
- 13 That the appellant is not competent to file the instant appeal against the Respondents.
- 14 That the Notification dated 20/4/2016 is legally competent.
- 15 **That the appellant has joined the Provincial govt: prior to the issuance /effectiveness of the circular dated 04/6/2011 of the Finance Department.**

FACTS

- 1 That Para-1 needs no comments being pertains to the service record of the appellant.

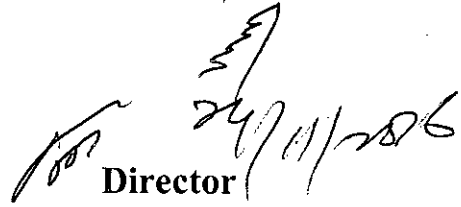
- 2 That Para-2 also needs no comments being relates to the office record of Public Service Commission & Cadet College Razmak (N W Agency) relating to the appellant.
- 3 That Para-3 is incorrect & denied. The referred Notification No: FD(SR-I)12-1/2011 dated 04/6/2011 of the Respondent No: 3 is not applicable upon the case of the appellant to the extent of grant of pay protection in the Respondent Department of being an Ex-employee of Cadet College, Razmak (N W Agency) which is an autonomous body / organization.(Copy of the same as Annexure-A).
- 4 That Para-4 is correct. That the appellant has filed a Departmental Appeal dated 05/11/2015 to the Respondent No: 3 / Finance Department for the grant of pay Protection in view of the Notification dated 04/6/2011 of the said Department. However the Departmental Appeal of the appellant was regretted vide Notification No: FD(SOSR-I) 12-4/2016 dated 20/4/2016 issued by the Respondent No: 3 **ON THE GROUNDS THAT THE APPELLANT HAS JOINED THE PROVINCIAL GOVT: PRIOR TO THE ISSUANCE/ EFFECTIVENESS OF THIS DEPARTMENT CIRCULAR DATED 04/6/2011.**
substituted (Copy of the same is as Annexure-B)
- 5 That Para-5 is also incorrect & misleading. The letter dated 20/4/2016 has been communicated to the appellant well within time. Hence the date 09/8/2016 of receiving the same by the appellant is based on mala-fide just to avoid the time of limitation running against the appellant. Hence the case of the appellant is barred by law.
- 6 That Para-6 needs no comments. However the Respondents further submit on the following grounds inter alia : -

GROUND

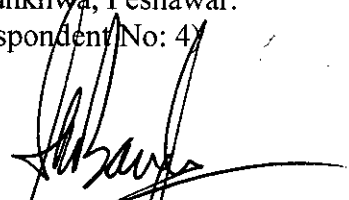
- A Incorrect & denied. The Notification dated 20/4/2016 is within legal sphere and is liable to be maintained in favour of the Respondent Department in the interest of justice.
- B Incorrect & denied. The appellant has been treated as per law, rules & set procedure prior to the issuance of the Notification dated 20/4/2016. Hence no question of discrimination arises.
- C Incorrect & denied. The circular dated 20/4/2016 of the Respondent No: 3 is based on cogent reason, hence the plea of the appellant is not maintainable nor the referred provision of law & citation of the reported judgment are applicable upon the case of the appellant in the given circumstances.
- D Incorrect & denied. Detailed reply of this ground has been given in ground-B of the foregoing paras. Hence no further comments.
- E Incorrect & denied. The respondent Department has acted as per law, rules & policy, wherein the appellant has been found not entitled for the grant of pay protection in view of the above referred circular dated 04/6/2011 of the Respondent No: 3.
- F Incorrect & denied. The respondent Department has acted as per law, rules & policy, wherein the appellant has been found not entitled for the grant of pay protection in view of the above referred circular dated 04/6/2011 of the Respondent No: 3.
- G Legal. The Respondents further seek leave of this Honorable Tribunal to advance Additional grounds & record at the time of arguments on main appeal on the date fixed.

In view of the above made submissions, it is requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favor of the Respondent's Department.

Dated 21/11/2016



Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 4)



Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1&2)



Secretary
Finance Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 3)

(10) 'E' / (A) / A

DO BE SUBSTITUTED FOR THE SAME NUMBER AND DATE



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

NO. FD (SR-1) 12-1/2011

Dated Peshawar the: 4th June, 2011


- To:
1. All Administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
 2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
 3. The Secretary to Governor, Khyber Pakhtunkhwa
 4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
 5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
 6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
 7. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
 8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
 9. All District Coordination Officers, in Khyber Pakhtunkhwa.
 10. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
 11. The Registrar, Peshawar High Court, Peshawar.
 12. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
 13. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: **FIXATION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.**

Dear Sir,

I am directed to refer to the Government of Pakistan, Finance Division, Islamabad letter No.FNo.4(2)R-II/1996-235/2010, dated 08-06-2010 and Judgment dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(R) CS/2005 in respect of *Mr. Sajjad Rashid* and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that henceforth the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servant Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government offices, provided they have applied for the post through proper channel.


Yours Faithfully,

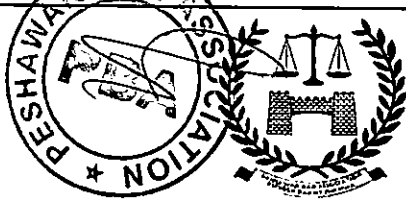

(MASOOD KHAN)
Deputy Secretary (Reg-II)

Endst: of even No. & date.

Copy forwarded for information to:

1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa.
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Comptrollers of Accounts, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FMIU, Finance Department
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. P.S to Secretary Finance.
8. PA to Spl: Secretary Finance.


(SHAUKAT ULLAH)
Section Officer (SR-I)

10	پشاور بار ایسوسی ایشن		93533
ایڈوکیٹ:	پشاور		پشاور بار ایسوسی ایشن، خیبر پختونخواہ
بار کونسل ایسوسی ایشن نمبر:	1803		
رابطہ نمبر:	0336919929		

بعدالت جناب: جسٹس سرورہ سید سیدتیبتا

مخانب: سرورہ سیدتیبتا	دعویٰ: <i>Shahana</i>
محمد زماں علی	علت نمبر: X
بنام <i>Director</i>	مورخہ: 19/9/2017
<i>Director</i>	جزم: X
	تھانہ: X

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام *مشاہد علی* *روزگار* کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر 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 یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی 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 یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 19/9/2017

العبد *مشاہد علی* العباد

مقام *پشاور* کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی نامتامل قبول ہوگی۔

attested and signed by *Auray* Adhara

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 980/2016

Muhammad Ismail

VS

Education Deptt:

.....
REJOINDER ON BEHALF OF APPELLANT

.....
RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-15) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Admitted correct as the service record of the appellant is present with the department.
2. Admitted correct as the service record of the appellant is present with the department.
3. Incorrect. The notification dated 19.9.2006 is applicable on the appellant as in the notification clearly mentioned the autonomous body.
4. First portion of para 4 is admitted correct hence no comments while the rest of para is incorrect hence denied.
5. Incorrect. The letter dated 20.04.2016 was communicated to the appellant by letter dated 9.8.2016 Dy: District Education which is attached as Annexure-I.
6. No comments.

GROUND:

A. Incorrect. While para A of the appeal is correct.

B. Incorrect. The appellant has not been as per law and deprived his legal right in arbitrary manner and has been discriminated as many

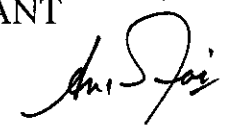

previously many others have been given pay protection while the same benefits have been refused to the appellant .

- C. Incorrect. While para C of the appeal is correct.
- D. Incorrect. Detailed reply of this ground has been given in ground B of the rejoinder.
- E. Not replied according E of the appeal. Moreover para E of the appeal is correct.
- F. Incorrect. While para F of the appeal is correct.
- G. Legal.

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

APPELLANT

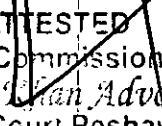
Through:


M.ASIF YOUSAFZAI
ADVOCATE SUPREME COURT
& 
(TAIMUR ALI KAHN)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.


DEPONENT


ATTESTED
Oath Commissioner
Zahoor Khan Advocate
Distt: Court Peshawar

 1 OCT 2017

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 92 /ST

Dated 15-01- /2020

To


The Secretary Finance Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 980/2016, MR. MUHAMMAD ISMAIL.

I am directed to forward herewith a certified copy of Judgement dated 27.12.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

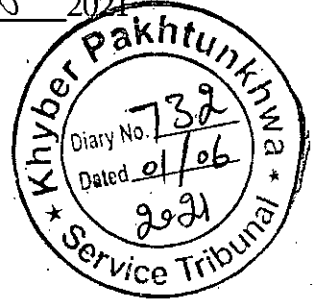
Ph: 9214461
Fax: 9220406

REGISTERED
No. C.A.39/2021 - SCJ
SUPREME COURT OF PAKISTAN

Islamabad, dated 28.01.2021

From The Registrar,
Supreme Court of Pakistan,
Islamabad.

To The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.



Subject: CIVIL APPEAL NO. 39 OF 2021

Govt of Khyber Pakhtunkhwa through Chief Secretary & others
Versus
Muhammad Ismail & another

On appeal from the Judgment/Order of the Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 27/12/2019 in Appeal.-980/2016.

Dear Sir,

In continuation of this Court's letter of even number dated 19-01-2021, I am directed to enclose herewith a certified copy of the Judgment of this Court dated 27/04/2021 dismissing the above cited case in the terms stated therein for information and further necessary action.

I am further directed to return herewith the original record of the Service Tribunal, received under the cover of your letter No.193 dated 27/01/2021.

Please acknowledge receipt of this letter along with its enclosure immediately.

**Encl: Judgment:
2. O/Record:**

Yours faithfully,

(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE GULZAR AHMED, CJ
MR. JUSTICE IJAZ UL AHSAN
MR. JUSTICE SAYYED MAZHAR ALI AKBAR NAQVI

CIVIL APPEAL NO. 39 OF 2021

(On appeal against the judgment dated 27.12.2019
passed by the Khyber Pakhtunkhwa Service Tribunal,
Peshawar in Service Appeal No. 980/2016)

Government of KPK through Chief Secretary, KPK and others
...Appellant(s)

VERSUS

Muhammad Ismail and another
...Respondent(s)

For the Appellant(s): Mr. Atif Ali Khan, Addl. A.G.

For the Respondent: Mr. Muhammad Asif Yousafzai, ASC


Date of Hearing: 27.04.2021

...
JUDGMENT

SAYYED MAZHAR ALI AKBAR NAQVI, J.- Through this appeal by leave of the Court under Article 212(3) of the Constitution of Islamic Republic of Pakistan, 1973, the appellants have assailed the judgment dated 27.12.2019 passed by the Khyber Pakhtunkhwa Service Tribunal whereby the Service Appeal filed by the respondent No. 1 was accepted and he was allowed pay protection.

2. Succinctly stated the facts of the matter are that on 25.03.2002, the respondent No. 1 was appointed as Master in Pak Studies/Lecturer (BPS-17) in Cadet College Razmak, North Waziristan. Later on, pursuant to the advertisement issued by the Khyber Pakhtunkhwa Public Service Commission for the posts of Subject Specialist (BPS-17), he applied through proper channel for the said post. The appellant passed through the selection criterion as such he was selected vide notification dated 19.09.2006, hence, posted at Government Higher Secondary School, Sheikhan, Peshawar. On 04.06.2011, the Finance Department, Government of KPK, issued a notification whereby it allowed pay protection to the employees of the autonomous bodies who had adopted pay scales of the Provincial Government. To get the benefit, the respondent filed departmental

A TESTED


Court Associate
Supreme Court of Pakistan
Islamabad

appeal but it was rejected vide order dated 20.04.2016. Being aggrieved, he filed Service Appeal before the KPK Service Tribunal, which has been allowed vide impugned judgment. Hence, this appeal by leave of the Court.

3. Learned Additional Advocate General, KPK, inter alia contended that the respondent was appointed as Subject Specialist (BPS-17) on 19.09.2006 whereas the notification on the basis of which the respondent claimed pay protection came on 04.06.2011 which was prospective in nature, therefore, the respondent was not entitled for the relief in question; that for the first time, the respondent claimed the relief of pay protection on 05.11.2015 through departmental appeal after more than four years of issuance of notification dated 04.06.2011 and the same was barred by laches; that the learned Tribunal did not take into consideration this aspect of the matter and passed the impugned judgment, which may be set aside.

4. On the other hand, learned counsel for the respondent No. 1 has supported the impugned judgment. He mainly contended that the respondent applied through proper channel after proper departmental permission, therefore, under the law and rules, he is legally entitled to pay protection because the Cadet College Razmak had also adopted the Basic Pay Scale and that if the respondent is deprived of the benefit in question, it would be against the principles of justice and fair play.

5. We have heard learned Law Officer as well as learned counsel for the respondent No. 1 and have perused the record.

6. On our specific query, learned Additional Advocate General conceded that the Cadet College Razmak where the respondent was earlier working as Master in Pak Studies/Lecturer (BPS-17) had adopted the Basic Pay Scales and the respondent had applied through proper channel after getting permission from the department for the post of Subject Specialist. The only point on which he emphasized is that the notification dated 04.06.2011 on the basis of which the respondent claimed pay protection is prospective in nature and it does not allow retrospective claims. However, we do not tend to agree with the learned Law Officer. While passing the impugned judgment, the learned Service Tribunal has relied upon a judgment of this Court dated 27.1.2019 passed in Civil Appeal No. 1308/2019. In that case the respondent was appointed as Lecturer in the University of Engineering and Technology, Peshawar on 03.12.1986. Later on he applied for the post of Inspector in

ATTESTED



Court Associate
Supreme Court of Pakistan
Islamabad

the Mines Department through proper channel and was got selected vide order dated 21.06.1989. On the basis of the notification dated 04.06.2011 referred above, he claimed pay protection which was ultimately granted by the Service Tribunal and appeal against the order of the Tribunal was dismissed by this Court. It would be advantageous to refer to the relevant portion of the order dated 27.11.2019 passed by this Court, which reads as under:-

2. Learned Additional Advocate General has stated that the respondent was appointed as a Lecturer in the University of Engineering and Technology, Peshawar on 03.12.1986. The respondent applied for being appointed as Inspector Mines through proper channel in the Mines Department and ultimately, succeeded in the same and was appointed as an Inspector Mines vide order dated 21.06.1989. Learned Addl. AG further contends that by virtue of the letter dated 04.06.2011, as reproduced above, the respondent was not entitled to pay protection. This letter has been considered by the Service Tribunal in its impugned judgment and even on our own reading, we are unable to agree with the learned Addl. AG that this has affected the case of the respondent, for that, the very letter used the word "henceforth" and provides to discontinue the benefit of pay protection of the employees of autonomous bodies. However in the last line it gives such benefit of pay protection to the employees of such autonomous organizations who have adopted the Scheme of Basic Pay Scale in toto on their appointment in Government Offices. In the first place, the very letter shows that it will apply from 04.06.2011 and will not affect the employees who have already been employed in Government service from the autonomous organizations and the case of the respondent being that of appointed on 21.06.1989, the same is not affected. Further, it is also an admitted fact that the University, in which the respondent was working, has adopted the Scheme of Basic Pay Scale in toto in the Government service. Besides, the respondent has applied for the post through proper channel, therefore, the condition of applying through proper channel has been satisfied."

7. In the above referred case, almost in similar circumstances as in the present case, the benefit of pay protection was given retrospectively, therefore, the respondent being standing on the same pedestal also deserves the same treatment to be meted out in the spirit of Article 25 of the Constitution of Islamic Republic of Pakistan, 1973. So far as the issue of laches is concerned, this point was specifically taken by the appellants before the learned Service Tribunal and the same was rightly discarded by the Tribunal in paragraph No. 5 of the impugned judgment by holding that being a financial matter, limitation will not have any adverse implication on respondent's claim.

8. For what has been discussed above, we are of the candid view that the learned Service Tribunal has passed a well reasoned

ATTESTED



Court Associate
Supreme Court of Pakistan
Islamabad

judgment to which no exception can be taken. This appeal having no merit is accordingly dismissed.

Sd/CJ

Sd/J

Sd/J

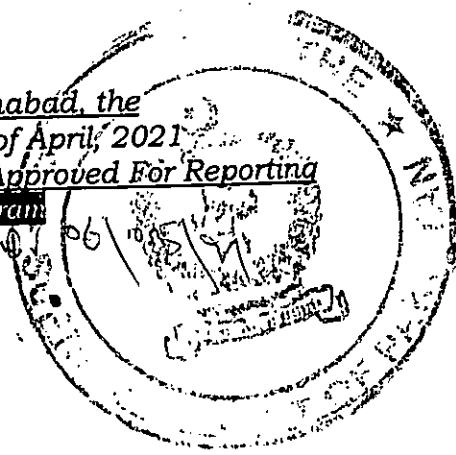
Certified to be True Copy



Court Associate
Supreme Court of Pakistan
Islamabad

*Islamabad, the
27th of April, 2021
Not Approved For Reporting*

*Khuram
Om*





KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 930 /ST/SCJ/SA-980/2016

Dated: 02/06 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To,


The Registrar,
Supreme Court of Pakistan,
Islamabad.

Subject: Civil Appeal No. 39 of 2021

Govt of Khyber Pakhtunkhwa through Chief Secretary & others
Versus
Muhammad Ismail & another

Dear Sir,

I am directed to acknowledge the receipt of your letter no C.A.39/2021-SCJ dated 28-05-2021 alongwith its enclosure..


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT

Mr. Justice Gulzar Ahmed
Mr. Justice Maqbool Baqar

Civil Appeal No. 1308/2019
(Against the judgment dated
07.03.2017 of the Khyber
Pakhtunkhwa Service Tribunal,
Peshawar passed in Appeal No.
476/2014)

Chief Secretary Govt. of KP Civil Appellant(s)
Secretariat, Peshawar & others

Versus

Mian Farooq Iqbal Respondent(s)

For the Appellant(s) : Mr. Zahid Yousaf Qureshi, Addl AG, KP

For the Respondent(s) : In person

Date of Hearing : 27.11.2019

ORDER

Gulzar Ahmed, J. We have heard the learned Additional Advocate General, KP. In support of his submission that the benefit of pay protection and counting of service was not available to the respondent, he has relied upon the letter dated 04.06.2011 (available at page 21 of the paper book) issued by the Regulation Wing of the Finance Department, Government of Khyber Pakhtunkhwa. Such letter is scanned below:

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD (SR-1) 12-12611
Dated Peshawar the 4th June, 2011

- TO:
1. All Administrative Secretaries in Govt. of Khyber Pakhtunkhwa.
 2. The Secretaries, Board of Revenue, Khyber Pakhtunkhwa.
 3. The Secretary to Government, Khyber Pakhtunkhwa.
 4. The Secretary to Civil Minister, Khyber Pakhtunkhwa.
 5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
 6. The Secretary Finance, FATA, FATA Secretariat, Peshawar.
 7. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
 8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
 9. All District Commissioners in Khyber Pakhtunkhwa.
 10. All Magistrate / District & Sessions Judges in Khyber Pakhtunkhwa.
 11. The Registrar, Peshawar High Court, Peshawar.
 12. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
 13. The Chairman, Service Tribunal, Khyber Pakhtunkhwa.

Subject: **PROTECTION / PROTECTION OF PAY ON APPOINTMENT FROM ONE POST TO ANOTHER.**

Dear Sir,

I am directed to refer to the Government of Pakistan, Finance Division, dated 01-08-2009 of Federal Service Tribunal, Islamabad in appeal No.1921(K) CS/2009 in respect of Mr. Sajid Rashid and others on the subject noted above and to state that in pursuance of the above quoted letter, the Government of Khyber Pakhtunkhwa has decided that henceforth the benefit of protection of pay to the employees of autonomous bodies on their subsequent appointment in Government Service is not admissible as the employees of autonomous bodies are not civil servants within the meaning of Civil Servants Act 1973. However, the benefit of pay protection will be admissible to employees of such autonomous organizations who have adopted scheme of basic pay scales in to-to on their appointment in government service, provided they have applied for the post through proper channel.

altered
9/1

Yours Faithfully,

(MASOOD KHAN)
Deputy Secretary (Reg-11)

End of even No. & date.
Copy forwarded for information to:

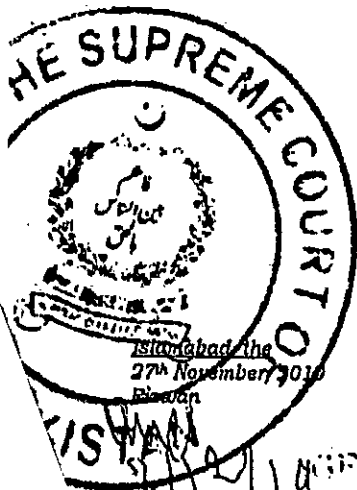
1. All the Heads of Autonomous / Semi Autonomous Bodies of Khyber Pakhtunkhwa.
2. Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
3. Director, Treasuries and Accounts, Khyber Pakhtunkhwa, Peshawar.
4. All District Commissioners, Senior District Accounts Officers and District/Agency Accounts Officer in Khyber Pakhtunkhwa / FATA.
5. Director, FMU, Finance Department.
6. PS to Minister Finance, Khyber Pakhtunkhwa.
7. PS to Secretary Finance.
8. PA to Rd. Secretary Finance.

2. Learned Additional Advocate General has stated that the respondent was appointed as a Lecturer in the University of Engineering and Technology, Peshawar on 03.12.1986. The respondent applied for being appointed as Inspector Mines through proper channel in the Mines Department and ultimately, succeeded in the same and was appointed as an Inspector Mines vide order dated 21.06.1989. Learned Addl. AG further contends that by virtue of the letter dated 04.06.2011, as reproduced above, the respondent was not entitled to pay protection. This letter has been considered by the Service Tribunal in its impugned judgment and even on our own reading, we are unable to agree with the learned Addl. AG that this has affected the case of the respondent, for that, the very letter used the word "henceforth" and provides to

altered

discontinue the benefit of pay protection of the employees of autonomous bodies. However in the last line it gives such benefit of pay protection to the employees of such autonomous organizations who have adopted the Scheme of Basic Pay Scale in toto on their appointment in Government Offices. In the first place, the very letter shows that it will apply from 04.06.2011 and will not affect the employees who have already been employed in Government service from the autonomous organizations and the case of the respondent being that of appointed on 21.06.1989, the same is not affected. Further, it is also an admitted fact that the University, in which the respondent was working, has adopted the Scheme of Basic Pay Scale in toto in the Government service. Besides, the respondent has applied for the post through proper channel, therefore, the condition of applying through proper channel has been satisfied.

3. After considering all aspects of the matter, we are of the firm view that no illegality has been committed in the impugned judgment of the Tribunal. The same is maintained. The appeal is, therefore, dismissed with no order as to costs.



Sd/-J

Sd/-J

Certified to be True

Senior Court Assoc
Supreme Court of Pa
Islamabad

Case No: 24101/19 Cr. Criminal
 Date of Presentation: 27-11-19
 and

Dismissed

PS no. #9211497

03153375511 / 16 9213017

1

1998 S C M R 1442

[Supreme Court of Pakistan]

Present: Ajmal Mian, C. J., Sh. Riaz Ahmad and Ch. Muhammad Arif, JJ

AMJAD HUSSAIN ---Appellant

versus

SECRETARY, FINANCE DIVISION, MINISTRY OF FINANCE, ISLAMABAD and 2 others---Respondents

Civil Appeal No. 26 of 1995, decided on 4th June, 1998.

(On appeal from the judgment dated 3-5-1994 of the Federal Service Tribunal, Islamabad in Appeal No. 33(R) of 1994).

(a) Fundamental Rules-

---- F.R. 22(A)(i)---Constitution of Pakistan (1973), Art. 212(3)---Salary--Selection of civil servant in BS-18 in autonomous body managed and controlled by Federal Government---Petitioner although was selected against BS-18 yet his pay was less than what he was drawing while in Government service--Petitioner's application for protection and fixation of his pay was dismissed as also his appeal before Service Tribunal---Validity---Leave to appeal was granted to consider, whether petitioner was entitled to protection of his pay particularly keeping in view cases of other employees similarly placed which were differently treated and they were given protection to salaries which they were drawing in their parent department.

Mrs. M.N. Arshad and others v. Mrs. Naeem Khan and others PLD 1990 SC 612; Chairman, Pakistan Broadcasting Corporation, Islamabad v. Nasir Ahmad and others 1995 SCMR 1593; Dr. Rashid Anwar v. Federation of Pakistan through Secretary, Establishment Division, Islamabad and others 1996 SCMR 1572 and Secretary, Ministry of Science and Technology and another v. Nasrullah Khan and another Civil Petition No. 1134 of 1997 ref.

(b) Fundamental Rules---

---- F.R. 22(A)(i)---Constitution of Pakistan (1973), Art. 212---Salary---Induction of civil servant in autonomous body in higher grade---Pay in new department being less than the one which employee was drawing in his earlier assignment, he applied for protection and fixation of his pay in terms of F.R. 22(A)(i)---Employee failed to get relief either from his department or from Service Tribunal---Validity---Salary, which civil servant was entitled to could not be denied on any technical ground---Government was duty bound to pay salary as per Rules---Status of employee having remained as that of civil servant, therefore, he was entitled to invoke F. R. 22(A)(i) for protection of his salary which he was drawing in his parent department---Authorities were directed to re-fix salary of employee from the date on which he was entitled to draw the same.

Appellant in person.

Tanvir Bashir Ansari, Advocate Supreme Court and Imtiaz M. Khan, Advocate-on-Record for Respondents.

Date of hearing: 4th June, 1998.

JUDGMENT

AJMAL MIAN, C J.---This is an appeal with the leave of this Court against the judgment dated 3-5-1995 passed by the learned Federal Service Tribunal, Islamabad (hereinafter referred to as the Tribunal) in Appeal No.33(R) of 1994 filed by the appellant for claiming fixation and protection of his salary under Fundamental Rule 22, clause A(i), dismissing the same.

The brief facts are that the appellant was working as an Assistant Director in BS-17 in the Pakistan Council of Research in Water Resources when he applied for the post of Assistant Scientific Advisor BS-18 in the Ministry of Science and Technology. It appears that on the recommendation of Federal Service Commission he was appointed as Assistant Scientific Advisor vide Notification dated 9-12-1990 issued by the Ministry of Science and Technology and was placed on probation for a period of one year with effect from 24-11-1990. His initial pay was fixed in BS-18 at Rs.2,710 whereas he was drawing Rs.3,150 per month in BS-17 in his parent department. He applied to the Ministry of Science and Technology for re-fixation of his pay protecting his earlier pay in BS-17, but the same was declined on the ground that the employees of autonomous body did not qualify for protection of pay on their recruitment in the Federal Government as his above appointment was treated as fresh appointment. Eventually, he filed an appeal before the Tribunal which also failed. Thereupon, the appellant filed petition for leave to appeal, which was granted to consider, whether the appellant was entitled to protection of his above pay particularly keeping in view the cases of other employees similarly placed, namely, Ayyaz, Hamid, Muhammad Saleem, Dr. Abdul Ghani, M.M. Zaffar and Dr. Iltaf which were differently treated and they were given protection to salaries which they were drawing in their parent department.

In support of the above appeal the appellant has appeared in person and vehemently contended that in view of the judgments of this Court inter alia in the cases of Mrs. M.N. Arshad and others v. Mrs. Naeem Khan and others (PLD 1990 SC 612), Chairman, Pakistan Broadcasting Corporation, Islamabad v. Nasir Ahmad and others (1995 SCMR 1593), Dr. Rashid Anwar v. Federation of Pakistan through Secretary, Establishment Division, Islamabad and others (1996 SCMR 1572) and in a recent unreported order dated 3-3-1998 in Civil Petition NO. 1134 of 1997 (Secretary, Ministry of Science and Technology and another v. Nasrullah Khan and another), it has now been well settled that the employees of a body created by the Government through a resolution retain their status as civil servants and that the learned Tribunal erred in holding that the appellant was an employee of an autonomous body and was not entitled to invoke the above Fundamental Rule 22(A)(i).

Mr. Tanvir Bashir Ansari, learned counsel for the respondents is unable to controvert the above legal position. However, he submitted that the appellant's appeal before the Tribunal was barred by time and there was no plausible reason for the delay as he deliberately wasted time or acted negligently inasmuch as after the dismissal of the departmental appeal, the appellant approached the Ombudsman's office and then filed a review.

In our view the respondents should not raise such technical objection when the question of payment of salary of a civil servant is involved. The salary which a civil servant is entitled to cannot be denied on any technical ground. On the other hand, it is the duty of the Government to pay the salary as per rules. Since the status of the appellant remained as that of a civil servant in view of the above judgments rendered by this Court, he was entitled to invoke Fundamental Rule 22(A)(i) for protection of his salary which he was drawing in his parent

department.

In this view of the matter, the appeal is allowed, the judgment of the Tribunal is set aside and the respondents are directed to re-fix the salary as above from the date on which the appellant was entitled to draw. There will be no order as to costs.

A.A.1A-73/S

Appeal accepted.

CA

1308 of 2017

part of

~~C.P. No 225 P of 2017~~

dated

date 27/11/2015

Bench II

3

2000 S C M R 1864

[Supreme Court of Pakistan]

Present: Ajmal Mian, C. J., Mamoon Kazi and Ch. Muhammad Arif, JJ

NAFEES AHMAD---Appellant

versus

GOVERNMENT OF PAKISTAN and others---Respondents

Civil Appeal No.804 of 1996, decided on 13th May, 1999.

(On appeal from the judgment, dated 4-7-1995 passed by the Federal Service Tribunal, Islamabad in Appeal No.205(L) of 1995).

(a) Constitution of Pakistan (1973)---

---Art.212(3)---Reduction in monthly salary---Leave to appeal was granted by Supreme Court to consider whether there was any lawful authority vested in the Department to reduce the salary, of the civil servant without giving him show-cause notice because he had a vested right to receive that salary; whether the civil servant was condemned unheard and such act of the department could not be sustained in law; and whether. the previous service of the civil servant would also be counted towards the grant of pensionary benefits to him.

(b) Pensionary Rules of Handbook for Drawing and Disbursing Officers---

---Chap. IX, R.9(v)---Pensionary Rules ---Pensionary benefits---Earlier appointment of civil servant with an autonomous body---Failure to count the period of earlier appointment towards pensionary benefits---Effect---Civil servant had submitted his last pay certificate from the autonomous body, and after obtaining the requisite documents, the Authorities had fixed his pay--Authorities were not left with any locus poenitentiae to undo the same and that too without hearing the civil servant---Authorities were bound to follow the law in relation to the facets of the claim of the civil servant qua protection of his pay and counting of his period of service with the autonomous body towards pensionary benefits---Failure on the part of Service Tribunal to act in accordance with the law on the subject, could not but be reversed with a direction to the Authorities to fix the salary of the Civil servant accordingly.

Hafiz Tariq Nasim, Advocate Supreme Court and Muhammad Aslam Chaudhry, Advocate-on-Record for Appellant;

Sh. Anwar-ul-Haq, Deputy Attorney-General for Respondents.

Date of hearing: 13th May, 1999.

JUDGMENT

CH. MUHAMMAD ARIEF, J.---A brief resume of the facts leading to the instant appeal with leave of this Court is that appellant Nafees Ahmed, a former employee of the State Bank of Pakistan, was appointed as Data Processing Officer through the Federal Public Service Commission on 26-6-1989 in the Federal Bureau of Statistics, Statistics Division. His joining

the Bureau came about after he had served the State Bank of Pakistan as Statistical Officer between 25-6-1986 and 26-6-1989. The Bureau directed him to obtain his LPC from the State Bank of Pakistan, which he did on 31-8-1989. His pay was fixed at Rs.2,530 i.e. 2,065 plus 3 increments by the Bureau. He continued drawing his salary at the rate of Rs.2,530 w.e.f. 10-7-1989 till January, 1990 when, all of a sudden, his salary was reduced to the minimum pay of Data Processing Officer i.e. Grade-17

2. In addition to agitating the matter about the reduction of his pay through prolonged correspondence with the Audit-Authority the appellant also requested for counting the earlier period of his employment rendered to his previous employer/SBP towards future pension in which behalf support was sought from Finance Division O.M., dated 22-10-1985. As regards his pay, the appellant was informed that the pay drawn by him while in service of SBP, could not be protected. However, he was advised to approach SBP regarding the period that he served there, directly. On approaching SBP for making proportionate payments to the Accountant-General towards his future pensionary benefits for the period that he had rendered service to them, the appellant was advised that his request was not acceptable to them as the Ministry of Finance does not agree thereto.

3. It was in the above scenario that the appellant brought his Appeal No.205(L) of 1995 before the Federal Service Tribunal, hereinafter referred to as the Tribunal, on 18-5-1995. The Tribunal proceeded with making the order in appeal by holding that (i) Finance Division O.M., dated 22-10-1985 does not contain any clause protecting pay of a person working in an autonomous body; (ii) the issuance of LPC by SBP and action taken thereon by the respondents was the result of some mistake which was rectified on recognizing the actual position; (iii) the formal policy of the Government is 'not to protect the salary of a person working as a regular employee in an autonomous body as he is not a 'civil servant'; (iv) appellant's appointment letter, dated 26-6-1989 merely mentions his grade i.e. BPS-17 and it does not mention that he was given any advance increments which he claims and (v) that the previous employer of the appellant' refused to pay their share towards pensionary benefits with the result that he cannot count that service to the benefit of his future service.

4. Leave was granted on 23-1-1996, as below:--

“...Learned counsel argues that there was no lawful authority vested in the department to reduce his salary without giving him show-cause notice because he had a vested right to receive the said salary. According to him, the petitioner was condemned unheard which action on the part of the respondents could not be sustained in law. Learned counsel adds that previous service of the petitioner would also be counted towards the grant of pensionary benefits to him”

5. Mr. Hafiz Tariq Naseem, learned Advocate Supreme Court, appearing in support of this petition, has criticised the judgment in appeal whoe hogg. According to him, his client was assured of the twin-benefits of protection of (1) his pay and (2) counting his services with SBP towards his future pensionary benefits. The precise plea was that the very fact that after receiving LPC and fixing the salary of the appellant in the Bureau at Rs.2,530, which course continued between on 10-7-1989 and January 1990, the respondents were not left with any locus poenitentiae to undo the said position on the ground and that too without affording him any opportunity of hearing. Learned counsel also referred to pages 54, 55 a-d 60 of the Paper-Book to contend that M/s. (1) Dr. Muhammad Ashraf Le., rer in Chemistry F.G. College for Men II-9 Islamabad, (2) Abdul Karim., Judicial Assistantcum-Court Associate (B-15) Supreme Court of Pakistan and (3) Mr. M. Sadiq Malik, Lecturer BPS-17 in Azad Jammu and Kashmir

University were allowed pay protection as also counting of their past services. The treatment meted out to the appellant by the respondents is, to say the least discriminatory and without any support from the letter or spirit of the law. According to the learned counsel, the correspondence between the Government of Pakistan Federal Bureau of Statistics and the Governor State Bank of Pakistan on the subject of fixation of basic pay in respect of the appellant, copies whereof are available of pages 41 to 42 (26-9-1992), 43 (18-9-1992), 44 (13-6-1993), 45 (27-6-1993) and 46 to 47 (27-6-1993) of the Paper Book, clearly clinches the matter in controversy in his favour. Learned counsel concluded his arguments by referring to Rule 9.6(v) of Chapter IX titled 'Pensionary Rules' of 'Hand Book for Drawing and Disbursing Officers' issued by the O & M Division Public Administration Research Centre, 1982 as also to Civil Service Regulation No.418 (b) to contend that (i) effective service rendered the appellant in an autonomous body is treated as effective service rendered in a post of Government service and (ii) the fact that appellant resigned his earlier appointment to take up the present assignment " ... is not a resignation of a public service", respectively.

6. Mr. Sheikh Anwar-ul-Haq, learned D.A.-G. for Pakistan, supported the impugned judgment, with the argument that the Tribunal was operating with its jurisdiction while resolving the dispute against the appellant. He referred to page 4 of the memo. of petition as also to paras. 8, 9 and 10 of the judgment in appeal, in substantiation of his plea that the Tribunal has rightly disallowed the appeal before it.

7. We have considered the arguments advanced at the Bar by the learned counsel for the appellant as also the learned Law Officer in support of their respective cases. It would be advantageous to reproduce: (i) Rule 9.6 (v) ibid and (ii) CSR 418 (b) ibid which read, thus, respectively:--

(I) Rule 9.6.--

"(i)

"(ii).....

"(iii)

"(iv).....

"(v) Only the service paid from the General Revenues qualifies for pension. Foreign service also counts for pension, provided the pension contribution was paid as required under the rules. The effective service rendered by a Government servant in an autonomous or semi-autonomous body, in a post appointment to which is, by law, required to be made, and the salary of which is required to be fixed by the Federal Government or a Provincial Government is treated as effective service rendered in a post in Government service."

(II) CSR 418:

"(a)

(b) Resignation of an appointment to take up another appointment, service in which counts, is not a resignation of the public service."

A perusal of the above Rule and CSR clearly brings it to the fore that the protection given to the pay of a civil servant as also the counting of the period spent by a civil servant in his earlier appointment with an autonomous body towards his pensionary benefits, do advance the case of the appellant.

8. Ever the plea of the appellant that the respondent-authorities were not left with any power to undo the then existing situation on the ground in relation to his pay, is not without substance. This correspondence between the respondents and the S.B.P. referred to in para 2 above also helps the appellant to the hilt. Admittedly, the appellant was asked to submit his Last Pay Certificate from the State Bank of Pakistan and, after obtaining the requisite document in that regard, the respondent-authorities had fixed his pay at Rs.2,530 which figure represents the minimum pay of BPS-17 plus three increments and were not left with any locus poenitentiae to undo the same and that too without hearing the appellant. Appellant's failure to obtain relief from the respondents continued up to level of the Tribunal and, as observed above, the Tribunal was content with perusing his appointment letter, dated 26-6-1989 and observing that only a mention to BPS-17 has been made therein and that with regard to advance increments nothing finds intention therein. This observation may be true but, when read in conjunction with what happened after the appellant took over his assignment with the Bureau, we are left in no manner of doubt to conclude that the judgment in appeal cannot be sustained.

9. The respondent-authorities are bound to follow the law in relation to the above facts of the claim of the appellant i.e. (1) protection of his pay and (2) counting of his period of service with S.B.P. towards pensionary benefits. Failure on the part of the Tribunal to act in accordance with the law on the subject cannot but be reversed with a direction to the respondent to fix the salary of the appellant at Rs.2,530 commencing vide order, date 14-11-1999 and July, 1989. Order accordingly.

10. The above are the reasons for our short order of even date which reads thus:--

"For the reasons to be recorded later on the appeal is allowed. The Tribunal's judgment is set aside. The respondents are directed to fix the salary as was originally fixed i.e. Rs.2,530, at the time of joining of his service as Data Processing Officer."

Q.M.H./M.A.K./N-14/S

Appeal allowed.

2

2008 S C M R 14

[Supreme Court of Pakistan]

Present: Rana Bhagwandas, Actg. C.J. and Sardar Muhammad Raza Khan, J

Syed ABDUS SAMAD PIRZADA----Appellant

Versus

GOVERNMENT OF PUNJAB through Secretary Finance, Finance Department, Punjab Secretariat, Lahore and another----Respondents

Civil Appeal No.1399 of 2006, decided on 26th June, 2007.

(On appeal from the judgment, dated 28-1-2006 passed by Punjab Service Tribunal, Lahore in Appeal No.316 of 2005).

Pakistan Broadcasting Corporation Act (XXXII of 1973)---

---S. 12---Employee of Pakistan Broadcasting Corporation drawing basic pay at Rs.2,800 in BPS-18 as Assistant News Editor---Such employee left Corporation after joining Education Department as Assistant Professor (BPS-18) through Public Service Commission and proper channel---Fixation of pay of such employee in Education Department at Rs.2,100 as initial stage of BPS-18---Validity---Such employee would be entitled to protection of his last pay drawn in Corporation in BPS-18 from the date of joining Education Department---Principles.

Pakistan Broadcasting Corporation's case 1995 SCMR 1593; Amjad Hussain's case 1998 SCMR 1442 and Nafeez Ahmad's case 2000 SCMR 1864 rel.

Farrukh Javed Panni, Advocate Supreme Court with M.S. Khattak, Advocate-on-Record for Appellant.

Mrs. Afshan Ghazanfar, Assistant Advocate-General Punjab, for Respondents.

Date of hearing: 26th June, 2007.

JUDGMENT

SARDAR MUHAMMAD RAZA KHAN, J.--- Syed Abdus Samad Pirzada, Associate Professor of History Government College Satellite Town Rawalpindi, has been granted leave to appeal from the judgment dated 28-1-2006 of the Punjab Service Tribunal, Lahore, whereby, his appeal, asking for fixation of pay in BPS-18 with effect from 4-9-1984, was dismissed.

2. The appellant was Assistant News Editor in Pakistan Broadcasting Corporation drawing basic pay at Rs.2,800. Against an advertisement issued by Punjab Public Service Commission, he applied for the post of Assistant Professor of History through proper channel. He was selected and relieved of his duties from Pakistan Broadcasting Corporation. On appointment as Assistant Professor in the Education Department of the Government of Punjab, his pay was fixed at Rs.2,100, the initial stage of BPS-18. His prayer for re-fixation of his pay in BPS-18

with effect from 4-9-1984 by protecting his previous pay was not acceded to either by the department or the Tribunal.

3. The Corporation where the appellant has previously served, was a creation of Pakistan Broadcasting Corporation Act, 1973, with effect from 20-12-1972. The Broadcasting concern, prior to that, was known as Radio Pakistan, as department of the Government of Pakistan, headed by the Director-General Radio Pakistan. All the employees thereof were in the service of Pakistan and serving in connection with the affairs of Federal Government. When such organization was turned into a Corporation, the services of civil servants stood transferred to the Corporation on the same terms and conditions to which they were entitled immediately before such commencement, under section 12 of the Act. Similar was the advantage given to the persons of Information Service of Pakistan under section 12(4) of the Act whose services, stood transferred to the Corporation. The purpose of the above reference is to realize that when the organization from Government service was turned into Corporation, the terms and condition of service of the civil servants were not changed to their detriment. Thus, on the principle of justice, equity and fair play, such privileges should not be denied to a person who being a Corporation employee joins a civil service through Public Service Commission and through proper channel.

4. The above was the principle of equity and justice that prevailed with a full Bench of this Court in a case of this very Pakistan Broadcasting Corporation 1995 SCMR 1593 where it was held that the Pakistan Broadcasting Corporation being a Government controlled regimented Corporation playing an important role in the media of information was like a department of the Government and further that the employees of the Corporation holding a civil post will be covered by the definition of civil servants as given in section 2(a) of the Service Tribunals Act, 1973. The point to be noticed, with emphasis, is that this status was given to the employees of Corporation when subsequently inserted section 2-A of the Service Tribunals Act was not even in view.

5. An employee of Pakistan Broadcasting Corporation though not a civil servant in the strict sense of term yet granted the status thereof through the above judgment, it was followed by a full Bench of this Court in Amjad Hussain's case 1998 SCMR 1442 where the matter of fixation of pay was determined in the light of F.R.22(A)(i). It was a case where, conversely to the one in hand, a civil servant was inducted into an autonomous body and in the given circumstances it was held that he was entitled to the protection and fixation of his pay in terms of Fundamental Rules (supra), in the light of principles laid down in Chairman Pakistan Broadcasting Corporation 1995 SCMR 1593. F.R.22(A)(i) can also be applied to the cases where a person through proper channel leaves the present Corporation to join civil service.

6. It may be advantageous to refer to another case of Nafees Ahmad 2000 SCMR 1864 where, again a full Bench of this Court while dealing with the case of an employee of State Bank of Pakistan (an autonomous body/Body-Corporate under the State Bank of Pakistan Act, 1956), who was transferred to Government service through Federal Public Service Commission in the Federal Bureau of Statistics, Statistics Division, this Court has gone to the extent of granting him pensionary benefits of previous service under autonomous body. The authorities concerned were held bound, inter alia, to follow the law regarding protection of pay and counting of his period of service with the autonomous body towards the pensionary benefits.

7. The appellant has placed on record an order No.249/U0 No.FD.SR-III-I-93/84, dated Lahore the 29th December, 1985, whereby, Finance Department, Government of Punjab had given Mr. Aleem-ud-Din Bhatti, a Sub-Engineer Road Construction Division, Rawalpindi nine advance increments on entry into Government service in lieu of his past service in the WAPDA, which

also happened to be an autonomous body. He further produced another copy dated 26-4-1984 of the Government of Punjab Department of Housing, Physical and Environmental Planning (No.S.O.(E)H&PP-1-2/83), whereby one Mr. Altaf Hussain, Assistant Director (Town Planning) was granted two advance increments in lieu of his past service of about three years as Town Engineer in the Sargodha Improvement Trust. The appellant also demanded the same privilege, whereby, his previous pay could be protected.

8. For what has been discussed above, the instant appeal is accepted, the impugned judgment, dated 28-1-2006 of the Federal Service Tribunal is set aside and the respondent Government is directed to fix the pay of the appellant in BPS-18 with effect from his joining the Education Department by giving him protection of pay that he had last drawn in the Pakistan Broadcasting Corporation.

S.A.K./A-62/SC

Appeal accepted.