

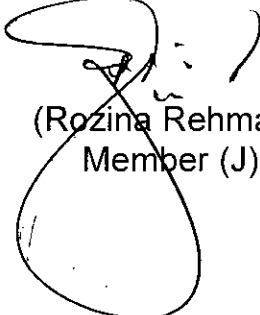
Order
09.11.2021

Appellant present through counsel.


Noor Zaman Khan Khattak learned District Attorney alongwith Saleem Khan S.O (Litigation) for official respondents present. Counsel for private respondents present. Arguments heard and record perused.

Vide our judgment of today of this Tribunal passed in Service Appeal No.16425/2020 titled Abdul Hamid Butt, copy of which is placed on file, instant service appeal as preferred by the appellant, is dismissed being not maintainable within meaning of Rule-23 of Khyber Pakhtunkhwa Service Tribunal Rules, 1974. There is no order as to costs. File be consigned to the record room.

Announced.
09.11.2021



(Rozina Rehman)
Member (J)



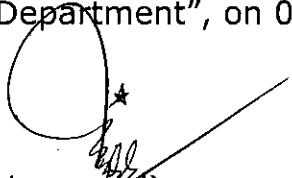
(Ahmad Sultan Tareen)
Chairman

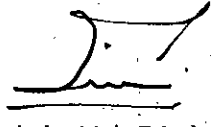
S.A No. 16427/2020

27.10.2021

Mr. Umer Farooq (junior of learned counsel for the appellant) present. Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 3 present. Private respondents No. 4, 14, 16 & 21 alongwith their counsel namely Muhammad Amin Ayub, Advocate, present.

File to come up alongwith connected Service Appeal bearing No. 16425/2020 titled "Muhammad Amin Versus Education Department", on 05.11.2021 before the D.B.


(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

05.11.2021

Counsel for appellant present.

Noor Zaman Khan Khattak, learned District Attorney alongwith Salim Khan S.O for official respondents present. Counsel for private respondents present.

File to come up alongwith connected Service Appeal NO.16425/2020 on 09.11.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman

13.08.2021

Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney
alongwith Saleem Section Officer for official respondents present.
Counsel for private respondents also present.

File to come up alongwith connected Service Appeal
No.16425/2020 titled Muhammad Amin Vs. Education Department,
on 02.09.2021 before D.B.



(Rozina Rehman)
Member (S)



Chairman

2-9-21

Due to Summer vacations, the case
is Adjourned to 30, 9, 2021 For the same as before.

B
Revised

30-9-21

DB is on Tour case to come up
For the same on Dated. 27-10-21

\$
Revised



02.07.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

An application for impleadment in the panel of respondents has been submitted by 20 applicants enumerated at bottom of the application. They are represented by M/S Amin Ayub and Ghazanfar Ali Advocates. On last date, the appellant was directed to submit reply of the application before D.B. Learned counsel representing the appellant on instructions of his clients, states that the appellant has got no objection, if the applicants are impleaded in the panel of respondents. Accordingly, the application for impleadment is accepted. The office is directed to enter the names of the applicants in the panel of respondents. The impleaded respondents are directed to submit their written reply/comments within 10 days in office. File to come up for arguments on 15.07.2021 before D.B. Interim relief is extended till date fixed.



(Rozina Rehman)
Member(J)

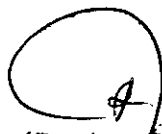

Chairman

15.07.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General for official respondents present. Counsel for newly impleaded respondents present.

File to come up alongwith connected Service Appeal No.16425/2020, on 17.08.2021 before D.B.




(Rozina Rehman)
Member (J)


Chairman

22.06.2021

Appellant alongwith junior counsel present. Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for the respondents present.

On the previous date the comments on behalf of the present respondents were filed. On the same date, an application was submitted on behalf of applicants namely Zaheer Ahmed & 19 others for impleadment in the panel of respondents, copy of the application was handed over to counsel for the appellant through his junior. The case was fixed for reply/arguments on impleadment application apart from rejoinder and arguments on main appeal, for today. Junior counsel for the appellant counsels seeks adjournment with the reason that the counsel of the appellant is busy in connection with cases before the Hon'ble Peshawar High Court Peshawar. Notwithstanding the said engagement of his counsel, the preparation of reply is an office matter of the lawyer, and the appellant was supposed to have brought and submitted the reply in compliance with order dated 07.06.2021, today. Anyhow, request for adjournment on behalf of the appellant is accorded but not without condition. This is because, the application submitted for impleadment enumerates so many grounds which attract to the point of maintainability of the present appeal, in which the interim relief was also granted. Let the appellant be put on notice as to why the interim relief granted to him should not be recalled. To come up for reply and arguments on impleadment application for short date as according to the applicants seeking impleadment, the normal course of the promotions has halted due to the present appeal. To come up for reply of application and arguments in the stated terms on 02.07.2021 before the D.B. The interim relief already granted till date is extended till the said date.


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


Chairman

07.06.2021

Junior to counsel for the appellant, Mr. Kabirullah Khattak, Addl. AG alongwith Muhammad Saleem, S.O for respondents.

Respondents have furnished joint parawise comments. Placed on file Junior to Mr. Muhammad Amin Ayub Advocate present and submitted an application for impleadment of applicants as respondents. Copy handed over to junior to counsel for the appellant. To come up for reply/arguments on impleadment application as well as rejoinder and arguments on main appeal on 22.06.2021. The restraint order dated 01.02.2021 shall remain operative till next date.



(Rozina Rehman)
Member(J)

12.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 28.04.2021 for the same as before.


Reader

28.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 24.05.2021 for the same as before.


Reader

24.05.2021

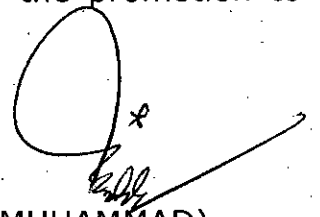
Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 07.06.2021 for the same as before.


Reader

10.03.2021

Junior to senior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Neither written replies on behalf of respondents submitted nor their representatives are present, therefore, learned Additional Advocate General is directed to contact the respondents and furnish written reply/comments on the next date of hearing. Adjourned to 26.03.2021 on which date file to come up for written reply/comments before S.B. In the meanwhile, the respondents shall not finalize the promotion to BPS-20 to the detriment of appellant.




(MIAN MUHAMMAD)
MEMBER (E)

26.03.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG alongwith Syed Nasir-ud-din Assistant for respondents present.

Written reply/comments not submitted. Representative of respondents requested for time to submit written reply/comments. Last opportunity is granted. To come up for written reply/comments on 12.04.2021 before S.B. In the meanwhile, the respondents shall not finalize the promotion to BPs-20 to the detriment of appellant.

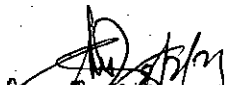


(Atiq Ur Rehman Wazir)
Member (E)

01.02.2021

Counsel for the appellant present.

In view of chequered history of litigation, as well as departmental proceedings, pertaining to the seniority/promotion of appellant, instant appeal is admitted to regular hearing subject to all just exceptions. Appellant is required to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 17.02.2021 before S.B.


Appellant Deposited
Security & Process Fees

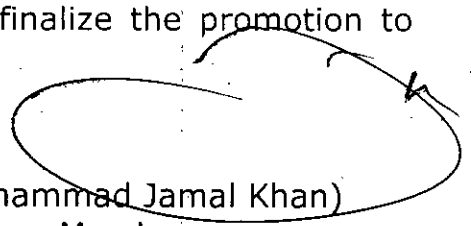
Alongwith the appeal an application for restraining the respondents in making promotion to BPS-20 has also been submitted. Notice of the application be also given to the respondents for the date fixed. In the meanwhile, the respondents shall not finalize the promotion to BPS-20 to the detriment of appellant.


Chairman

17.02.2021

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Neither written reply on behalf of respondent submitted nor representative of the department is present, therefore, learned Additional Advocate General is directed to contact the respondents and furnish written reply/comments on the next date of hearing. Adjourned to 10.03.2021 on which date file to come up for written reply/comments before S.B. In the meanwhile, the respondents shall not finalize the promotion to BPS-20 to the detriment of appellant.

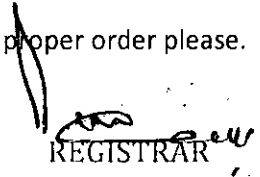
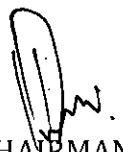

(Muhammad Jamal Khan)
Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 16427 /2020

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge | | |
|-------|---------------------------|--|--|--|
| 1 | 2 | 3 | | |
| 1- | 28/12/2020 | <p>The appeal of Muhammad Mujtaba Khan presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> | | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/02/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____ /2020

MUHAMMAD MUJTABA KHAN VS EDUCATION DEPTT:

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APPELLANT

THROUGH:
NOOR MUHAMMAD KHATTAK
ADVOCATE
Room No. 3 & 4, Upper Floor,
Islamia Club Building,
Khyber Bazar, Peshawar
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO 16427/2020

Diary No. 16961

Mr. Muhammad Mujtaba Khan, Principal (BPS-19),
GHSS Ouch, District Dir Lower.....

28/12/2020
APPELLANT

VERSUS

- 1- The Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar.
 - 2- The Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
 - 3- The Director Elementary & Secondary Education Department, Peshawar.....
- RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTIONS OF THE RESPONDENTS BY NOT PLACING THE NAME OF THE APPELLANT NEXT BELOW THE NAME OF Mr. HANIFULLAH IN THE SENIORITY LIST OF BPS-19 OFFICER OF THE TEACHING CADRE AND NOT CONSIDERING THE APPELLANT FOR PROMOTION TO THE POST OF BPS-20 AND AGAINST THE APPELLATE ORDER DATED 01.12.2020 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON GOOD GROUNDS.

PRAYER:

That on acceptance of this appeal the impugned appellate order dated 01.12.2020 may very kindly be set aside and respondents be directed to place the name of the appellant below the name of Mr. Hanifullah in the seniority list of 2017 circulated for BPS-19 officers of teaching cadre and the respondents may further please be directed to consider the appellant for promotion to the post of BPS-20 with all back benefits including seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

R/SHEWETH:

FACTS:

Brief facts giving rise to the present appeal are under:-

- 1- That appellant is the employee of respondent department and is presently serving the respondent Department as Principal BPS-19 quiet efficiently and up to the entire satisfaction of his superiors.

Impleaded respondents vide order
sheet dated 02-07-2021

- | | | | |
|----|--|----|---|
| 4 | Zaheer Ahmad, Principal (BS-19), GHS Chota Lahore Swabi. | 24 | Riaz Ahmad Bahar, GHS Khyber. |
| 5 | Nek Nawaz Khan, OSD, Directorate E&SE, Peshawar. | 45 | Muhammad Bashir, GHS Kaloo Khan, Swabi |
| 6 | Mir Daud Khan, GCHSS Bannu. | 66 | Riasat Khan, GHS Haripur. |
| 7 | Sikandar Sher, GHS Swabi. | 87 | Raj Muhammad Khan, Secretary BISE, D.I. Khan. |
| 8 | Muhammad Salim, GCMHS No.1, Tank | 18 | Abdul Halim, GHSS Jangiri Karak. |
| 9 | Mir Laiq, GHS Mandav, Bannu. | 19 | Muhammad Iqbal, GHS Tal, District Hangu. |
| 10 | Saifullah, GHS Nar Muzafar, Lakki Marwat. | 20 | Nisar Muhammad, DEO Khyber. |
| 11 | Taj Muhammad, GHS Swabi. | 21 | Munawar Gul, Principal, GHSS Tarnab Farm, Peshawar |
| 12 | Sher Nawaz, Principal, GHS Landiwah, Lakki Marwat | 18 | Nazim-ud-Din, Principal, RITE (M), Darosh Chitral |
| 13 | Moin-ud-Din Principal, GHSS Shakar Dara, Kohat | 23 | Muhammad Ashraf, Deputy Director, FITE, Jamrud. |

Respondents

That in 1986 some High Schools of Khyber Pakhtunkhwa were upgraded to higher secondary level by the Government, and the posts of Subject Specialists were created in BPS-17 with criteria that the candidate must be MA in relevant subject with B.Ed, and with five year experience in a Government High School. Till the end of 1987 due to the rigidity in terms and conditions the posts requisitioned by the Deptt: for filling in by the Public service Commission remained unfilled in the span of two years from 1986 to 1988, only four qualified personnel could be selected, to overcome the situation the Deptt: constituted a committee to rationalize the qualification and experience for the post of Subject Specialist, the committee submitted its report in 1987 recommended that simple Master degree holder in relevant subject be appointed and he may be given 5/3 years to acquire the qualification of B.Ed, which was dully approved and notified by the competent authority vide notification No.SO(S)6- 2/87/II dated 21/11/1991. Copies of the advertisement and rules are attached as annexure.....**A.**

3- That in the context of the above recommendation the appellant was a Master Degree holder applied for the post of Subject Specialists in English, and after fulfilling all the formalities the appellant was selected vide order 24.03.1990 but the respondent department gave the appellant BPS-15 instead of BPS-17, the petitioner thereafter remained serving continuously as Subject Specialist BPS-17 till his promotion to BPS-18. Copy of the Selection Order dated 24.03.1990, attached as annexure.....**B.**

4. That on the same terms and conditions some of the colleagues of the appellant were also appointed as SET/Subject Specialist, and adjusted against the post of Subject Specialist BPS-17. That the appellant along with his colleagues filed Departmental appeal to chief secretary government of NWFP order dated 2.3.1993. That after exhausting Departmental appeal the appellant filed Service appeal before the Tribunal i.e. appeal which was partially allowed in favor of the appellant, as regards the prayer for regularization of service, it is for the department to process the case of selection of the appellant as Subject Specialist, Copies of the appointment order & service tribunal judgment are attached as annexure**C&D.**

5. That against the said judgment of the service Tribunal the appellant as well as the Deptt: filed CPLA's before the apex Court where the appeal of the Deptt: No. 128/95, was dismissed and the case for the appellants was modified, the petitioners were held entitled for the pay of the post w.e.f the date of their initial appointment while the

remaining judgment of the Tribunal was upheld. Copy of the Apex Court Judgment dated 26.2.1997. Attach as annexure.....**E.**

6. That where after the respondent department issued notification dated 28' May, 1997 implementing the decision of the Apex Court by granting to the appellant pay fixation as Subject Specialist BPS-17 with areas of pay from the date of first appointment, but denied seniority from the said date. That in meanwhile consequent upon the decision of the August Service Tribunal one relevant case of Mr. Muhammad Riaz who was granted graded pay in BPS-17 and also allowed him seniority from the date of acquiring the degree of B.Ed vide Notification dated 15.02.1999. Copies of the orders are attached as annexure**F.**

7. That the appellant feeling aggrieved from the discriminatory treatment, filed service appeal before the service tribunal in appeal No.2175/1997 for retrospective seniority but the same was remanded back to the department to settle the issue of regularization and seniority of the appellant. That it is pertinent to mention that during the pendency of the said appeal move over was also granted to the appellant from BPS-17 to BPS-18. Copies of the Service Tribunal Judgment dated 17.08.2004 and Move-Over Order dated 27.10.2001 are attached as annexure.....**G&H.**

8. That for the implementation of the Service Tribunal Judgment working paper were placed before the Departmental Promotion Committee regarding regularization and seniority and as such minutes of the Departmental Promotion Committee were held Dated 19.05.2005 in which it was discussed that the regularization of the subject specialist in pursuance of the Service Tribunal/ Supreme Court of Pakistan does not fall within the purview of DPC thus deprived the appellant for regularization along with seniority. Copies of the working Papers dated 20.04.2005 and minutes of the meeting date 19.05.2005 are attached as annexure.....**I&J.**

9. That feeling aggrieved the appellant filed Departmental appeal to the Chief Minister for his regularization-Cum-Seniority on the Post of Subject Specialist BPS-17 and with further prayer to stop the respondent department from termination of services of the appellant summery was submitted to Chief Executive by the Deptt: for regularization of the petitioners, though approved by the Chief executive but astonishingly the appellant had been terminated from service vide order dated 19.03.2008 without assigning any reason.

Copy of the appeal to Chief Minister and termination order dated 19.03.2008 is attached as annexure.....**K&L.**

10. That the appellant feeling aggrieved from the abrupt termination order appealed to the Chief Minister for reinstatement into service dated 09.05.2008, followed by Service Appeal No.970/2008 before the service Tribunal which was allowed in favour of the appellant with the direction to the respondent department to reinstate the appellant with all back benefits. That respondent department send the proposal for CPLA against the said judgment to Advocate general who opined that it is not fit to go for CPLA and negated the proposal of the respondent department dated 18.12.2008 and the respondent department was reluctant to implement the said judgment vide letter dated 12.02.2009 and 25.02.2009, after getting opinion from Advocate general and law Deptt: E&SED submitted a summery to chief Secretary the competent authority for the re-instatement and regularization of the appellants which was approved. Copies of the Appeal to chief Minister dated 09.05.2008, legal Opinion order dated 18.12.2008, 12.02.2009, 25.02.2009 are attached as annexure**M.**
11. That when the respondent Deptt: was reluctant to implement the above mentioned judgment of the August Service Tribunal the appellant filed Writ Petition No.381/2009 before the Peshawar high court for implementation of the decision, resultantly the respondent department issued reinstatement order of the appellants dated 18th April 2009. Copy of the Writ Petition No.381/2009 and Reinstatement order dated 18 April 2009 are attached as annexure.....**N.**
12. That after regularization and re-instatement into service the appellant filled Deptt: appeal to the applet authority vide application dated 12/05/2009 for fixation of seniority in BPS-17 from the date of appointment and in response applet authority vide letter dated 13/04/2010 directed the Director E&S Education to recheck and prepare seniority strictly in accordance with rules, thus the respondents issued the final seniority list placing the appellant at serial No 4 in the seniority list. Copy of the Departmental appeal dated 12/05/2009, letter dated 13th April, 2010 and seniority list dated 15/10/2010 are attached as Annexure.....**O.**
13. That resultantly the department issued promotion order dated 12th April 2011 whereby the appellant has been promoted from BPS-17 to BPS-18 with the condition that the appellant will be retain inter-se seniority from the date where their erstwhile junior have been promoted to BPS-18 w.e.f 14.03.1998. That later on again the matter

of seniority arose against which the appellant preferred appeal to the appellate authority dated 11.05.2011 for regaining of his seniority from BPS-18 to BPS-19 to place the Name of the Appellant at correct position and the respondent department forwarded the letter dated 28 June 2011 to secretary Establishment in response of which order dated 06.9.2011 has been issued whereby the appellant had regain the seniority w.e.f 14.03.1998. Copy of the promotion order date 12.4.2011, Appeal dated 11.05.2011, forwarding letter dated 28.6.2011, seniority order dated 06th Sept 2011 are attached as annexure**P&Q.**

14. That the appellant after that made correspondence with respondent department for placing his name at proper place in the seniority List of BPS-18 before issuing the final seniority list and finally placed the name of the appellant at correct position by issuing final seniority list dated 01/01/2014 and as such placing the name of the appellant at Serial No.4. Accordingly working paper for promotion to BPS-19 was submitted by the Deptt: to Provincial Selection Board in 2014, in which the appellant was on serial No.4 in the Panel, here it is important to note that the President School officers association Mr. Haji Nisar Muhammad BPS-19 along with representatives from the cadre BPS-18, BPS-19, and BPS-20, filled appeal against the appellant and his colleagues for Quo-warranto which was dismissed in limine by the Peshawar High Court dated 5th March 2014, and after dismissal of the writ petition filled by Haji Muhammad Nisar in Peshawar High Court the petitioner was considered for promotion to BPS-19 vide order dated 21/04/2019. Copy of the A Correspondence, seniority list, dated 01/01/2014, quo-warranto dated 05/05/2014 and promotion order dated 21/04/2014 are attached as annexure.....**R.**
15. That once again the matter of seniority raised against which the appellant preferred Departmental appeal to the appellate authority for regaining the seniority under promotion policy 2009 with their erstwhile juniors in BPS-19 for promotion to the BPS-20 vide appeal dated 2 May 2014, similarly correspondence was made by E&SE department with Establishment Deptt: for seeking advice in the mater. vide letter dated 7.8.2014 and 03.9.2014, 16/09/2014, issued letter dated 16 Nov.2015 whereby ordered to place the name of the appellant at proper place in the seniority list of BPS-19 and seniority be finalized., order was followed by placing the appellant at serial No.5 in the final seniority list dated 31/12/2015 Copies of appeal date 02/05/2014, letter dated 07/08/2014, 03/09/2014, 16.09.2014, order date 13/11/2014 and Seniority list 31/12/2015 are attached as annexure.....**S,T&U.**

16. That working paper for promotion to BPS-20 was submitted by the Deptt: to Provincial Selection Board in Which the appellant was at S. No. 4 in panel, Meanwhile the above-mentioned notification was challenged by one Mr. Hanifullah and others in this august Service Tribunal and as such his appeal has been accepted vide judgment dated 11.9.2017. That the appellant knocked the door of the apex court against the said decision of the service tribunal but didn't succeed. That the name of the appellant was dropped from the promotion panel where after the respondents place the name of Mr. Hanifullah at the top of the seniority list dated 29.11.2017 and appellant is thrown back to the bottom of the seniority against the spirit of the judgment i.e. at S.No.86. Copy of the minutes of PSB, service tribunal judgment dated 11.09.2017 and Apex Court, and seniority list dated 29.11.2017 are attached as annexure.....**V.**
17. That in result the name of the appellant was ignored promotion to BPS-20. That the respondents recently circulated seniority list for the year 2019 but again the appellant has been pushed to the bottom of the said seniority list on malafide basis. That the appellant feeling aggrieved preferred departmental Appeal to the appellate authority vide dated ~~28.09.2020~~ but the same has been rejected on no good grounds vide order dated 01.12.2020. Copies of the seniority list, letter dated 29.7.2020, departmental appeal dated ~~28.09.2020~~ and rejection order dated 01.12.2020 are attached as annexure..... **W.**
18. That the appellant feeling aggrieved and having no other remedy but to file this instant service appeal on the following grounds amongst others.

GROUND:

- A- That not placing the name of the appellant next below the name of Mr. Hanifullah and not considering the appellant for promotion to the post of BPS-20 by the respondent department is against law, facts, norms of natural justice and materials on the record.
- B- That the appellant has not been treated by the respondent department in accordance with law and rules on the subject noted and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the respondent department acted in arbitrary and malafide manner by not placing the name of the appellant below the Mr.

Hanifullah in the seniority list of 2017 circulated for BPS-19 and also not granting promotion to the appellant to the post of BPS-20.

D- That the respondent department acted in arbitrary manner by not placing the name of the appellant below the Mr. Hanifullah in the seniority list of 2017 circulated for BPS-19 and also not granting promotion to the appellant to the post of BPS-20, hence the same is violative of natural justice.

E- That the respondents violated section-8 of the Civil Servant Act, 1973 read with rule 17 of the APT rules, 1989 by not placing the name of the appellant below the Mr. Hanifullah in the seniority list of 2017 circulated for BPS-19 and also not granting promotion to the appellant to the post of BPS-20 inspite of eligibility, seniority and fitness.

F- That as per rule and law the appellant is entitled for the promotion to BPS-20 and placing of the appellant name below the name of Mr. Hanifullah in the seniority list of 2017 circulated for BPS-19.

G- That not placing the name of the appellant next below the name of Mr. Hanifullah and not considering the appellant for promotion to the post of BPS-20 by the respondents is violative of Article 38(e) of the Constitution of Pakistan, 1973.

H- That the appellant seek permission to advance any other ground and proof at the time of regular hearing.

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

Dated: 23.12.2020.

APPELLANT

Muhammad Mujtaba Khan
MUHAMMAD MUJTABA KHAN

THROUGH:

Noor Muhammad Khattak
NOOR MUHAMMAD KHATTAK

&

Mir Zaman Safi
**MIR ZAMAN SAFI
ADVOCATES**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

C.M NO. _____ /2020

IN

Appeal No. _____ /2020

Muhammad Mujtaba Khan

VS

EDUCATION DEPTT:

APPLICATION FOR RESTRAINING THE RESPONDENTS
NOT TO MAKE PROMOTION TO THE BPS-20 TILL THE
DISPOSAL OF THE ABOVE MENTIONED APPEAL

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed by the appellant before this august Service Tribunal in which no date is fixed so far.
- 2- That appellant filed the above mentioned appeal against inaction of the respondent by not placing the name of the appellant next below the name of the Mr.Hanifullah in the seniority list of BPS-19 officers of the Teaching cadre and not considering the appellant for promotion to the post of BPS-20.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That if the name of the appellant is not placed next below the name of Mr.Hanifullah in seniority list of 2017 circulated for BPS-19 and and ignored for promotion to BPS-20 the valuable right of the appellant will be violated causing irreparable to loss to the appellant.

It is therefore, most humbly prayed that on acceptance of this application the respondents may very kindly be restrained not to make promotion to BPS-20 till the final disposal of the above mentioned appeal.

APPLICANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

نظامت تعلیم (مدارس) صوبہ سرحد

درخواستیں مطلوب ہیں

زیر دستخطی کو درج ذیل آسامیوں پر عارضی (ایڈ ہاک) بنیاد پر تنخواہ کے بنیادی سکیل نمبر 17 میں تقرری کیلئے وہ بہ سرحد کے سکونتی مرد اور خواتین امیدواروں سے درخواستیں مطلوب ہیں؛ درخواستیں سادہ کاغذ پر مبنی ہوں؛ امیدوار کے پورے کوائف (نام، ولدیت، سکول / کالج، کوالیفیکیشن، مضمون، ڈویژن پتہ موجود ہوں؛ مورخہ 25/09/1977 تک بمعہ اسناد و سکونت کی مصدقہ نقول بذریعہ رجسٹری ادتی بنام ڈپٹی ڈائریکٹر (سکولز) صوبہ سرحد پہنچ جانی چاہیے۔

شرائط

(1) درخواست دہندہ متعلقہ مضمون میں کسی مسلم یونیورسٹی سے ایم اے سائنڈ ڈویژن ہو اور MA/B.Ed/M.Ed کی ڈگری بھی رکھتا ہو؛ ایم اے (انگریزی) تھرڈ ڈویژن کے امیدوار بھی درخواستیں دے سکتے ہیں۔

(2) امیدوار سکول یا کالج میں 5 سالہ تدریسی تجربہ کے حامل ہوں۔

(3) یونیورسٹی بورڈ سے حاصل کردہ نمبرات کے تفصیلی سٹیفکیٹ کی تصدیق شدہ نقول اسناد کے ہمراہ شامل ہونی چاہئیں۔

مضامین کی تفصیل

(1) انگریزی (2) اکناکس (3) ہسٹری یا سوس (4) اسلامک ایجوکیشن کم اسلامک سٹڈیز (5) شماریات (6) پاکستان سٹڈیز (7) ہسٹری کم سوس کیلئے امیدواران ایم اے ہسٹری اور ایم اے پولیٹیکل سائنس یا ایم اے ہسٹری اور بی اے میں پولیٹیکل سائنس یا ایم اے پولیٹیکل سائنس اور بی اے میں ہسٹری کی ڈگری رکھتے ہوں میرٹ کی بنیاد پر منتخب امیدواران کی تقرری ہائر سکینڈری سکولوں میں بطور سبجیکٹ سپیشلسٹ کی جائیگی۔

سید سرور شاہ

ڈپٹی ڈائریکٹر (سکولز)

برائے ڈائریکٹوریٹ تعلیم (سکولز) پشاور

INF(P) 28489

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مذہب اسلام

ذکر الہی و تعالیٰ
 ۱۹۱۵ء تا ۱۹۱۶ء
 ۴۹۱۵۰ / ۴۹۱۳۱ / ۴۸۸۳۱

B A

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تذکرہ تلبیہ (مدارس) صوبہ سرحد درختہ ایسٹن فرسٹ کالج پشاور

تذکرہ تلبیہ (مدارس) صوبہ سرحد کے لیے ایسٹن فرسٹ کالج پشاور میں داخلہ کے لیے طلبہ کی فہرست
 ۱۹۱۵ء تا ۱۹۱۶ء کے دوران کے طلبہ کی فہرست ہے۔ اس میں طلبہ کے نام، پتے، اور دیگر معلومات
 درج ہیں۔ اس فہرست کو ایسٹن فرسٹ کالج پشاور کے سربراہ نے تیار کیا ہے۔

شہادت:

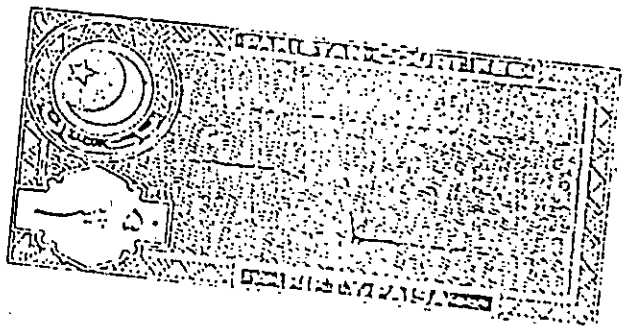
میں نے ذرا تلبیہ (مدارس) صوبہ سرحد کے لیے ایسٹن فرسٹ کالج پشاور میں داخلہ کے لیے طلبہ کی فہرست
 تیار کی ہے۔ اس میں طلبہ کے نام، پتے، اور دیگر معلومات درج ہیں۔ اس فہرست کو
 ایسٹن فرسٹ کالج پشاور کے سربراہ نے تیار کیا ہے۔

میں نے ذرا تلبیہ (مدارس) صوبہ سرحد کے لیے ایسٹن فرسٹ کالج پشاور میں داخلہ کے لیے طلبہ کی فہرست
 تیار کی ہے۔ اس میں طلبہ کے نام، پتے، اور دیگر معلومات درج ہیں۔ اس فہرست کو
 ایسٹن فرسٹ کالج پشاور کے سربراہ نے تیار کیا ہے۔

سید محمد شاہ

ڈپٹی ڈائریکٹر اسکولز
 پشاور

INF (P) 2545



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(10)

Bettercopy
Amir Saeed

(B)

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
EDUCATION DEPARTMENT

Annex A-10

NOTIFICATION.

Peshawar dated the: 21/11/1991

No. SO(S)6-2/87/III/ In pursuance of the provisions contained in Sub-Rule (2) of Rule-3 of the North-West Frontier Province Civil Servants (appointment, Promotion and Transfer) Rules, 1975 the Education Department, in consultation with the Services and General Administration Department and the Finance Department, hereby directs that in this Department Notification No. SO(S) Service Rules/85/III dated: 21.1.1987, the following further amendments shall be made, namely:-

AMENDMENTS.

In the appendix to the aforesaid Notification:-

(i) for the existing entries in column 2 and 6 against serial No.1, the following shall respectively be substituted, namely:-

| 2. | 6. |
|--|---|
| Director Secondary Education/ Director /Primary Education/ Director Bureau of Curriculum Development Education Services. | By promotion, on the basis of selection on merit, from amongst holders of the posts of Divil: Director, additional Directress and other equivalent posts with at least 17 years service in BPS-17 and-above; provided that in case of persons initially appointed in BPS-18 the length of service for promotion in their cases shall be 12 years in BPS-18 and above. and |

(ii) for the existing entries in column 2 and 6 against serial No.2(i) the following shall respectively be substituted namely:-

| 2. | 6. |
|---|--|
| "(i) Divisional Director /additional Director /Director Primary Education and other equivalent Posts: | By promotion, on the basis of selection on merit, from amongst holders of the posts of deputy Director of Education, Principals of Govt. Elementary Colleges and Comprehensive high schools, District education officers and |

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14.

other equivalent posts with at least 12 years service in BPS-17 and above; provided that in case of persons initially appointed in BPS-18, the length of service for promotion in their cases shall be 7 years."

(iii) for the existing entry in column 2 against serial No.2(ii) the following shall be substituted namely:-

"(ii) Additional directress of Secondary Education/
Additional directress of Primary Education"

(iv) for the existing qualifications at clause (iii) in column 3 against serial No.4(i) the following shall be substituted, namely:
(iii).

Second Class Master Degree in the relevant subject, or in the case of English subject, Third Class Master Degree in English, with B.Ed/M.Ed/M.A.Education in second Division respectively from a recognized University and institute:

Provided that candidates not possessing B.Ed. M.Ed: or M.A.Education Degree shall also be eligible for appointment subject to the condition that they shall acquire the professional qualification as aforesaid with in three years from the date of taking over as subject Specialists, failing which their services are liable to termination.

Provided further that selectees possessing qualification under this clause shall work as subject Specialists in Government Higher Secondary Schools and shall not be eligible for appointments or transfer to any other Post till their promotion to higher post.

12

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Endst No. SO(S)6-2/87/H

Dated Peshawar The 21.11.91

Copy forwarded for information an necessary
action to:-

1. All administrative secretaries to Govt. of NWFP
2. Secretary NWFP Public Service Commission, Peshawar.
3. Accountant General NWFP, Peshawar.
4. All Directors of Education, NWFP.
5. Manager Government Press Peshawar for publication in to the next issue of govt. Gazette.
6. All Divisional Directors of Education (Schools), NWFP.

(MOHAMMAD ILYAS)
Section officer (Schools)

AM

original copy -

10

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
EDUCATION DEPARTMENT.

Relaxation
Notification

NOTIFICATION.

Annexure

Peshawar dated the: 21/11/1991.

No. SO(S) 6-2/87/III/ In pursuance of the provisions contained in sub-rule (2) of Rule-3 of the North-West Frontier Province, Civil Servants (Appointment, Promotion and Transfer) Rules, 1975 the Education Department, in consultation with the Services and General Administration Department and the Finance Department, hereby directs that in this Department Notification No. SO(S) Service Rules/85/III dated, 21.1.1987, the following further, amendments shall be made, namely:-

AMENDMENTS.

In the appendix to the aforesaid Notification:-

(i) for the existing entries in columns 2 and 6 against serial No. 1, the following shall respectively be substituted, namely :-

| 2. | 6. |
|---|---|
| Director Secondary Education/Director Primary Education/Director Bureau of Curriculum Development Education Services. | By promotion, on the basis of selection on merit, from amongst holders of the posts of Divul: Director, Additional Directress and other equivalent posts with at least 17 years service in BPS-17 and above; provided that in case of persons initially appointed in BPS-13 the length of service for promotion in their cases shall be 12 years in BPS-17 and above, and |

(ii) for the existing entries in columns 2 and 6 against serial No. 2(i) the following shall respectively be substituted namely.

| 2. | 6. |
|--|--|
| (i) Divisional Director/Additional Director of Primary Education and other equivalent posts. | By promotion, on the basis of selection on merit, from amongst holders of the posts of deputy directors of education principal of Government/Colleges and Government High Schools, District Education Officers and |

(17)

(17)

other equivalent posts with least twelve years service in EPS-17 and above provided that in case of persons initially appointed in EPS-18, the length of service for promotion in their cases shall be 7 years."

(iii) For the existing entry in column 2 against serial No. 2(ii) the following shall be substituted namely:-

"(ii) Additional Directress of Secondary Education/
Additional Directress of Primary Education"
and

(iv) For the existing qualifications at clause (iii) in column 3 against serial No. 4(i) the following shall be substituted, namely;

(iii). Second Class Master Degree in the relevant subject, or in the case of English subject, Third Class Master Degree in English, with B. Ed/M. Ed./M. A. Education in Second Division respectively from a recognised University and Institute:

Provided that candidates not possessing B. Ed., M. Ed. or M. A. Education Degree shall also be eligible for appointment subject to the condition that they shall acquire the professional qualification as aforesaid with three years from the date of taking over as subject Specialists, failing which their services are liable to termination.

Provided further that selectees possessing qualification under this clause shall work as subject Specialists in Government Higher Secondary Schools and shall not be eligible for appointment or transfer to any other post till their promotion to higher post.

F

SECRETARY TO GOVERNMENT OF
EAST-WEST FRONTIER PROVINCE
Education Department.

B-13

DIRECTOR OF EDUCATION (S) DIVISION GUL KADA (S) AT.

At Gul Kada.

That resident of village and P.O Gul Kada District Dir is hereby temporarily appointed a subject Specialist (Statistics) post of GKS (S) at Gul Kada (S) at the rate of Rs. 105/- M. M. fixed plus usual allowances as due and admissible to him under the rules with effect from the date of his taking over charge in the interest of public service subject to the following terms and conditions:

TERMS AND CONDITIONS:

1. No J/PA is allowed.
2. Charge reports should be submitted to all concerned.
3. The appointment is made on purely temporary basis and liable for termination at any time without notice and assigning any reason. In case of resignation he will to submit one month's prior notice to the Department or forfeit one month's pay in lieu thereof to the Government.
4. The Candidate shall produce his health and age certificates from the Civil Surgeon concerned in case he is not already in service.
5. The Heads of the Institutions are required to check the original academic/professional certificates of the candidate before handing over to him.
6. In case the candidate fails to take over charge within 15 days of the issue of this order, his appointment shall stand automatically cancelled.
7. The candidate shall not be handed over charge if his age exceed 33 years or below 19 years.

(GHULAM MOHAMMAD)
DIVISIONAL DIRECTOR OF EDUCATION,
HELD: DIVISION GUL KADA (S) AT.

Sd/- Ghulam Mohammad / A-12/14/1990

Dated 24/3 /1990.

Copy sent to:-

1. The Distt. Education Officer (H) Svat.
2. The Principal, Gul Kada (Svat).
3. Candidate concerned.
4. Sd/- (S) Local Bazar Svat.

[Handwritten signature and date 24/3]

A. D. E. O
FOR/DIVISIONAL DIRECTOR OF EDUCATION,
HELD: DIVISION GUL KADA (S) AT.

C-14

BETTER COPY OF THE PAGE NO. 21

**OFFICE OF THE DIRECTORATE OF EDUCATION MALAKND DIVISION,
AT GULK DA SWAT**

APPOINTMENT

Mr. Mohammad Amin M.A (English) S/o Mohammad Akram village Gudira Distt Swat is hereby appointed temporarily against Subject Specialist post at GHSS Samarbh Distt: Dir in BPS-15 Ors 1165/- PM fixed plus usual allowances as due as and admissible to him under the rules with effect from the date of his taking over charge in the interest of public service subject to the following terms and conditions:-

TERMS AND CONDITIONS

1. No T.A/DA is allowed.
2. Charge reports should be submitted to all concerned.
3. The appointment is made on purely temporary basis and liable to termination at any time without any notice or assigning any reason. In case of resignation he will have to submit one month prior notice to the Department or forfeit one month pay in lieu thereof to the Government.
4. The candidate should produce their health and age certificates from the civil surgeon concerned.
5. The Head of Institution is required to check the original academic/professional certification of the candidate before handing over charge to him.
6. In case the candidate fail to take over charge within 15 days of the issue of this order, his appointment shall stand automatically cancelled.
7. The candidate shall not be handed over charge if his age aced 33 years or below 18 years.

(Ghulam Mohmammad)
Director of Education
Malakand Division
At Gul Kada Swat.

Endst No: 1325-28/A-14/S.S/90

Dated 25/07/1990

Copy for information to the:

1. District Education Officer (M) Timergara.
2. Principal GHSS Samar Bagh Dist Dir
3. Candidate concerned
4. Personal File

Director of Educaiton
Malakand Division
At Gul Kada Swat.

Attended
M/S

C-14

original

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134

OFFICE OF THE DIRECTOR OF EDUCATION, MALAKAND DIVISION, AT GULKADA, SWAT.

APPOINTMENT.

Mr. Mohammad Amin M.A(English) S/O Mohammad Akbar village Gohara Distt:Swat is hereby appointed temporarily against Subject Specialist post at GHSS:Samrbagh, Distt:Dir in BPS:No.15 ORs:1165/-PM fixed plus usual allowances as due and admissible to him under the rules with effect from the date of his taking over charge in the interest of public service subject to the following terms and conditions:-

TERMS AND CONDITIONS.

1. No TA/DA is allowed.
2. Charge reports should be submitted to all concerned.
3. The appointment is made on purely temporary basis and liable to termination at any time without notice and assigning any reason. In case of resignation he will have to submit one month's prior notice to the Department or forfeit one month's pay in lieu thereof to the Government.
4. The candidate shall produce his health and age certificate from the civil surgeon concerned.
5. The Head of the institution is required to check the original academic/professional certificates of the candidate before handing over charge to him.
6. In case the candidate fail to take over charge within 15 days of the issue of this order, his appointment shall stand automatically cancelled.
7. The candidate shall not be handed over charge if his age exceed 33 years or below 18 years.

(GHULAM MOHAMMAD)
DIRECTOR OF EDUCATION
MALAKAND DIVISION
AT GUL KADA, SWAT.

Endst:No. 1325-28 /A-11/3.999

Dated 25/7 /1990.

Copy to the:-

1. District Education Officer (M) Timargara.
2. Principal, GHSS:Samr Bagh, Distt:Dir.
3. Candidate concerned.
4. Personal File.

A.D.E.O.
For/DIRECTOR OF EDUCATION
MALAKAND DIVISION
AT GUL KADA, SWAT.

Stamp: GHULAM MOHAMMAD

Rahim Khan/**

IN PESHAWAR, HIGH COURT PESHAWAR

- 115
- W.P. 667/92
- 25/1/83
- 15
1. ~~Shamsul Hadi S/o Abdullah, Resident of Matwali, PO Daggar, Tehsil Daggar, District Swat.~~
 2. Abdul Hamid Butt S/o Mohammad Asadullah Butt, Resident of Behrain, District Swat.
 3. Humayun Khan S/o Khan Bahader, Resident of Noor Mohammad Khel, PO Khar, Malakand Agency.
 4. Shahid Zafar S/o Zafar Ali Khan Resident of Village Dokri, PO Kumber, Tehsil Lal Qila, District Dir.
 5. Janidar S/o Jehandar Resident of Chakaser, Alpuri, Swat.
 6. Ali Haider S/o Sani Gul Resident of
 7. Sardar Ali S/o Bakht Akhtar, Resident of Mangior Tehsil Ebozi, District Swat. Petitioners.

Versus

1. Government of NWFP through Secretary Education, Peshawar.
2. Director of Education (Schools) NWFP, Peshawar.
3. Divisional Director (Schools) Malakand Division, Saidu Sharif, Swat. Respondents.

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

Respectfully sheweth,

1. That the petitioners are post graduates having qualified M.A/M.Sc examination in various subject are now serving in the Education Deptt. as subject Specialist. The appoints were made as a result of applications submitted by the petitioners in consequence of advertisement published in the Newspaper requiring therein the appointments in certain vacancies in Grade-17. Though the persons having the requisite qualification i.e., M.A/M.Ed/B.Ed were not available so the petitioners were considered for appointments and they were appointed as such through various appointments orders. The copies of the appointment orders are annexed as annexures A to F

2893
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ALLM Registrar

Stt

26-4-92

3100
R Filed today

ALLM Registrar

Att

4-5-92

ATTACHED

FORM 'A'
FORM OF ORDER SHEET

Court of.....

Case No..... of.....

| Serial No. of Order or Proceedings 1 | Date of Order or Proceeding 2 | Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3 |
|---|----------------------------------|--|
| | 2.3.93. | <p><u>W.P. No.667/92.</u></p> <p>Present: Mr.Tallat Qayum Qureshi, Advocate for the petitioner.</p> <p>He wants to withdraw from his writ petition since he wants first to avail his remedy by way of <u>appeal to the Chief Secretary Government of N.W.F.P.</u> provided under the first proviso to sub-section (1) of section 4 of N.W.F.P. Employees on Contract Basis (Regulation of Services) (Amendment) Act, 1990, Act II of 1990 and further requests for permission to file a fresh writ petition if need be in case he does not get a suitable redress from the said forum or otherwise.</p> <p>This writ petition along C.M. is hereby dismissed <u>in limine</u> as withdrawn and permission sought for is granted.</p> <p style="text-align: right;">_____ JUDGE.</p> <p style="text-align: right;">_____ JUDGE.</p> |

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 G. Dagan

28/4/93

~~Q~~ ~~Q~~ D-18

31-5-94

BEFORE THE N.W.F.P. SERVICE TRIBUNAL PESHAWAR.

Appeal No. 169/1993

Date of institution ... 27.5.1993

Date of decision ... 31.5.1994

Abdul Hamid, M.A. (Pol. Sc.), Subject
Specialist Pakistan Studies, Govt.
Higher Secondary School, Mingora Swat..... (APPELLANT)

VERSUS

- 1. Chief Secretary, Govt. of NWFP Peshawar.
- 2. NWFP, through the Secretary, Government of NWFP, Education Department, Peshawar.
- 3. Director of Education (Schools) NWFP, Peshawar.
- 4. Divisional Director Education (Schools) Malakand Division, Saidu Sharif, Swat.
- 5. Secretary Finance, Govt. of NWFP Peshawar... (RESPONDENTS)

MR. ATIQR REHMAN QAZI,
Advocate.

.. For appellant.

MR. MUHAMMAD SHAFI,
Government Pleader.

.. For respondents.

JUSTICE QAZI HAMID-UD-DIN
MR. TAJ MUHAMMAD KHAN

.. CHAIRMAN.
.. MEMBER.

17.1.1993

JUDGMENT.

JUSTICE QAZI HAMID-UD-DIN, CHAIRMAN: - This appeal has been filed by Abdul Hamid against the reluctance of respondent No. 1 to allow pay of the post of Subject Specialist (BPS-17) and to regularize the service of the appellant against the said post w.e.f. 5.3.1988. His prayer is that the respondents be directed to regularize the appellant's service as a Subject Specialist (BPS-17) w.e.f. 7.3.1988, the date of his assumption of the charge of his duties in accordance with the appointment order dated 5.3.1988.

ATTESTED

(19) (28)

The facts leading to the present appeal are that the appellant is qualified and is eligible for the post of Subject Specialist, having obtained M.A. (Pol. Science) Degree from the University of Peshawar in 1987. The appellant contends that the Provincial Government had upgraded the Govt. High School Mingora to the status of Government Higher Secondary School on 19.11.1987 vide Annexure-A on the file, and thereafter applications were invited for the posts of Subject Specialists and the appellant had also applied for one of the said post on 2.3.1988 through Annexure-C. He was appointed as SET. (BPS-15) against the vacant post of Subject Specialist in Government Higher Secondary School, Mingora Swat vide order dated 5.3.1988 (Annexure-D). According to the appellant, he was recommended for adjutment against the post of Subject Specialist and accordingly his adjutment order was issued on 26.4.1988, appointing the appellant as Subject Specialist in Pak Studies w.e.f. 19.4.1988, (Annexure-E) and since then he had been working continuously against the said post till date and is therefore, entitled to the pay of the post. The appellant contends that his appointment was on adhoc basis and by virtue of Act VIII of 1989, as amended by Act II of 1990, he stood regularized w.e.f. 5.3.1988. The appellant alongwith several others had filed a writ petition claiming regular status which was ultimately allowed to be withdrawn for availing the departmental remedy by way of appeal to the Chief Secretary NWFP as provided in the Act. The appellant, then filed a departmental appeal (Annexure-H) which has not been decided so far, hence the present appeal before this Tribunal for the redress of his grievance and respectfully maintains that the impugned omission on the part of the respondents to grant regular status to the appellant against the post of Subject Specialist (BPS-17), is ultra-vires of the law, arbitrary, discriminatory, mala fide, and without lawful authority.

The respondents No.1 to 5 have filed their reply and contested the appeal. In their reply the preliminary

ATTESTED

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objections of jurisdiction of the Tribunal, limitation, competency, of the appeal and cause of action have been raised. On factual side it has been stated that the appellant was appointed in BPS-15 on 5.3.88 against the post of Subject Specialist and he had accepted the appointment alongwith the pay scale and had never represented/appealed against his appointment in EPS-15. Moreover, his appointment alongwith others in BPS-15 against the post of Subject Specialist was temporary arrangement. Besides the post of S.Ss were to be filled through the Public Service Commission and the provision of Act VIII of 1989 and those of Act II of 1990 did not apply in the case of the appellant because he was not appointed on contract or adhoc basis in BPS-17. Since he was appointed on temporary basis in B-15 and as such his case was not covered under the aforesaid Acts.

Arguments heard and record perused. --

The appellant has been working as Subject Specialist in Grade-17 w.e.f. 5.3.1988 when he was posted against the vacant post of Subject Specialist in Government Higher Secondary School, Mingora Swat vide order dated 5.3.88 (Annexure-D) on the file and subsequently he was recommended for adjustment against the post of Subject Specialist in Pakintan Studies vide order dated 19.4.88 (Annexure-E). Accordingly respondent No.4 issued the adjustment order dated 26.4.88, appointing the appellant as Subject Specialist in Pak. Studies w.e.f. 19.4.88 and thus he has been working continuously against the post of Subject Specialist in Grade-17 ever since the date of his appointment upto date and therefore, he is entitled to the pay of the post. There is no dispute with respect to the legal position that a person who is working against the post is entitled to the pay thereon and thus the appellant is also entitled to the pay of the post as

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Subject Specialist from the date when he was adjusted as such, But the period for which he would be entitled to the pay of Subject Specialist would be reckoned upto 3 years back from the date when a writ petition was preferred in the High Court and the claim beyond that would be time barred. As regards the prayer for regularization of service it is for the department to process the case of selection of the appellant as Subject Specialist. The appeal is accepted in the above terms. Parties are left to bear their own costs and file be consigned to the record.

ANNOUNCED.
31.5.1994.

Dr. Hamid
(JUSTICE QAZI HAMED-UD-DIN)
CHAIRMAN

Taj Muhammad Khan
(TAJ MUHAMMAD KHAN)
MEMBER.

J. Ishaq

*Attested
Taj*

14.6.94
14.6.94
14.6.94
Fazal Sultan

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ANNEXURE -

E-22

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Saiduzzaman Siddiqui

Mr. Justice Fazal Ilahi Khan

Mr. Justice Muhammad Bashir Jehangiri

Civil Appeals Nos. 18, 128 and 539 to 551 of 1995

On appeal from the judgments of NWFP
Service Tribunal dated 31.5.1994 (CA. 128/95) &
(CA 18/95) and 24.7.1994 (in all other cases)
passed in appeals Nos. 169 & 156 to 168/93
respectively.

✓ CA 18/95
Abdul Hamid Vs. Chief Secretary,
NWFP & others

✓ CA 128/95
Chief Secretary, NWFP Vs. Abdul Hamid
& others

CA 539/95
Sardar Ali Vs. Chief Secretary,
NWFP & others
(in all cases
CA 539 to 551/95)

CA 540/95
Jehan Didar

CA 541/95
Muhammad Amin

CA 542/95
Ali Haider

CA 543/95
Hamidul Haq

CA 544/95
Mujtaba Khan

CA 545/95
Biradur Khan

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Superintendent
Supreme Court of Pakistan
ISLAMABAD

CA 18/95 etc.

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CA 546/95
Hassan Ali

CA 547/95
Derwash Khan

CA 548/95
Shahid Zafar

CA 549/95
Humayun Khan

CA 550/95
Fazal Iqbal

CA 551/95
Hamayun Khan son of
Jam Mian

For the appellant,
in CA 18/95

Mr. Muhammad Munir Peracha, ASC
Mr. Ejaz Muhammad Khan, AOR

For Chief Secretary
and Secretary Finance.

Mr. Fatch Muhammad, ASC

For appellant,
in CA 128/95

Mr. Fatch Muhammad, ASC
A.G. NWFP

Respondent.

in person

For appellants in
CAs 539 to 551/95.

Syed Safdar Hussain, AOR

For respondents:

Mr. Fatch Muhammad, ASC

Date of hearing:

26.2.1997

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CA 18/95 etc.

JUDGMENT

SAIDUZZAMAN SIDDIQUI, J.:- The above-mentioned 15 civil appeals with the leave of this Court are directed against the two separate judgments of learned N.W.F.P. Service Tribunal, Peshawar, dated 31.5.1994 and 24.7.1994 respectively. As the questions of law arising in these appeals are identical, we propose to dispose of these appeals by a common judgment.

2. Civil Appeal No. 18 of 1995 and 128 of 1995 are directed against the judgment of learned Service Tribunal dated 31.5.1994. Civil Appeal No. 18 of 1995 is filed by a civil servant, Abdul Hamid, while Civil Appeal No. 128 of 1995 is filed by Chief Secretary, Government of N.W.F.P. Appeals Nos. 539 to 551/95 are filed against the judgment of learned Service Tribunal dated 24/7.1994, by aggrieved civil servants.

3. The relevant facts for decision of these appeals are that appellants in Civil Appeal No. 18/95 and 539 to 551/95 were adjusted/appointed on temporary basis on different dates against the post of Subject Specialist

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CA 18/95 etc.

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which was a post in BPS.17. Prior to their appointments as Subject Specialists, the appellants were serving as teachers against the posts which were in BPS.15. The appellants were not regularized against the post of Subject Specialist and were also not paid the salary in BPS.17 by the department on the ground that they were not qualified to hold the post of Subject Specialist which was a post in BPS.17. After exhausting departmental remedies, the appellants approached the learned NWFP Service Tribunal through service appeals wherein they prayed for a direction to the department to regularize their services as Subject Specialist in BPS.17 and that they may be paid the minimum salary payable against the post of BPS.17 from the date of their respective appointments. The learned Service Tribunal through the two separate judgments mentioned above though held that the appellants were entitled to minimum pay of BPS.17 for the period the appellants actually worked against the post of Subject Specialist but allowed the claim for arrears of pay only for a period of

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CA 18/95 etc.

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three years from the date the respective appeals were filed before the Service Tribunal by the appellants. The claim for arrears of pay beyond the period of three years was disallowed by the learned Tribunal. In so far the claim for regularization was concerned, the learned Tribunal left the question to be decided by the department in accordance with the law. Leave was granted in Civil Appeal No. 18 of 1995 and 539 to 551 of 1995 to consider, whether the observation of learned Tribunal that the appellants were only entitled to three years arrears of pay from the date they filed their respective appeals before the Tribunal, was justified and whether the claim of the appellants beyond the period of three years as mentioned above could not be recovered as it had become time barred. Leave was also granted in Civil Appeal No. 128 of 1995 filed by the Government of NWFP to consider the contention of the department whether the appellants could not claim the salary against the post of Subject Specialist (B.17) as they were not qualified to be

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Supreme Court of Pakistan
 (L.A.A. No. 128)

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CA 18/95 etc.

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appointed as Subject Specialist as they had not
 obtained the degree of B.Ed and M.Ed, which was the
 required qualification for the said post. We have
 heard the learned counsel for the appellants as well as
 learned counsel for the Government of N.W.F.P. in the
 above appeals.

4. We will first of all take Civil Appeal
 No. 128 of 1995 filed by the Government of N.W.F.P.
 against the judgment of Service Tribunal dated 31.5.1994.
 We may mention here that in so far the judgment of
 Service Tribunal dated 24.7.1994 in the remaining appeals
 is concerned, that has not been impugned by the
 Government of N.W.F.P. The respondent in Civil Appeal
 No.128 of 1995 was appointed as S.E.T. in B.15 and
 adjusted against the post of Subject Specialist vide
 order dated 26.4.1988 w.e.f.19.4.1988. The respondent was
 denied regularization against the post of Subject
 Specialist B.17 as well as pay in B.17 on the ground that
 his appointment as S.E.T. in B.15 was temporary appointment

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CA 18/95 etc.

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and therefore, he was not entitled to draw salary against the post of Subject Specialist which was a post in B.17. The learned Tribunal upheld the claim of the respondent in Civil Appeal No.128/95 with regard to payment of minimum pay of B.17 as he was holding the post of Subject Specialist continuously from the date of his appointment. However, the learned Tribunal did not allow the claim of the respondent beyond the period of three years from the date he filed writ petition in the High Court on the ground that the pay for the period beyond that period was time barred. The learned counsel for the appellants in Civil Appeal No.128 of 1995 contended that the respondent was not entitled to draw the salary against the ^{post of} Subject Specialist which was a post in B.17 as he did not possess the required qualification namely B.Ed or M.Ed. This contention of the appellants in Civil Appeal No.128 of 1995 was rejected by the Tribunal and rightly so in view of the decision in

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WA 18/95 etc.

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the case of Islamic Republic of Pakistan Vs. Abdul Karim (1978 SCMR 289) and Federation of Pakistan Vs. Shahzada Shahpur Jan (1986 SCMR 991). We, accordingly, find no substance in the contention of the appellants in Civil Appeal No. 128 of 1995 which is, accordingly, dismissed.

5. We now take up Civil Appeals Nos. 18/95 and 539 to 551/95. In all these appeals, the appellants had claimed arrears of pay from the date they were appointed as Subject Specialists in B.17. The learned Tribunal though accepted their contention that having worked in the higher post in B.17, they were entitled to get minimum pay of B.17 from the date of their respective appointments but their claim for arrears of salary was allowed only for a period of three years in the ^{civil} appeal No. 18/95 from ^{the date of} filing of writ petition in High Court and in all other cases from the date of institution of appeals before the learned Tribunal by the appellants in each case. The learned Counsel for the Government has not been able to point out

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CA. 18/95 etc.

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any law under which the claim for arrears of salary of the appellants could be denied on the ground that it had become time barred. The learned Tribunal having held that the appellants were entitled to draw the minimum salary in Pay Scale No.17 from the date of their appointment as Subject Specialist, could not reject the part of the claim of their salary on the ground that they were only entitle to recover salary for three years from the date they filed appeals before the Service Tribunal. It may be mentioned here that the question regarding payment of salary of BPS.17 post was being agitated by the appellants from the dates of their appointments, first before the departemntal authority and thereafter before the Service Tribunal. In these circumstances, it was hardly open to argument that their claim for salary for the period they worked against the post of Subject Specialist B.17 had become time barred. The controversy with regard to entitlement of pay against the post of B.17 having been agitated and finally decided by the Service Tribunal through the impugned judgments

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 Supreme Court of Pakistan
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CA 18/95 etc.

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the appellants were entitled to the arrears of salary for the entire period they have worked against the post of Subject Specialist in B.17 on the basis of minimum pay payable against B.17. We, accordingly, partly allow appeals Nos. 48 of 1995 and 539 to 551/95 and modify the order of the learned Service Tribunal to the extent that the appellants in these appeals were entitled to the payment of ^{minimum} salary against the post of Subject Specialist B.17 from the dates of their ^{respective} appointments.

6. In so far the claim of appellants in the above appeals with regard to their regularization against the post of Subject Specialist B.17 is concerned, the learned Tribunal rightly declined to grant the same as in the first instance the question of regularization of appellants against the post of Subject Specialist is, to be considered by the department. Therefore, no exception can be taken to the judgment of the Tribunal in so far it left the question of regularization of appellants against the post of Subject Specialist B.17

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Supreme Court of Pakistan
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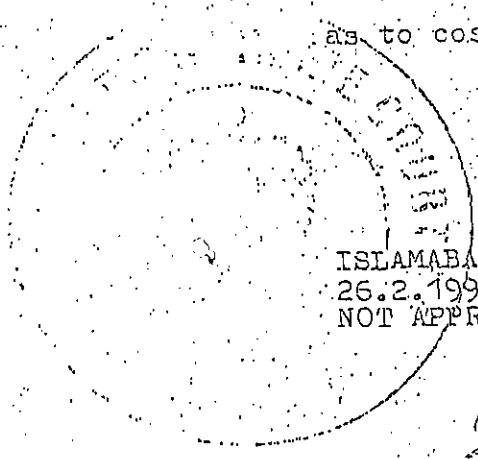
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to be decided by the department. The appeals stands disposed of, accordingly, with no order as to costs.

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ISLAMABAD
26.2.1997
NOT APPROVED FOR REPORTING.

Prof. Saad ul Zaman Siddiqui
Prof. Fazal Ghani Khan
Prof. Muhammad Bashir Jaleel

Consent to do true copy

M. J. Anwar
27/3/97

Superintendent
Sup. Secy. Office of Pakistan
ISLAMABAD

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M. Abdul Haque

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GOVERNMENT OF N.W.F.P.
EDUCATION DEPARTMENT.

NOTIFICATION.

NO. SO(S)7-15/93/S.S. Consequent upon the decision of the Supreme Court of Pakistan dated 26.02.1997, the following Subject Specialists are hereby allowed the minimum pay in BS-17 alongwith increments against the post of Subject Specialists with effect from the dates of their appointments noted against their names:-

| | | |
|-----|--|------------|
| 1. | Mr. Abdul Hamid, S.S., Mingora, Swat. | 05.03.1988 |
| 2. | Mr. Sardar Ali, S.S., GHSS, Samar Bagh, Dir | 11.12.1989 |
| 3. | Mr. Jehan Didar, S.S., GHSS, Samar Bagh, Dir | 14.12.1989 |
| 4. | Mr. Muhammad Amin, S.S., GHSS, Samar Bagh, Dir | 25.07.1990 |
| 5. | Mr. Ali Haidar, S.S., GHSS, Khawaza Khela, Swat. | 21.03.1990 |
| 6. | Mr. Hamidul Haq, S.S., GHSS, Ziarat Talash, Dir. | 13.02.1990 |
| 7. | Mr. Mujtaba Khan, S.S., GHSS, Ouch, Dir | 24.03.1990 |
| 8. | Mr. Biradar Khan, S.S., GHSS, Wari, Dir | 29.03.1990 |
| 9. | Mr. Hasan Ali, S.S., GHSS Charbagh, Swat | 07.12.1989 |
| 10. | Mr. Darvesh Khan, S.S., GHSS, Ziarat Talash, Dir | 03.03.1988 |
| 11. | Mr. Shahid Zafar, S.S., GHSS, No.2, Mingora. | 09.03.1988 |
| 12. | Mr. Humayun Khan, S.S., GHSS, Samar Bagh, Dir | 25.05.1988 |
| 13. | Mr. Fazil Iqbal, S.S., GHSS, Samar Bagh, Dir | 17.08.1988 |
| 14. | Mr. Humayun Khan, S.S., GHSS, Lal Qilla, Dir | 03.03.1988 |

This order is issued only for the purpose of fixation of their pay subject to the condition that they will not be entitled to claim any seniority against the post of Subject Specialists.

SECRETARY TO GOVT. OF NWFP,
EDUCATION DEPARTMENT.

Endst: No. SO(S)7-15/93/S.S. Dated Peshawar the 28th May, 1997

Copy forwarded to the:-

1. Director of Secondary Education, NWFP, Peshawar.
2. District Accounts Officers, Swat and Dir.
3. Officers concerned.

Sd/-
(MUIHAMMAD ILIYAS)
Section Officer (Schools)

GOVERNMENT OF N.W.F.P.
EDUCATION DEPARTMENT.

Annexive

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RESOLUTION:

Consequent upon the decision of the Supreme Court of Pakistan dated 26.2.1997, the following Subject Specialists are hereby allowed the minimum pay in 16-17 class with increments against the post of Subject Specialist. Their names and dates of their appointments noted against their names.

- | | |
|--|-------------|
| 1. Mr. Ghulam Ahmad S.S. GHSS Mingora Swat. | 5.3.1988. |
| 2. Mr. Saad Ali SS GHSS Samar Bagh Dir. | 11.12.1989. |
| 3. Mr. Hashim Dildar S.S. GHSS Samar Bagh Dir | 14.12.1989. |
| 4. Mr. Muhammad Amin S.S. GHSS Samar Bagh Dir | 25.7.1990. |
| 5. Mr. ALI Haidar SS GHSS Khawaja Khala Swat | 21.3.1990. |
| 6. Mr. Hamidul Haq SS GHSS Ziarat Talash Dir | 15.2.1990. |
| 7. Mr. Mujtaba Khan SS GHSS Ouch Dir | 24.5.1990. |
| 8. Mr. Saad Ali SS GHSS Wadi Dir | 29.3.1990. |
| 9. Mr. Hashim Ali SS GHSS Churbagh Swat | 7.12.1989. |
| 10. Mr. Parvesh Khan SS GHSS Ziarat Talash Dir | 3.3.1988 |
| 11. Mr. Sahid Zafar SS GHSS No.2 Mingora | 9.3.1988 |
| 12. Mr. Humayun Khan SS GHSS Samar Bagh Dir | 25.5.1988 |
| 13. Mr. Farid Iqbal SS GHSS Samar Bagh Dir | 17.8.1988 |
| 14. Mr. Dir | 5.5.1988 |

This order is issued only for the purpose of fixation of their pay subject to the condition that they will not be entitled to claim any seniority against the post of Subject Specialists.

SECRETARY TO GOVT. OF N.W.F.P.
EDUCATION DEPARTMENT.

Dated Peshawar, the 25th May, 1997.

Order No. SO(5)7-15/95/S.S.

Copy forwarded to the

1. Director of Secondary Education NWFP Peshawar.
2. District Accounts Officers Swat and Dir.
3. Officers concerned.

(Signature)
MOHAMMAD ALYAS
Section Officer (Schools)

ATTACHED

GOVERNMENT OF W.P.P.
EDUCATION DEPT. PESHAWAR.

Dated Peshawar the 15.2.1999.

C E R T I F I C A T E

No. 30(S)7-15/95 Muhammad Riaz. Consequent upon the decision of the Service Tribunal Peshawar dated 10.7.1995, Mr. Muhammad Riaz, Subject Specialist (Pak Study) GHS New Darband Mansehra, presently GHS Baffa Mansehra is hereby allowed graded pay in BPS-17 along with increment against the post of subject specialist w.e.f. 23.5.1998.

2. This order is issued only for the purpose of fixation of his pay subject to the condition that he will claim his seniority against the post of Subject Specialist after acquiring the prescribed qualification.

SECRETARY TO GOVT. OF W.P.P.,
EDUCATION DEPT. PESHAWAR.

Endst: No. 30(S)7-15 Muhammad Riaz Dated Peshawar the 15.2.1999.

Forwarded to the:-

1. Director of Secondary Education with reference to his letter No. 754 dated 4.12.1998.
2. District Education Officer (M) Secondary Mansehra.
3. District Accounts Officer, Mansehra.
4. Principal, GHS New Darband Mansehra.
5. Principal, GHS, Baffa, Mansehra.
6. Officer concerned.

(Signature)
(MUNIR ILYAS)
SECTION OFFICER (COOAD)

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APPEALS
J-(42)

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 2175/1997

Date of institution - 21.10.1997

Date of decision - 17.08.2004

Abdul Hamid, Subject Specialist,
GHSS Fatehpur District Swat

(APPELLANT)

Versus

- 1. Secretary Education Department, NWFP Peshawar.
- 2. Chief Secretary NWFP Peshawar.
- 3. Accountant General NWFP Peshawar.
- 4. Director (Secdry) Education NWFP Peshawar..... (RESPONDENTS)

Mr. Atiqur Rehman Qazi Advocate..... For appellants.
 Mr. Zulfikar Ali Govt. Pleader..... For respondents.

MIAN SAHIB JAN MEMBER.
 MR. MUHAMMAD SHAUKAT MEMBER.

JUDGMENT

MIAN SAHIB JAN, MEMBER:- This appeal has been filed by the appellant against the order dated 28.5.1997 whereby while allowing the minimum pay to BPS-17 alongwith increments against the post of Subject Specialist from the date of his appointment, respondent No. 1 denied the appellant's right to claim seniority of Subject Specialist with the prayer that the respondents be directed to delete the last five lines of the impugned order, allowing him seniority from the date of his appointment as Subject Specialist and all the consequential benefits.

2. Brief facts of the case as narrated in the memo of appeal are that the appellant was initially appointed as Subject Specialist on 05.03.1988 and was allowed fixed pay in BPS-15 instead of minimum of BPS-17. The appellant initially held the master Degree at the time of his appointment and he obtained his B.Ed Degree subsequently in 1993. Having thus become fully qualified for the post of Subject Specialist (BPS-17) the respondents were required to regularize his service as a Subject Specialist.

ATTORNEY
 NWFP Service Tribunal
 Peshawar

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from the date of his initial appointment. As the respondents declined to allow the benefits of service due to the appellant, he was obliged to approach this Tribunal, where his appeal was allowed entitling him to the pay of the post in BPS-17 from the date of his appointment but he was not allowed full arrears due. The question of regularization of his service was left to be dealt with by the department. Therefore, the appellant approached the Hon'ble Supreme Court of Pakistan for the grant of the claim and the respondent department also challenged the decision of the Service Tribunal which were disposed vide judgment dated 26.2.1997 granting inter-alia, the relief of arrears of pay of BPS-17 from the date of appointment. The question of regularization of his service as Subject Specialist was however left to be decided by the department but they have failed to regularize the service of the appellant so far. The appellant made a departmental appeal on 03.07.1997 but with no response.

3. The appellant has assailed the impugned order on the grounds that the qualification prescribed for the post of Subject Specialist was Master Degree in the subject with B.Ed. The appellant possessed the Master Degree in the subject at the time of his initial appointment and he secured the B.Ed Degree in the year 1993 subsequently. The requirement of B.Ed degree as a pre-requisite qualification was relaxed, so this additional qualification is no more required. Any way the appellant possessed both the qualifications and was eligible for regular appointment. The Hon'ble Supreme Court of Pakistan having allowed the pay of the post, the respondents are bound to comply and they have no other option.

4. The following 13 other subject Specialists appointed in a similar way and working so far as irregular appointees have also submitted appeals

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 NWFP Services Tribunal
 Peshawar

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before the Tribunal having the same grievance and seeking appointment on regular basis from the date of their appointment as subject specialists:

| S.No. | Name of Subject Specialist | Appeal No. | and Date |
|-------|----------------------------|------------|------------|
| 1. x | Fazal Iqbal | 2176/1997 | 21.10.1997 |
| 2. | Hamayun Khan | 2177/1997 | 21.10.1997 |
| 3. | Darwesh Khan | 2178/1997 | 21.10.1997 |
| 4. x | Shahid Zaffar | 2179/1997 | 21.10.1997 |
| 5. | Jehan Didar | 2180/1997 | 21.10.1997 |
| 6. | Sardar Ali | 2181/1997 | 21.10.1997 |
| 7. | Muhammad Amin | 2182/1997 | 21.10.1997 |
| 8. | Mujtaba Khan | 2183/1997 | 21.10.1997 |
| 9. | Beradar Khan | 2184/1997 | 21.10.1997 |
| 10. | Ali Haidar | 2185/1997 | 21.10.1997 |
| 11. | Hamidul Haq | 2186/1997 | 21.10.1997 |
| 12. x | Hussain Ali | 2187/1997 | 21.10.1997 |
| 13. | Humayun Khan | 2188/1997 | 21.10.1997 |

5. The arguments of the learned counsel for the appellant and learned Government Pleader for the respondents have been heard and record perused.

6. The learned counsel for the appellant contended that the appellants were appointed against the posts of Subject Specialist in the years 1988 to 1990 when no qualified persons were available for the job. The appointments are neither on contract basis nor on adhoc basis but their appointments orders show that the appellant were appointed on regular basis. They have been allowed the pay scale of their posts i.e. BPS-17 by this Tribunal as well as the Hon'ble Supreme Court of Pakistan but their services are yet to be regularized. They have been working against the posts of Subject Specialists satisfactorily for the last over 15 years and have gained sufficient experience

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NWFS Service Tribunal
Peshawar

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of the job and hence their services need to be regularized from the date of their appointment.

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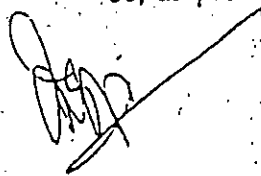
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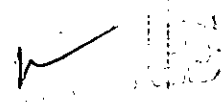
7. The learned Government Pleader argued that the posts of Subject Specialists fall within the purview of the Public Service Commission and no regular appointment to the post can be made except on the recommendation of the Public Service Commission. The Service Tribunal and Hon'ble Supreme Court of Pakistan have allowed the pay scale of the post i.e. BPS-17 for the reason that the appellants are actually working against the post of Subject Specialist whereas their regularization of service was left by the courts to be decided by the department in the light of the relevant rules on the subject.

8. Under the rules, initial appointment to the posts of Subject Specialists (BPS-17) are required to be filled by the Public Service Commission after advertising the posts minimum qualification for the post is M.A/M.Sc in the subject plus B.Ed. The post against which the appellants were appointed were neither advertised nor the appointments were made through the Public Service Commission nor any criterion was followed so as to ensure some level of merit while making these appointments. The order of appointments of the appellants have been carefully examined which reveal that the following irregularities were committed in these appointments:

- a. Initial appointment to the post of subject specialist (B-17) under the rules, is made through the Public Service Commission but the Commission was by-passed while making these appointments.
- b. The posts were required to be advertised by the Public Service Commission or by the departmental authority, as the case may be, as provided in sub rule (2) of rule 10 of the NWFP Civil

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NWFP Service Tribunal
Peshawar.





Servants(Appointment, Promotion and Transfer) Rules
However, the posts against which the appellants were appointed were not advertised and hence eligible candidates were deprived of the opportunity to apply for these posts.

c. The appointments were made on pick and chose basis without following any criterion in disregard of merit. They were appointed through single orders or order of groups of 2 or 3 persons. Neither applications were invited nor any Committee formed to scrutinize the applications nor any criterion was followed to maintain some level of merit.

d. Minimum qualification prescribed for the post of subject specialist (B-17) is M.A/M.Sc. B.Ed. However, 9 of the above noted appellants did not possess B.Ed degree and hence were not qualified for the post at the time of their appointments. 8 of the appellants were appointed as SET's in BPS-15 and adjusted against the vacant posts of subject specialist as there were no vacant posts of SET's against which appointments were made. The posts of subject specialists are placed in BPS-17 but the appellants were appointed in BPS-15. The appellants having not obtained B.Ed Degree were also not qualified for the post of SET then in BPS-15.

e. The vacant posts required to be filled by initial recruitment are distributed among merit and five zones declared on the basis of population so as to ensure due representation of all the regions in the provincial services. While making these appointments the zonal allocation formula has been disregarded thus

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NWED SERVICES TRIBUNAL
Peshawar

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depriving deserving candidates of other Zones from their due rights.

9. The appellant subsequently agitated that they were performing the duties of the post of subject specialist (BPS-17) but they were appointed in BPS-15 fixed, therefore, they deserved to be granted BPS-17 with increments and their services regularized. The NWFP Service Tribunal vide judgments on Appeal No. 169/1993 and 156 to 168/1993 and the Hon'ble Supreme Court of Pakistan vide judgment dated 27.02.1997 allowed the pay scale of the post i.e. BPS-17 with increments from the date of their appointments with arrears. However, with regard to the request of the appellants for regularization of their services, the Hon'ble Supreme Court upheld the judgment of the Service Tribunal that the question of regularization of services of the appellants against the posts of subject specialists (B-17) would be decided by the department.

10. The learned counsel for the appellants also submitted an application dated 12.12.2003 alongwith a copy of the judgment of this Tribunal dated 16.07.1996 and Notification dated 15.2.1999 issued by the respondent department allowing graded pay in BPS-17 to one Muhammad Riaz, Subject Specialist w.c.f. 23.05.1988 and seniority from the date after acquiring qualification prescribed for the post. The learned counsel for the appellant argued that the appellants be also given regularization and seniority from the date they acquired the qualification prescribed for the post. Interestingly the Service Tribunal in its judgment dated 16.7.1996 on Appeal No.92 of 1995 had directed the department either to absorb the appellant in BPS-15 or to grant him BPS-17 as subject specialist from the date of his appointment. There was no mention of regularization of his service or seniority in the judgment but the respondent department, on its own accord, had added para 2 to its notification dated 15.2.1999 that the appellant "will claim seniority against the

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Tribunal

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post of subject specialist after acquiring the prescribed qualification." and resultantly the appellant's services were regularized w.e.f. 17.10.1992. The appellant again came to the Tribunal in Appeal No. 649 of 2000 against the aforesaid notification seeking regularization from the date of his appointment to service i.e. 24.5.1988. The Tribunal in its short order dated 01.07.2002 declared that since the appellant has already been given seniority by the respondent department w.e.f. 17.10.1992, therefore, the Tribunal needed not to discuss the same issue again in detail and the appeal was decided accordingly. It is was for the respondent department to investigate as to how a judgment of the Service Tribunal was implemented 2 years and 6 months after its announcement and the appellant was also given seniority from the date of acquiring prescribed qualification vide notification dated 15.02.1999 beyond the scope of judgment of the Tribunal. However, the judgment of the Tribunal passed in case of Muhammad Riaz is not applicable to the case of appellants because of the fact that the Tribunal had decided the case of appellants vide two judgments dated 31.05.1994 and 24.07.1994 in Appeals No. 156 to 168 of 1993 and Appeal No. 169 of 1993 which had been challenged in the Hon'ble Supreme Court of Pakistan by the Government as well as the appellants and decision of the Hon'ble Supreme Court on those civil appeals was announced on 26.2.1997 upholding the view of the Tribunal that regularization of service of subject specialists would be decided by the department.

11. The present appeals have been filed by the appellants for regularization of their services from the date of their appointment with all back benefits thereby meaning the grant of seniority, selection grade and promotion on the basis of their seniority from the date of their appointments to service. The Tribunal in its earlier decision upheld by the Hon'ble Supreme Court of Pakistan had observed that regularization of services of the appellants would

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be decided by the Department. The Tribunal still holds the same view on regularization of services of the appellants on the following grounds;

- a. As stated earlier, the appointments of the appellants were made on pick and chose, political and other consideration in violation of rules with regard to advertising of the posts, selection through the Public Service Commission, zonal allocation formula in total disregard of merit. The appointments are therefore, irregular and illegal ab-initio which cannot be validated with the justification only of long time passed since after their appointments. The respondent department knowingly that the appellant's appointments were irregular, is sitting on the case for the last over 15 years perpetuating its wrongful action. The appellants on the other hand are trying to get their irregular services regularized at the cost of others, which would be a proposition far from justice.
- b. The Tribunal as well as the Hon'ble supreme Court of Pakistan have allowed BPS-17 with increments to the appellants being the pay scale of the post against which they had been performing duties since the date of their appointments which was their right but the regularization of their services was left to the Department to consider the same in the light of the rules. BPS-17 with increments to the appellants working against the posts of subject specialist (B-17) does not necessarily mean that their services should be regularized from the date of their appointment to the said posts to the detriment of damaging the vested rights of subject specialists already appointed as such on regular basis and on merit.

12. In view of the above discussion, the Tribunal is not inclined to be come a party and contribute to validate or to perpetuate any irregular and illegal appointment made in utter violation of rules and merit and to make any intervention with regard to regularization of service and the consequential benefits including seniority to such irregular/illegal appointees at the cost of other qualified subject specialists appointed on regular basis to the service on merit so far. The Tribunal as per its earlier judgments dated 31.5.1994 and 24.07.1994 upheld by the Hon'ble Supreme Court of Pakistan vide its judgment dated 26.2.1997 again directs the respondent department to settle the long standing issue of regularization of services of the appellants as per rules in a reasonable span of time. The case is, therefore, remanded back to the

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 NWFP Service Tribunal
 Peshawar.

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department for necessary action. This appeal alongwith all the other 13 appeals mentioned in para-4 above are disposed of accordingly.

13. No order as to costs. File be consigned to the record.

ANNOUNCED.

17.8.2004.

M. Sahib Jan
(MIAN SAHIB JAN)
MEMBER

Muhammad Shaukat
(MUHAMMAD SHAUKAT)
MEMBER

Qualified to be the copy.
[Signature]
EXAMINER
SPP Service Tribunal
Peshawar

Date of Presentation of Appeal..... 26.8.2004
Number of Words..... 3600
Copping Fee..... 20/-
Urgent.....
Total.....
Name of Copyist.....
Date of Copyistation..... 20.9.2004
Date of Delivery of Copy..... 20.9.2004
Date of Delivery of Copy.....

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H - (44)

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ANNEXURE "K"
GOVERNMENT OF N.W.F.P
SECONDARY & HIGHER - EDUCATION DEPTT:
DATE PESHAWAR THE - 27-10-2001

NOTIFICATION

No. so (s) /2-3/2001:

The Competent Authority In Consultation With The Departmental Promotion Committee Is Pleased To Allow Move - Over From Bps - 17 To Bps - 18 In Respect Of The Following Officers Of School Admn : Branch (Man Section) With Effect From The Date Noted Against Each :-

| S.NO. | NAME OF THE OFFICER. | Date of entitlement Of move - over to B-18. |
|-------|---|--|
| 1. | Mr. MUZAMIL KHAN, librarian, GHSS No .4, D.I khan | 1-12-1999. |
| 2. | Mr. Awal Khan, librarian, GHSS, Sherpao, Charsedda. | 1-12-1999. |
| 3. | Mr. Muhammad Basher, H.M, GHS, Datta, Mansehra. | 1-12-1999. |
| 4. | Mr. Muhammad Nasir, 4.M, GHS, Machi, Mardan | 1-12-2000. |
| 5. | Mr. Zahid khan, S.S, GHAA, ouch Dir. | 1-12-2000. |
| 6. | Mr. Shultan Mahmood, I/C S.S, GHSS, ouch dir | 1-12-2000. |
| 7. | Mr. Hamayun, S.S, GHSS, Madayan, swat. | 1-12-2000. |
| 8. | Mr. Abdul Hamid, S.S. GHSS, Madayan, swat. | 1-12-2000. |
| 9. | Mr. Hamayun khan, s.s GHSS, Totakan, Malakand. | 1-12-2000. |
| 10. | Mr. Muhammad Ibrahim, S.S. GHSS, Urmar Payan Peshawar. | 1-12-2000. |
| 11. | Mr. Muhammad Salim, I/C H.M GHS No.3, D.I. khan | 1-12-2000. |
| 12. | Mr. Sardar Hussain. Set, GHS, Puran Shangla. | 1-12-2000. |
| 13. | Mr. Sher Dadl khan, I/C H.M GHS, Bannu. | 1-12-2000. |
| 14. | Mr. Shah zaman, I/C S.S. GHS, Mohar, Mansehra. | 1-12-2000. |
| 15. | Mr. Ismail. Set, GHS No. 2, Peshawar Cantt: | 1-12-2000. |
| 16. | Mr. Abdul Samad, I/C H.M GHS, Hund, Swabi. | 1-12-2000. |
| 17. | Mr. Syed Muhammad Akbar shah, set GHSS, S/Fort, Charsadda | 1-12-2000. |
| 18. | Mr. Umar khan, I/C S.S GHSS, Deraoand, Peshawar. | 1-12-1999. |
| 19. | Mr. Muhammad Sher khan, SFT, GHS, Azan Killa, Bannu. | 1-12-2000. |
| 20. | Mr. Shasur Rehman, Set, GHS, Shamsha abad. | 1-12-2000. |
| 21. | Mr. Taj Muhammad khan, Set, MGS, Sangota, Swat. | 1-12-2000. |
| 22. | Mr. Jnayatullah, set, GHS. Giloti, D.i khan | 1-12-2000. |
| 23. | Mr. Kifayatullah Jan, set, GHS, Bannu | 1-12-2000. |
| 24. | Mr. Fazile Rabbani, Set, Ghss, Shabqadar fort Charsadda. | 1-12-2000. |

S.NO. Name of the Officer.

Date of entitlement of
move-over to 4-13.

64. Mr. Sabir Hussain, SET, GHS No. 2, Mansehra. 1-12-2000.
65. Mr. Inamullah Khan, Senior Instructor, Govt: Agro: Tech: Teacher Training Centre, Peshawar. 1-12-2000.
66. Mr. Muhammad Farid, I/C H.M., GHS, Inzari, Nowshera. 1-12-2000.
67. Mr. Masood Guha, SET, GHS No. 2, Peshawar City. 1-12-2000.
68. Mr. Said Zarin, I/C S.S. GHSS, B/Khela, Swat. 1-12-2000.
69. Mr. Rehman Shah, SET, GHS, Tarappi, Mansehra. 1-12-2000.
70. Mr. Behran Khan, SET, GHS, Dherai, Swat. 1-12-2000.
71. Mr. Arangzeb, SET, GHSS, Sharpa, Charsadda. 1-12-2000.
72. Mr. Faqir Muhammad, SET, GHS No. 2, Peshawar City. 1-12-2000.
73. Mr. Muhammad Zamin, SET, GHS, B/Khela, Swat. 1-12-2000.
74. Mr. Saifullah SET, GHS, Balakot Mansehra. 1-12-2000.
75. Mr. Abdur Rasool, SET GHS, Shinkiani, Mansehra 1-12-2000.
76. Mr. Sher Daraz Khan, SET GHS, Kotka 1-12-2000.
77. Mr. Muhammad Aslam, SET, GHS, Takiya Sheikhani, A/Abad. 1-12-2000.
78. Mr. Muhammad Sarwar, SET, GHS, C.C. Thana, Malakand. 1-12-2000.
79. Mr. Ismatullah Khan, ADEO (M/S) Lakki. 1-12-2000.
80. Mr. Hamidullah Khan, SET, GHS No. 2 Lakki. 1-12-2000.
81. Mr. Fazli Nawab, SET, GHS, Bagai, Swabi. 1-12-2000.
82. Mr. Abdul Ghafoor, SET, GHS, Balogram, Swat. 1-12-2000.
83. Mr. Faridoon, SET, GHS, Haibatgram, Malakand. 1-12-2000.
84. Mr. Shamsul Islam Anjum, Ex-Off: Principal, GHS, Khanpur, Haripur. 1-12-1999.
85. Mr. Sardar Khan, Instructor, GHS (M), Mansehra. 1-12-1999.
86. Mr. Gul Dad Khan, I/C S.S., GHSS, Doaba, Hangu. 1-12-2000.
87. Mr. Abdul Khaliq, SET, GHS, Kalo Lund Khawar, Mardan. 1-12-2000.
88. Mr. Mumtaz Khan, SET, GHSS, Par Paddi, Mardan. 1-12-2000.
89. Mr. Bakht Ali, SET, GHS, Sara Buner. 1-12-2000.
90. Mr. Shah Baz Khan, SET, GHSS, Ziarat Talash, Dir. 04-12-2000.
91. Mr. Khush Noor Muhammad, SET, GHS, Takiya Singan, Peshawar. 1-12-2000.

SECRETARY TO GOVT. OF NWFP
SECONDARY & HIGHER EDUCATION DEPT.

ENDST: NO. & DATE EVEN.

Copy forwarded for information & n/action to:

- 1- The Director Secondary Education, NWFP, Peshawar.
- 2- The Accountant General, NWFP, Peshawar.
- 3- The Accounts Officers of the Distt./Agency Concerned.
- 4- The Officers concerned.
- 5- The P.S. to Secretary Education, SRHS Deptt: NWFP.

(S. ISLAM SHAH)
SECTION OFFICER (C/O)

ANNEXURE L

I-46

Directorate of Schools & Lit:-
N.W.F.P. Peshawar.

No. 2721 / F.No. 140/Estab: I/
Abdul Hamid Butt SS.

Dated Pesh: the 20/4 /2005.

The Section Officer(Schools)
Schools & Lit: Deptt: Govt: of,
N.W.F.P. Peshawar.

SUBJECT:-

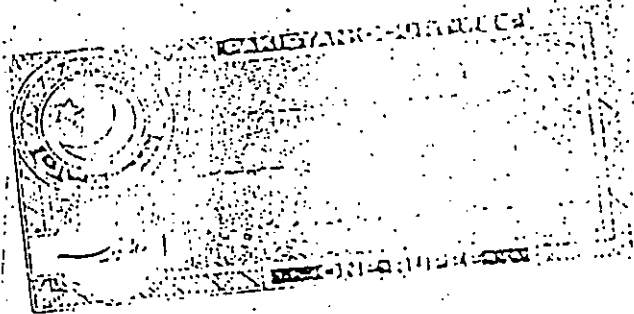
IMPLEMENTATION OF SERVICE TRIBUNAL NWFP PESHAWAR ORDER
DATED 17-8-2004 PASSED IN SERVICE APPEAL NO. 2175/1997.

Memo:-

I am directed to refer to your letter No. SO(S)1-4/2005/
Regularization SS/Seniority dated 26-3-2005 on the subject cited above
and to return the complete 5 sets duly signed by Director Schools and
Literacy, N.W.F.P. Peshawar as desired please.

Encls: As Above.

[Signature]
Deputy Director (Estab:)
Directorate of Schools & Lit:-
N.W.F.P. Peshawar.



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20/4/05

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WORKING PAPER FOR DPC

Subject: Regularization of services of subject specialists with benefit of seniority

The following applicants were appointed as subject specialists in relevant subject on different dates noted against each in various higher secondary schools and were allowed BPS 15 fixed instead of BPS 17.

| S.No | Names of SS | Date of Appointment | Date of Passing Bed |
|------|---------------|---|---------------------|
| 1. | Abdul Hameed | Vide no.4298-403 /ST/V/87-88 dated 5/3/88 Annexure "A" | (8 May 1994) |
| 2. | Fazal Iqbal | Vide no.2882-85.S.T.V.dated 17/2/88 Annexure "B" | (8 May 1994) |
| 3. | Hamayoon | Vide no.4235-40/S.T.V dated 3/3/88 | (6 May 1993) |
| 4. | Darwash Khan | Vide no.4235-40/S.T.V dated 3/3/88 Annexure "C" | (25 May 1996) |
| 5. | Jehan Didar | Vide no.35407-10 dated 14/12/89 Annexure "D" | (27 April 1992) |
| 6. | Sardar Ali | Vide no.35209-12 dated 11/12/89 Annexure "E" | (16 April 1998) |
| 7. | Mohammad Amin | Vide no.1325-28A-14/S.S90 dated 25/7/90 Annexure "F" | (15 April 1993) |
| 8. | Mujtaba Khan | Vide no.3209-12/Mujthaba dated 24/3/90 Annexure "G" | (6 May 1996) |
| 9. | Beradar Khan | Vide no.3168-76A-14/S.S /90 dated 21/3/90 Annexure "H" | (19 November 1990) |
| 10. | Ali haider | Vide no. 3168-76A-14/S.S ECO /90 dated 21/3/90 Annexure "H" | (26 November 1989) |
| 11. | Hamid-ul-Haq | Vide no.222-26/ 14/SET/90 dated 13/2/90 Annexure "I" | (26 November 1989) |
| 12. | Hussain Ali | Vide no.34812-18 dated 7/12/1989 Annexure "J" | (27 Oct 1992) |
| 13. | Hamayoon Khan | Vide no.9699-704/5-12 dated 25/5/1988 Annexure "K" | (8 November 1990) |

At the time of their appointment as subject specialists they were holding simple master degrees. They however obtained B.Ed degrees in due course of

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time. In the meanwhile the govt: passed two acts regularizing all govt: employees, but as they were not regularized as they were not qualified then. The above mentioned officers made an appeal for their regularaization. They finally went in appeal before the NWFP Service Tribunal Peshawar. Annexure "L".

The NWFP Service Tribunal in its judgement, dated 31-5-1994 Annexure "M" decided as under:-

"There is no dispute with respect to the legal position that a person who is working against the post is entitled to the pay thereon and thus the appellant is also entitled to the pay of the post as subject specialist from the date when he was adjusted as such. But the period for which he would be entitled to the pay of the subject specialist would be reckoned up to three years back from the date when writ petition was preferred by him in high Court Peshawar and the claim beyond that would be time barred. As regards the prayer for regularization of his services it is for the Deptt to process the case of selection of the appellant as subject specialist."

The Govt filed civil appeal No-128/1995 against the judgement of Services Tribunal dated 31-5-1994, in honorable Supreme Court of Pakistan, which was accordingly, dismissed. (Annexure "N").

The applicant also went in appeal before the Supreme Court of Pakistan against the decision of N.W.F.P Services Tribunal. During this period the applicants have also obtained B.Ed degrees dates mentioned on page 1.

The honorable Supreme Court of Pakistan modified the order of the N.W.F.P Services Tribunal granting pay/arrear to the applicants from the dates of their respective appointments (Annexure "O")

So for the regularization of the services of the applicants as subject specialist were concerned, it was left to be decided by the Deptt (Annexure "P")

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The applicants again came to the Deptt and they were allowed BPS-17 with increments and arrears from the dates of their respective appointments, vide notification No.SO(S)7-15-/93/S.S dated 28-5-1997 Annexure "Q". But they were not regularized. During this period an identical case of Mr. Mohammad Riaz Subject Specialist was allowed BPS-17 by NWFP Services Tribunal in appeal no 92/95 dated 16-07-1996 (Annexure "R"). The Deptt was directed,

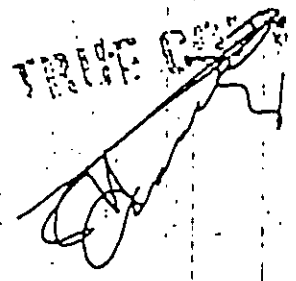
" May either absorb the appellant in BPS-15 or to grant him BPS-17 as subject specialist from the date of his appointment"

Nothing was mentioned about the regularization of his services and seniority in the said judgment but the Deptt at its own accord had added Para 2 in its notification dated 15-2-1999 that the applicant will claim seniority against subject specialist post after acquiring the prescribed professional qualification and his services were regularized W.e.f 17-10-1992 vide notification attached (Annexure "S").

The applicant again went in appeal to N.W.F.P Services Tribunal Peshawar for their regularization and seniority against the post of subject specialist BPS-17 from the date of their appointment on the analogy of Mr. Muhammad Riaz Subject Specialist G.H.S.S Baffa Mansera

N.W.F.P Services Tribunal remanded back the case to Deptt directing that

" The Tribunal as per its earlier judgement dated 31-05-1994 and 24-07-1994 upheld by honorable Supreme Court Of Pakistan Vide its judgment dated 26-02-1997 again directs the respondent Deptt to settle the long standing issue of regularization of services of the appellants as per rules in a reasonable span of time and the case is therefore remanded back to the Deptt for necessary action." Annexure "T".

THREE


Under the rules two kind of appointments are allowed.

Candidate being M.A in relevant subject with B.Ed are eligible for the post of Subject Specialist BPS-17.

2. Candidates who are simple M.A but don't possess B.Ed degree are also being appointed conditionally, provided that they should acquire their professional qualification of B.Ed within three years and their entire seniority is given to them from their date of recommendation from the Public Services Commission.

Copy Attached (Annexure "U").

3. The matter is placed before the departmental promotion committee (DPC) for consideration and decision regarding regularization of the services of the above cited subject Specialist in BPS-17 with seniority from the date of their appointments.

[Signature]
Director

(Schools and Literacy)

NWFP Peshawar

[Signature]

15/4/20

ATTACHED

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GOVERNMENT OF N.W.F.P
SCHOOLS & LITERACY DEPARTMENT

NO.SOG/S&L/1-5 DPC /VOL:III
DATED PESHAWAR THE:19-05-2005

TO.

The Section officer (Schools),
Schools & Literacy Department.

Subject: MINUTES OF THE D.P.C MEETING HELD ON 11-05-2005

I am directed to refer to the subject noted above and to forward herewith a copy of the minutes of the meeting of D.P.C held on 11-05-2005 under the Chairmanship of Secretary, Schools & Literacy Department for further necessary action.

I am further directed to inform you, that summaries for the Competent authorities may be submitted within two days positively.

(NEK NAWAZ KHAN)
SECTION OFFICER (GENERAL)

Copy forwarded to :

1. Director, Schools & Literacy, N.W.F.P ,Peshawar along with a copy of the minutes of meeting for further necessary action .
2. PS to secretary Govt: of N.W.F.P, Schools & Literacy Deptt:
3. PA to Addl:/D.S(Admn),Govt:of NWFP,S&L Deptt:

SECTION OFFICER (GENERAL)

ATTESTED

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| | | | | |
|----|-------------------------|-----|---------|--|
| 09 | Miss Shabnam Raza Malik | PET | BA/SDPE | Considered suitable for promotion as DPE with immediate effect |
| 10 | Miss Asma Qureshi | PET | BA/SDPE | Considered suitable for promotion as DPE with immediate effect |
| 11 | Miss Munaza Jabeen | PET | BA/SDPE | Considered suitable for promotion as DPE with immediate effect |
| 12 | Miss Azra Naz | TT | BA/SDPE | Considered suitable for promotion as DPE with immediate effect |
| 13 | Miss Ghazala Naeem | PET | BA/SDPE | Considered suitable for promotion as DPE with immediate effect |
| 14 | Miss Shujaat Begum | PET | BA/SDPE | Considered suitable for promotion as DPE with immediate effect |
| 15 | Miss Adeeba Naheed | DM | BA/SDPE | Considered suitable for promotion as DPE with immediate effect |

Item No.5:- PROMOTION OF BPS - 16 OFFICERS TO BPS - 17 IN SCHOOLS & LITERACY DEPARTMENT (WORKING AS I/CSS).

The committee discussed the cases in details and differed the promotion case due to incomplete working paper.

Item No.6:- PROMOTION OF SETs OF SCHOOLS CADRE (MEN'S SECTION) AS HEAD MASTER FROM BPS -16 TO BPS -17(REGULAR).

The committee after detail deliberation decided to recommend 193.SET's to the post of Head Master BPS-17 (Regular). The case was however differed due to non availability of final seniority List of SET's and according to the disparity between the penal and the seniority List.

Item No.7:- REGULARIZATION OF SERVICES OF SUBJECT SPECIALIST WITH BENEFIT OF SENIORITY .

The committee discussed the case and detail and decided that the regularization of the subject specialist in pursuance of the service tribunal/Supreme Court of Pakistan does not fall in the purview of DPC.The regularization may therefore, be considered by the department in light of provincial Govt Policy and the verdict of the courts

Case not fall with a point of the DPC.

The meeting ended with a vote of thanks from into the chair.

(Hussain Shah)
Deputy Secretary (Regulation)
Establishment Department.

(S.Manzar Jan Sajjid)
Deputy Director (Establish)
Schools & Literacy N.W.F.P

(Nayyar Laiq Ahmad)
Section Officer (R.II)
Finance Department

(Ahmad Khan)
Additional Secretary
Schools & Literacy Department

(AMJAD SHAHID AFRIDI)
SECRETARY TO GOVT:NWFP
SCHOOLS & LITERACY DEPTT

ATTACHED

original

J-51

ANNEXURE

GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPARTMENT

NO. SOG/S&L/1-5-DPC/Vol III
DATED PESHAWAR THE 19-05-2005

To

The Section Officer (Schools),
Schools & Literacy Department.

Subject: MINUTES OF THE D.P.C MEETING HELD ON 11-05-2005

I am directed to refer to the subject noted above and to forward herewith a copy of the minutes of the meeting of D.P.C held on 11-05-2005 under the Chairmanship of Secretary, Schools & Literacy Department for further necessary action.

I am further directed to inform you, that summaries for the competent authorities may be submitted within two days positively.

(KER NAWAZ KHAN)
SECTION OFFICER (GENERAL)

Copy of forwarded to:

1. Director, Schools & Literacy, NWFP, Peshawar, along with a copy of the minutes of meeting for further necessary action.
2. PS to Secretary Govt. of NWFP, Schools & Literacy Dept.
3. PA to Addl: D.S (Admn), Govt. of NWFP, S&L Dept.

SECTION OFFICER (GENERAL)

Do the needful
E. J. [unclear]
Raza Khan
23/05/05

20/5

20/5

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| | | | | |
|----|-------------------------|-----|---------|---|
| 9 | Miss Shabnam Raza Malik | PET | BAVSDPE | Considered suitable for promotion as DPE with immediate effect. |
| 10 | Miss Asma Qureshi | PET | BAVSDPE | Considered suitable for promotion as DPE with immediate effect. |
| 11 | Miss Munaza Jabeen | PET | BAVSDPE | Considered suitable for promotion as DPE with immediate effect. |
| 12 | Miss Azra Naz | TT | BAVSDPE | Considered suitable for promotion as DPE with immediate effect. |
| 13 | Miss Ghazala Naeem | PET | BAVSDPE | Considered suitable for promotion as DPE with immediate effect. |
| 14 | Miss Shujaat Begum | PET | BAVSDPE | Considered suitable for promotion as DPE with immediate effect. |
| 15 | Miss Adeeba Naheed | DM | BAVSDPE | Considered suitable for promotion as DPE with immediate effect. |

Item No.5:- PROMOTION OF BPS-16 OFFICERS TO BPS-17 IN SCHOOLS & LITERACY DEPARTMENT (WORKING AS D.C.SS).

The committee discussed the cases in details and differed the promotion case due to in complete working paper.

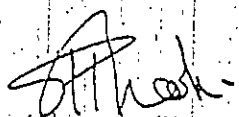
Item No.6:- PROMOTION OF SETs OF SCHOOLS CADRE (MEN'S SECTION) AS HEAD MASTER FROM BPS-16 TO BPS-17 (REGULAR).

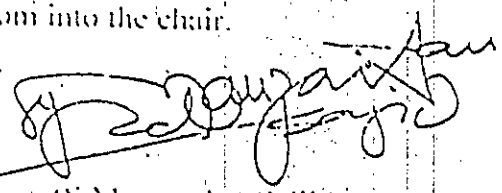
The committee after detail deliberation decided to recommend 195 SET's to the post of Head Master BPS-17 (Regular). The case was however differed ^{due to} non availability of final Seniority List of SET's and according to the disparity between the penal and the seniority list.

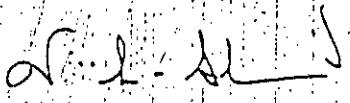
Item No.7:- REGULARIZATION OF SERVICES OF SUBJECT SPECIALIST WITH BENEFIT OF SENIORITY.

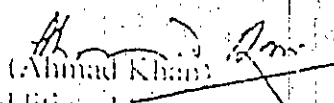
The committee discussed the case in detail and decided that the regularization of the Subject Specialist in pursuance of the service tribunal/ Supreme Court of Pakistan does not fall in the purview of DPC. The regularization may therefore, be considered by the department in light of Provincial Govt policy and the verdict of the courts.


The meeting ended with a vote of thanks from into the chair.

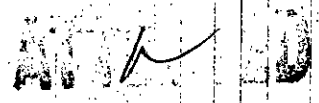

(Hussain Shah)
Deputy Secretary (Regulation)
Establishment Department.


(S. Manzoor Jan Sajjid)
Deputy Director (Establishment)
Schools & Literacy N.W.F.P.


(Nayyar Laiq Ahmad)
Section Officer (R.II)
Finance Department.


(Ahmad Khan)
Additional Secretary
Schools & Literacy Department.


(AMJAD SHAHID) AFRIDI
SECRETARY TO GOVT. N.W.F.P.
SCHOOLS & LITERACY DEPT.



(اپیل بنام)

Secy Edu
(SAC)

جناب اکرم خان دورانی صاحب وزیر اعلیٰ صوبہ سرحد

عنوان: ریگولرائزیشن اسنیاریٹن ایس ایس
جناب عالی! گزارشات حسب ذیل ہیں۔

The Hon has
directed to open
consultations on the
application of S.S.
to this Sect. University

1986ء میں محکمہ تعلیم میں کچھ سکولوں کو اپ گریڈ کر کے ہائیر سیکنڈری کا درجہ دیا گیا تھا۔ اور ماہر مضمون کی اسامیاں منظور کی گئیں تھیں۔ جن کے لئے مطلوبہ تعلیمی و تدریسی قابلیت اس وقت ایم اے بی ایڈ 5/3 سالہ تجربہ بطور SET رکھا گیا تھا۔

(2)۔ یہ کہ 1986ء سے 1987ء کے آخر تک ڈیپارٹمنٹ اپلک سروس کمیشن کو 4 بندوں کے علاوہ مذکورہ مطلوبہ قابلیت کا اہل بندہ نہ مل سکا۔

(3)۔ 3 ستمبر 1987ء میں ڈپٹی ڈائریکٹر سکولز نے S.S کی اسامیوں کے لئے ایڈک پبھرتی کے لئے اشتہار دیا۔ کو ایلیفیکشن وہی تھی۔ جو اوپر بیان کی گئی۔ یہی وجہ ہے کہ اس دفعہ بھی کوئی تقرری عمل میں نہیں آئی۔ کیوں کہ وہی کو ایلیفیکشن کا مسئلہ درپیش آیا۔

(4)۔ اسی دوران ایک جھگڑا نہ کیٹی بنی۔ جس نے اور مسائل کے علاوہ ماہرین مضامین کی اسامیوں کے قواعد و ضوابط کو بھی زیر غور لایا۔ اور سفارش کی۔ کہ فی الوقت S.S کی اسامیوں پر سادہ ایم اے لئے جائیں۔ اور ان سے کہا جائے کہ بی ایڈ 5/3 سالوں میں کریں۔ اس کے بعد ان لوگوں کو مستقل کیا جائے۔ 5 سالہ تجربہ ان سفارشات میں ختم کیا گیا۔ بعد میں اہلیت کے سلسلے میں نرمی کا باضابطہ نوٹیفکیشن جاری کیا گیا۔ ریفرنس کے لئے دیکھیں صفحہ نمبر (4) ہم نے بھی سادہ ماسٹر ڈگری ہولڈر ہونے سے متعلقہ مضامین میں تقرری کے لئے درخواستیں دی۔ 1988ء سے لیکر 1990ء تک مختلف تاریخوں میں ہماری تقرریاں عمل میں لائیں گئی۔ لیکن ہمیں گریڈ 17 کے بجائے 15 میں فکس کیا گیا۔

(5)۔ چونکہ ایڈ ہاک بل 1988ء کے پاس ہونے کے بعد حکومت کو صرف کنٹریکٹ پر بھرتی کی اجازت دی گئی تھی۔ اس لئے ہماری سروسز کنٹریکٹ تھی۔ جو کہ بعد میں کنٹریکٹ بل 1989ء اور امینڈمنٹ بل 1990ء کے پاس ہونے کے بعد مستقل کر دی گئی تھیں۔ لیکن ہمیں مستقل نہیں کیا گیا اور ہمیں یہ بتایا گیا کہ چونکہ آپ بی ایڈ نہیں تھے اس لئے آپ کی سروسز کو مستقل نہیں کیا جاسکتا تھا۔ حالانکہ اس وقت بھی ہمارے کچھ ساتھی بی ایڈ تھے۔ اور بعض نے بعد میں بی ایڈ کر لیا تھا۔ جبکہ تجربے میں نرمی کے بعد سے پبلک سروس کمیشن بھی سادہ ایم اے پر ماہرین مضامین کی تقرریاں عمل میں لارہا ہے۔ اور منتخب شدہ افراد سے کہا جاتا ہے کہ وہ 3 سال کے اندر اندر بی ایڈ کریں ریفرنس کے لئے دیکھیں صفحہ نمبر (7)، (6)، (5) اس نا انصافی کے خلاف جب ہم نے عدالت کا دروازہ کھٹکھٹایا۔ تو عدالت نے ہمیں سروس مراعات دیکر ریگولرائزیشن کا مسئلہ ڈیپارٹمنٹ پر رکھا۔ ہمارے خلاف ڈیپارٹمنٹ اپیل پر سپریم کورٹ گیا۔ جہاں پر فیصلہ ہمارے حق میں بحال رکھا گیا۔ (ریفرنس کے لئے دیکھیں فیصلہ سروس ٹریبونل صفحہ (9)، (8) فیصلہ سپریم کورٹ صفحہ نمبر (15) تا (19))

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تاریخ (14-03-1997)

(6)۔ اسی دوران ہمارے ایک ساتھی محمد ریاض جو کہ ہماری ہی طرح بھرتی کیا گیا تھا۔ اور جس کا فیصلہ سروس ٹریبونل نے ہمارے ہی طرح کیا تھا۔ کو نہ صرف ڈیپارٹمنٹ نے ریگولر کیا۔ بلکہ وہ اب اپنی سناریٹی کی وجہ سے بطور پرنسپل گریڈ 18 مانسہرہ میں اپنے فرائض منصبی سرانجام دے رہا ہے۔ حوالہ کے لئے دیکھیں صفحہ نمبر (20) سپریم کورٹ کے فیصلے کے باوجود ہمیں سروس ٹریبونل جانے پر مجبور کیا گیا۔ جہاں سے عدالت نے ایک بار پھر یہ کیس محکمہ تعلیم کو ریماڈ بیک کیا ہے۔ اور ہدایت گئی ہے۔ کہ اس لمبے عرصے تک چلنے والے کیس کو حل کریں۔

(7)۔ ڈھائی سال گزرنے کے بعد اب ہمیں پتہ چلا ہے کہ ڈیپارٹمنٹ ہمیں 18, 19 سال سروس کرنے کے بعد Terminate کرنے جا رہا ہے۔ جو کہ سراسر نا انصافی ہے۔ اور Discrimination of Law ہے۔ کیونکہ (1)۔ ہمارے ساتھی کو ریگولر اتر زیشن / سناریٹی دینا اور ہمیں اس سے محروم کر کے ٹرمینٹ کرنا سراسر نا انصافی ہوگی۔ ریفرنس کے لئے دیکھیں نوٹیفیکیشن صفحہ نمبر (21) اور صفحہ نمبر (2) (22)۔ ڈیپارٹمنٹ ہمارے بارے میں کہتا ہے کہ گریڈ 17 کی تنخواہ اور بقایا جات انکو سپریم کورٹ نے دیئے ہیں۔ اس لئے ان کو اب مزید سروس کرنے کا حق نہیں ہے۔ حالانکہ سپریم کورٹ نے اپنے فیصلے اپیل نمبر 128/1995 جو کہ گورنمنٹ کی طرف سے سروس ٹریبونل کے فیصلے کے خلاف دائر کی گئی تھی۔ حکم کیا۔

" The learned council for the appellants in civil appeal No. 128 of 1995 contended that the Respondent was not entitled to draw the salary against the post of subject specialist which was a post in BPS-17 as he did not possess the required qualification namely B.Ed or M.Ed. this contention of the appellants in civil appeal No. 128 of 1995 was rejected by the tribunal and rightly so in view of the decision in the case of Islamic Republic of Pakistan VS Abdul Karim (1978 SCMR) and Federation VS Sahibzada Shah Pur Jan (1986 SCMR 991) we accordingly find no substance in the contention of the appellants in civil appeal No. 128 of 1995 which is accordingly dismissed."

(3)۔ ڈیپارٹمنٹ کا کہنا ہے کہ مطلوبہ تقرریاں irregular اور illegal ہوئی ہیں۔ حالانکہ سپریم کورٹ کی ججمنٹ کیس نمبر 413 SCMR 1996 سیکرٹری زکوٰۃ اور سوشل ویلفیئر VS صلاح الدین خان جس میں کہا گیا ہے۔ کہ ایک گورنمنٹ سرونٹ کو محض اس بات پر ٹرمینٹ نہیں کیا جاسکتا ہے۔ کہ وہ irregular اور illegal تعینات ہوا ہے۔ ڈیپارٹمنٹ نے چونکہ اسکی تقرری کی ہوئی ہے۔ اس لئے ڈیپارٹمنٹ کو اس بات کی اجازت نہیں دی جاسکتی ہے۔ کہ وہ ملازم کو سروس سے برخاست کرے۔

اس کے علاوہ ہماری سروس تقریباً 19 سال کو پہنچ چکی ہے۔ ریگولر اتر زیشن / سناریٹی دینے کے بجائے ہمیں Terminate کرنا سراسر


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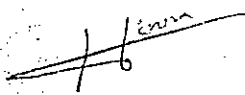
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نا انصافی ہوگی۔ اور سپریم کورٹ کے اس حکم کے خلاف ہوگا جس میں کہا گیا ہے۔ اگر کوئی ملازم بغیر کسی گیپ کے دس سال سروس کرے تو پینشن کا حق دار ہوگا۔ چہ جائیکہ 19 سال بہترین نتائج دکھانے کے بعد ہمیں Terminate کیا جائے۔ جناب عالی! حال ہی میں سپریم کورٹ نے سول پینشن نمبر 326 تا 342، 485، 486، 513، 519 تا 586، 519 تا 2005/622 میں بھی ان SET's جن کو انچارج S.S پوسٹ پرائیڈ جسٹ کیا گیا تھا۔ اس پوسٹ پر تقرری کے وقت سے سنیارٹی دے دی ہے۔ جبکہ ہم ان S.S سے بھی تقریباً 15 سال سینئر ہیں۔ لیکن ہمیں ہمارے حق سے محروم رکھا جا رہا ہے۔

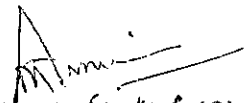
جناب عالی! ڈیپارٹمنٹ کے فیصلے پر عمل درآمد سے 13 خاندان فاقہ کشی پر مجبور ہو جائیں گے۔ لہذا مندرجہ بالا حقائق کو لیکر آپ کے حضور میں درمندانہ اپیل لیکر آئیں ہیں۔ کہ ڈیپارٹمنٹ کو اپنے فیصلہ Termination پر عمل درآمد سے روکا جائے۔ ہمارے کیس پر ہمدردانہ غور فرما کر ہمیں ہماری تازگی تقرری سے Approval دیکر غریب پروری کا ثبوت دیں۔ ہم اور ہمارے بچے تاحیات آپ کو عادیاتے رہیں گے۔

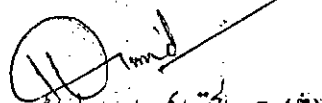
العارض



(3) محمد تاحی خان ایم ایس سی، بی ایڈ
GHSS اوج دیر پائین۔

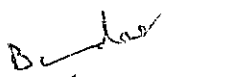

(2) ہایون خان ایم ایس سی، بی ایڈ
GHSS طوطوکان مالاکنڈ ایجنسی۔

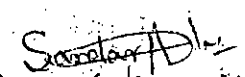

(1) عبدالحمید ایم۔ اے، بی ایڈ۔
GHSS نمبر 1 پشاور شی۔

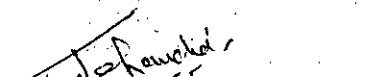

(6) محمد امین ایم۔ اے، ایم ایڈ۔
GHSS بلوگرام سوات۔



(5) حمید الحق ایم۔ اے، بی ایڈ۔
GHSS کبل سوات۔

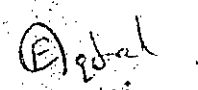

(4) حمید الحق ایم۔ اے، بی ایڈ۔
GHSS کبل سوات۔

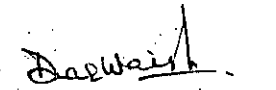

(9) برادر خان ایم۔ اے، بی ایڈ۔
GHSS واڑی ضلع دیر بالا۔


(8) سردار علی ایم۔ اے، بی ایڈ۔
GHSS خوازہ خیلہ سوات۔

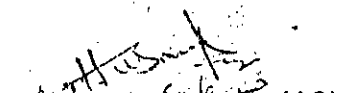

(7) جہان نسا ایم۔ اے، بی ایڈ۔
GHSS سندوئی ضلع شانگلہ۔


(12) ہمایون ایم۔ اے، بی ایڈ۔
GHSS مدین سوات۔


(11) فضل اقبال ایم۔ اے، بی ایڈ۔
GHSS شریبان دیر پائین۔


(10) درویش خان ایم۔ اے، بی ایڈ۔
GHSS زیارت تالاش دیر پائین۔

بھورہ 03/02/07


(13) سید علی ایم۔ اے، بی ایڈ۔
GHSS بری کوٹ سوات۔





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حکومت سندھ سرحد
نکارہ نمبر

نونان: اقاعدگی دورانہ ملازمت برائے ماہرین ماہرین برود تمام مراعات و امتیازات

9. نکارہ نمبر 54 کے خلاف برائے وزیر اعلیٰ سندھ سرحد کا جائزہ لیا گیا۔ جن ماہرین مفسدین کی بھرتی بلکہ مدارس و نونان کی نئی و قدامت کے وقت وہ بنیادی تعلیمی قابلیت کے حامل نہیں تھے اور قواعد و ضوابط کے خلاف ورزی کر کے ان کی تقرری کی گئی۔ سول سروس ایکٹ 1953ء کا سشن نمبر 23 ان اجور میں لاگو ہوتا ہے جہاں کسی ایک سرکاری ملازم کو مشکلات درپیش ہوں۔ سبب دودھ گیس میں بھرتی چونکہ قواعد کے خلاف ہوئی ہے اس لئے ان ملازمین کو سول سروس سے تارک یا جاسکتا ہے اور ان کی ملازمتوں کو باقاعدہ بنایا جاسکتا ہے لہذا نکارہ نمبر 54 کے حیرانگہ نمبر 54 میں دی گئی جو بڑے اتفاق نہیں کرتا۔ یہ احتجاجی نکارہ کی ذمہ داری بنتی ہے کہ وہ ان آسائشوں پر متعلقہ قواعد کے تحت متدارکوں کی بھرتی کو یقینی بنائے۔

مسلمہ بان
(سیان صاحب بان)
مسلمہ بان
12 جولائی 2006ء

مسلمہ بان سرحد

(ورقہ التالیف)

Attested
by

ATTESTED

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۱۰۔ پیرا۔ ۷ اور ۹ کی گزارشات سے یہ امر واضح ہے کہ سول سروسٹ ایکٹ 1973 اس کے تحت بنائے گئے قوانین کسی طور ان اہلکاران کی بطور Subject Specialist تعینات کی اجازت نہیں دیتے۔ یہی صورت حال سپریم کورٹ اور سروس ٹریبونل کے فیصلوں میں عیاں ہے اگر اس طور انسانی بہبودی کی بنیاد پر ایک کیس کیا گیا تو قواعد سے ہرا بھرتی کے تمام کیسوں کے لئے precedent بن جائے گا۔ چونکہ بی۔ ایس۔ ۷۱ کے بھرتی کے لئے مجاز اتھارٹی مستند ہے۔ اس لئے موجودہ کیس کی مستادری نہیں دی جاسکتی۔ دز پرائی سیکرٹریٹ نے اس سلسلے میں کوئی رپورٹ بھی نہیں مانگی۔ اس لئے مزید کارروائی کی ضرورت نہیں۔

18/7
(انجاز احمد قریشی)

CHIEF SECRETARY
S.W.P.

مستند بنائیں

Amir
Amir

RECEIVED

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۱۵۔ نکلہ مدارس دخواندگی صوبہ سرحد کے خلاصہ برائے وزیر اعلیٰ صوبہ سرحد سے
 پیرا گراف نمبر۔ (iii) 13 میں دی گئی تجویز کا جائزہ لیا گیا۔ نکلہ عملہ خلاصہ کے پیرا گراف نمبر۔ ۹
 پر موجود اپنی رائے کا اعادہ کرتا ہے اور تجویز کرتا ہے کہ جن انسران کی غفلت کی وجہ سے ماہر
 مشنارین کی قواعد و ضوابط کے خلاف بھرتیاں ہوئی ہیں ان کے خلاف تادیبی کارروائی عمل میں
 لائی جائے۔

۱۶۔ نکلہ عملہ خلاصہ کے پیرا گراف نمبر۔ ۷ میں دی گئی تجویز سے اتفاق کرنے سے
 معذرت کرتا ہے اور تجویز کیا جاتا ہے کہ نکلہ مدارس دخواندگی مندرجہ بالا ہدایات پر عمل درآمد
 کر کے مستند مالی صوبہ سرحد کی خدمت میں رپورٹ پیش کرے۔

مسٹر رحیم اللہ خان
 معتد عملہ

۳۱ مئی، ۲۰۰۷

مستند اعلیٰ نکلہ سرحد۔

۱۷۔ مجاز انفارمیشن نے پی پی کس کا نمبر لکھا ہے پیرا گراف ۱۰

Amir

61/5707
 GOVERNMENT OF PUNJAB
 H.V.V.P.P

وزیر اعلیٰ سرحد
 (توافق سے)

مسٹر رحیم اللہ خان
 معتد عملہ

Attested
 by

ATTESTED

Better copy

GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPARTMENT
Dated Peshawar the 19.03.2008

NOTIFICATION:-

SOS/S&L/1-4/05-Reguarization RC: the service of the following person who were appointed as Subject Specialist (BPS-17) on purely Temporary basis by the Defunct director of Education Malakand Division Saidu Sharif Swat without observing the required criteria of qualification method of recruitment and other codal formalities for filling up the posts of subject specialists are hereby terminated with immediate effect.

| S# | Name | Name of Schools | Date of Appointment |
|-----|----------------------|----------------------------|---------------------|
| 1. | Abdul.Hameed | GHSS No. 1 Peshawar City | 05.03.1988 |
| 2. | Mr. Fazal Iqbal | GHSS Samar. Bagh Dir Lower | 12.08.1988 |
| 3. | Mr. Hamayu Khan | GHSS Malyan Swat | 25.05.1988 |
| 4. | Mr. Sardar Ali | GHSS Khwaza Khela Swat | 11.12.1989 |
| 5. | Mr. Muhammad Amin | GHSS Kabal Swat | 25.07.1990 |
| 6. | Mr. Mujtaba Khan | GHSS Ouch Dir, Lower | 24.03.1990 |
| 7. | Mr. Blradar Khan | GHSS Warai Dir upper | 29.03.1990 |
| 8. | Mr. Hassan Ali | GHSS Barikot Swat | 07.03.1988 |
| 9. | Mr. Darwaish Khan | GHSS Talash Dir Lower | 07.03.1988 |
| 10. | Mr. Jehan Didar Khan | GHSS Sandori Shangla | 14.12.1989 |
| 11. | Mr. Ali Haider | GHSS Kabal Swat | 21.03.1990 |
| 12. | Mr. Hameedul Haq | GHSS Kabal Swat | 13.02.1990 |
| 13. | Mr. Hamayun Khan | GHSS Tolakat Malakand | 03.03.1988 |

This issues with the approval of the /appointment authority:

Attested by

SECRETARY
SCHOOLS & LITERACY DEPARTMENT

ATTESTED

ANNEXURE "A"

GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPARTMENT

Dated Peshawar the 19-03-2008.

NOTIFICATION:

SON/S&L/1-4/05-Regularization KC:

The services of the following persons who were appointed as Subject Specialists (BPS-17) on purely temporary basis by the Defunct-Director of Education Malakand division Saidu Sharif Swat without observing the required criteria of qualification /method of recruitment and other codal formalities for filling up the posts of Subject Specialists are hereby terminated with immediate effect.

| S.# | Name | Name of the Schools | Date of Appointment |
|-----|----------------------|---------------------------|---------------------|
| 1. | Abdul Hameed | GHSS No.1 Peshwar City | 05-03-1988 |
| 2. | Mr. Fazal Iqbal | GHSS Samar Bagh Dir Lower | 17-08-1988 |
| 3. | Mr. Hamayun Khan | GHSS Madyan Swat. | 25-05-1988 |
| 4. | Mr. Sardar Ali | GHSS Khwaza Kela Swat | 11-12-1989 |
| 5. | Mr. Muhammad Amin | GHSS Kabal Swat | 25-07-1990 |
| 6. | Mr. Mujtaba Khan | GHSS Ouch Dir Lower | 24-03-1990 |
| 7. | Mr. Biradar Khan | GHSS Warai Dir Upper. | 29-03-1990 |
| 8. | Mr. Hassan Ali | GHSS Baikot Swat | 07-12-1989 |
| 9. | Mr. Darwaish Khan | GHSS Talash Dir Lower | 03-03-1988 |
| 10. | Mr. Jehan Didar Khan | GHSS Sandovi Shangla | 14-12-1989 |
| 11. | Mr. Ali Haider | GHSS Kabal Swat | 21-03-1990 |
| 12. | Mr. Hameedul Haq | GHSS Kabal Swat | 13-02-1990 |
| 13. | Mr. Hamayun Khan | GHSS Totakan Malakand | 03-03-1988 |

This issues with the approval of the competent / appointing authority.

SECRETARY
SCHOOLS & LITERACY DEPARTMENT

Endst of even No. & Date

Copy is forwarded to:

1. Secretary to Govt of NWFP Establishment Department Peshawar.
2. Secretary to Govt of NWFP Law Department Peshawar.
3. Secretary to Govt of NWFP Finance Department Peshawar.
4. Director Schools & Literacy Department Peshawar.
5. Accountant General NWFP Peshawar.
6. Director Curriculum and Teacher Education NWFP Abbottabad.
7. PSO to Chief Minister NWFP Peshawar.
8. PSO to Chief Secretary NWFP.
9. All Executive District Officers in NWFP.
10. All District/Agency Account Officers in NWFP.
11. PS to Secretary Schools & Literacy Department.
12. PS to Special Secretary Schools & Literacy Department.
13. PS to Additional Schools & Literacy Department.
14. Officers concerned.

Received
order on 27/3/08

(NASRULLAH KHAN)
SECTION OFFICER (SCHOOLS)

Principal
G.H.S.S. No. 1, P.

The

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P-73

The Honorable Chief Minister,
NWFP, Peshawar.

SUBJECT: - APPEAL AGAINST TERMINATION FROM SERVICES OF 12
SUBJECT SPECIALIST.

Dear Sir,

With reference to the Chief Minister Secretariat, NWFP letter No. SO-I/CMS/NWFP/3-1/2008/3683-84 dated 26.04.2008 on the subject noted above, in which approval had been accorded to our appeal of re-instatement in service with all back benefits regularization/seniority from the dates of our respective appointments by the Honorable Chief Minister, NWFP and department was directed to take necessary action in the light of the approval of the Chief Minister, NWFP as well as order of honorable Peshawar High Court, passed on 10.04.2008. The date of which expires on 10.05.2008 but nothing has been intimated to us so far, in this regard.

2. We therefore request your honour per appeal and subject cited above that the department may kindly be directed once again to take necessary action in this regard please.

Yours faithfully

All Subject Specialists



Through Abdul Hameed, S.S.
G.H.S.S No.1, Peshawar City.

Dated 09.05.2008

ATTESTED

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.

Appeal No. 970/2008

Date of institution - 03.07.2008

Date of decision - 21.10.2008

Fazal Iqbal Ex-Subject Specialist Government Higher Secondary School Samar Bagh
Dir Lower R/O Kambat Samar Bagh Dir Lower.....(Appellant)

VERSUS

1. Government of NWFP through Chief Secretary NWFP Peshawar.
 2. Secretary Establishment NWFP Civil Secretariat Peshawar.
 3. Secretary Elementary and Secondary Education NWFP Peshawar
-(Respondents)

Appeal under Section 4 of the NWFP Service Tribunal Act, 1974 against the Notification No. SOS/S&L 14/05-Regularization KC dated 19.3.2008 whereby the appellant was terminated from service with immediate effect against which the Departmental appeal dated 26.3.2008 has not been replied despite the lapse of 90 days

Mr. Ijaz Anwar, Advocate.....For appellant.
Mr. Ghulam Mustafa A.G.P.....For respondents.

MR. NOOR-UL-HAQ.....MEMBER.
SYED MANZOOR ALI SHAH.....MEMBER.

JUDGMENT.

NOOR-UL-HAQ. MEMBER :- This appeal has been filed by the appellant against the Notification dated 19.3.2008, whereby he was terminated from service with immediate effect against which the departmental appeal dated 26.3.2008 has not been replied despite the lapse of 90 days. He has prayed that on acceptance of this appeal the impugned Notification may be set aside, and he be declared as regular employee for all intents and purposes with effect from the date of his appointment, and he may also be reinstated in service with full back wages and benefits of service.

2. Brief facts of the case are that the Government of NWFP Education Department had vide an advertisement published in Daily News paper dated 3.9.1987, invited applications from the desirous candidates for appointment against the post of Subject

Specialist BPS-17 with the qualification of M.A in the relevant subjects with M.Ed or B.Ed. The appellant having the qualification of M.A in the relevant subject, also applied for the same. As required number of candidates having M.A with B.Ed or M.Ed were not available, hence the Departmental Selection Committee considered the case of the appellant and recommended him for appointment against the post of Subject Specialist. However, it was directed that he be allowed BPS-15 and the appellant was issued appointment order dated 17.2.1988.

3. It is pertinent to point out here that at the relevant time eligible candidates having the additional qualification of B.Ed & M.Ed were not available, while there was dire need of appointment of Subject Specialists in the upgraded Higher Secondary Schools, hence keeping in view the above requirements, the Government of NWFP vide Notification dated 21.11.1991 amended the recruitment rules for the post of Subject Specialist (BPS-17) as follows:-

"Second Class Master Degree in the relevant subject, or in the case of English Subject, Third Class Master degree in English with B.Ed./M.Ed/M.A Education in Second Division respectively from a recognized University or Institute. Provided that candidates not possessing B.Ed, M.Ed or M.A Education Degree shall be eligible for appointment subject to the condition that they shall acquire the professional qualification as aforesaid within 3 years from the date of taking over as Subject Specialist, failing which their services were liable to termination."

The appellant in accordance with the amended rules, improved and acquired the requisite qualification of B-Ed within the target period.

4. The Provincial Government promulgated various Regularization Acts for the regularization of Adhoc & Contract Appointees i.e NWFP Civil Servants (Regularization of Service) Act, 1988, NWFP Employees on Contract Basis (Regularization of Service) Act, 1989 & NWFP Employees on Contract Basis (Regularization of Services) (Amendment) Act, 1990. The appellant was considering himself as regularized by virtue of the above regularization laws, however, it came to light that the respondent department have sent the post held by the appellant with requisition to the Public Service Commission for fresh appointments, hence, the appellant alongwith other similarly placed employees filed Writ Petition No. 667/1992 in the Peshawar High Court Peshawar with a prayer of his regularization in terms of the Regularization Acts. During the pendency of the Writ Petition it was objected on behalf of the Government that the appellant and others have not filed appeal to the Chief Secretary NWFP as required under Section 4 of the Regularization Act, hence the Writ Petition was dismissed as withdrawn with permission to file a fresh petition in case he does not get redress from the said forum. Although the appellant was working against the post of Subject Specialist (BPS-17) and was perfectly eligible and having the prescribed qualification but was paid the salary in BPS-15 hence he filed a petition

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 NWFP CIVIL SERVICE COMMISSION
 PESHAWAR

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appeal in the Service Tribunal for the grant of pay of BPS-17 with arrear with effect from the date of his appointment and for the regularization of his services. This Tribunal allowed the relief of pay, however, arrears of pay were allowed for 3 years back from the date the Writ Petition was filed, regarding the prayer for regularization it was directed that the matter of regularization is left for the department to process the case of selection of the appellant as Subject Specialist. The Government filed appeal in the Supreme Court of Pakistan against the decision of this Tribunal. The August Supreme Court of Pakistan in Civil Appeal No. 18, 128 and 539 to 551 of 1995, dismissed the appeal of the Government and maintained the judgment of this Tribunal on the point of regularization, however, allowed and granted the claim for payment of minimum salary against the post of Subject Specialist from the date of his initial appointment. One Muhammad Riaz Subject Specialist a similarly placed employee had also filed Appeal No.92/1995 in this Tribunal. The same was allowed vide judgment and order dated 16.7.1996, however while implementing the judgment the respondent department, allowed him graded pay in BPS-17 alongwith increments against the post of Subject Specialist from 23.5.1988. He was allowed seniority against the post of Subject Specialist with effect from the date of his acquiring the prescribed qualification of the post. The said Muhammad Riaz again filed service appeal No. 649/2000, and sought seniority w.e.f 24.5.1988, however the order dated 15.2.1999 was maintained and he was held entitled to the grant of seniority from the date of his acquiring the qualification i.e 17.2.1992. Accordingly vide notification (Annexure-G) the said Muhammad Raiz was allowed seniority w.e.f 17.10.1992. On the other hand the appellant was allowed the pay with arrears of the post of Subject Specialist BPS-17 with effect from his initial appointment pursuant to the judgment of the august Supreme Court of Pakistan vide notification dated 28.5.1997. However, quite illegally attached a rider/condition that he will not claim any seniority against the post of Subject Specialist. The appellant was also granted Move-over BPS-17 to BPS-18 by the respondent department vide Notification dated 27.10.2001 w.e.f. 1.12.2000 on the recommendation of the Departmental Promotion Committee. The appellant had challenged the Notification dated 28.5.1997, wherein he was denied the claim of seniority, referred in Para 2 of the notification in Service appeal No. 2175/1997. This Tribunal vide its judgment and order dated 17.8.2004 again did not decide the matter of regularization of the appellant and directed the respondent department to settle the long standing issue of regularization of service of the appellant as per rules within a reasonable span of time, and remanded back the case to the department for necessary action. The case of the appellant with other Subject Specialists was referred to the Departmental Promotion Committee by the respondent department for regularization. Working paper was prepared to this effect by the Department. The Departmental Promotion Committee discussed the case of regularization of the appellant and held that it did not fall within

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 SERVICE TRIBUNAL

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the purview of the DPC. It further held that the regularization may therefore, be considered by the department in light of Provincial Government policy and verdict of the courts. Again a Departmental Promotion Committee was constituted to determine/decide the regularization of the appellant and other employees. However, instead of regularization of the appellant, he was recommended for the termination from service and other employees mainly on the ground, that being an old case the record is not available. The appellant and other employees submitted a representation to the Chief Minister for the regularization of their cases and against the recommendations for termination. In accordance with the direction of the Chief Minister a summary was prepared. The Chief Minister was pleased to approve the Para 7 of the summary to the effect that the appellant and other employees be regularized with immediate effect and be placed at the bottom of the Seniority list of Subject Specialist. Instead of complying with the directions of the Chief Minister, the respondent department vide notification dated 19.3.2008 terminated the services of the appellant with immediate effect. The appellant preferred his departmental appeal to the respondents, however no action was taken thereon. The appellant had filed a Writ Petition in the Peshawar High Court against the termination order, however the Honourable High Court vide its judgment directed the department to decide the representation within 30 days. Hence, the instant appeal.

5. The respondents were summoned. They appeared through their representatives, submitted written reply, contested the appeal and denied the claim of the appellant.

6. Arguments heard and record perused.

7. The learned counsel for the appellant argued that the appellant has not been dealt with in accordance with law, he has put in about 20 years service, but was dealt within a slipshod manner, thus the order impugned is not tenable. The Notification dated 19.3.2008 is in violation of the provisions of NWFP Removal from Service (Special Powers) Ordinance, 2000. The appellant is fit and eligible to the post of subject specialist. He has at his credit the qualification prescribed for the post, even he was moved-over to BPS-18 by the DPC, he remained on the post for about two decades without any complaint whatsoever, regarding his performance, thus valuable rights have been created in his favour that cannot be snatched or taken away from him illegally. The order of his appointment cannot be rescinded, varied or withdrawn in accordance with the principles of locus pointientiae as laid down in Section 21 of the General Clauses Act, 1897. The action of the respondents is in violation of the reported judgments i.e PLD 1969 SC page 407, 1962 SCMR page 1420, 1981 SCMR 523, PLD 1964 SC 503, 1992 SCMR page 1652, 1997 SCMR page 15. The Acts of NWFP Provincial Assembly

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 NWFP Service Tribunal
 Peshawar

promulgated for the regularization of Adhoc & Contract Appointees i.e NWFP Adhoc Civil Servants (Regularization Service) Act, 1988, NWFP Employees on Contract Basis (Regularization of Service) Act 1989 & NWFP Employees on Contract Basis (Regularization of Services) (Amendment) Act, 1990, were fully attracted to the case of the appellant. He by virtue of those legislations attained the status of regular employee, however, due to the inaction of the respondents, he was denied formal regularization order. Before termination of the appellant's service, no right of hearing was provided to him. He was not issued any show cause notice for explanation and thus the appellant has been condemned unheard. The appellant had in accordance with the amended rules of 1991 improved and acquired the prescribed qualification of B.Ed within the target period and considering his eligibility for the post he was allowed the pay and scale of Subject Specialist by the August Supreme Court of Pakistan. Thus he shall be considered as a regular employee for all intent and purposes. The notification whereby the appellant was terminated from service is in violation of the judgment of the Supreme Court of Pakistan reported in PLC 2005 (Civil Service) page 1165, NLR 2004 Service page 12, 2004 SCMR page 49, 1996 page 413 and 1996 SCMR page 1350, because there is no allegations of lacking of the requisite qualification, or complaint regarding his performance in duties. Hence, the notification impugned is liable to be set aside. The appellant has been discriminated against, because similarly placed employees have already been regularized and allowed seniority and are still in service while the appellant has been terminated from service, thus, the order impugned is not tenable on this score alone. He prayed that the impugned Notification dated 19.3.2008 may please be set aside, and the appellant may please be declared as regular employee for all intents and purposes w.e.f the date of his appointment, and he be reinstated in service with full back wages and benefits of service.

The learned A.G.P argued that an advertisement was floated through open media on 03-09-1987 for filling the posts of Subject Specialist BPS-17 on temporary basis. The appellant was appointed purely on temporary basis as a stop gap arrangement in BPS-15 (on fixed pay), as per conditions mentioned in his appointment order. Due to shortage of required candidates for the appointment, the condition of B.Ed/M.Ed/M.A(Education) was relaxed, vide amendment dated 21.11.1991, subject to the condition that they shall acquire the same professional qualification within three years. The appellant was appointed on temporary basis as a stop gap arrangement on fixed pay but he could not be regularized as:

- i) He was appointed on fixed pay on temporary basis.
- ii) He did not possess the professional qualifications and experience prescribed for the post at the time of his appointment. as he was simply M.A.

Accordingly he did not fall under the purview of the Act of contract appointees, therefore, he could not be regularized. It is correct, that pay and scale of the post was given to the appellant in light of the court decision but his services were not regularized. The case of Muhammad Riaz is quite different by virtue of law points, as he was appointed against the post of SET (BPS-15) and was directed to work as Subject Specialist, therefore, could not be resembled with the case in hand. It was the matter of salary/pay and not of seniority which is crystal clear from the judgment of the Honourable Apex Court. As regard the seniority, it was concerned with regularization of the appointment as Subject Specialist, while appointment was not in accordance to the recruitment rules, therefore, he could not be considered accordingly.

9. Move-over, is neither promotion nor concerned with seniority but merely relates with the running status of salary/pay. The Tribunal rightly declined to decide the matter of regularization as the same is prerogative of the Administrative Department with the approval of competent authority. The case of appellant was referred to the DPC, but after thorough scrutiny and examination of the case, it was returned back being not a fit a case for regularization for lacking the requirements/coddle formalities as per service recruitment rules, as the Divisional Director was not competent for appointment against BPS-17 posts. The true fact is that the appellant's case was time and again processed for regularization, however after thorough examination and scrutiny the competent authority declined to regularize the same as the appointment of appellant was made in violation of merit and relevant recruitment rules, on pick and choose basis. The department being a transiting/routing media, some recommendations were made to the competent authority, while Establishment Department and Law Department treated the same as illegal and rejected the proposal of Administrative Department because the recruitments were made in violation of law and relevant Act and Rules ab-initio, accordingly the Chief Secretary being a competent authority also agreed with opinion of Establishment and Law Departments. All the proceedings have been taken per law and rules with the concurrence of competent authority. The appellant was appointed on temporary basis as a stop gap arrangement on fixed pay, hence, its case do not fall under the scope of contract/adhoc employees regularization Act, while he was not possessing the prescribed professional qualification as required under the rules. He prayed that the appeal may be dismissed.

10. The respondent department has asserted that the appointment of Muhammad Riaz, who was granted regular status was different one, however, the departmental representative present in the court, was confronted with the letter of appointment of

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in their letter of appointments. A comparison of Muhammad Riaz and that of the appellant showed that the appellant's case and that of Muhammad Riaz were identical in all respects and the assertion is absolutely baseless. The respondent department has discriminated the appellant for no good reason and utter disregard of the norms of equity and justice. It is a glaring violations of the appellant's fundamental rights.

11. The learned A.G.P stressed that the appointment of the appellant was irregular and could not be regularized on account of non-observation of the recruitment rules and procedures. When he was asked who violated the rules and prescribed procedure, he had no satisfactory answer. Only a pretext which has been malafidely made the basis of an illegal action, the omission complained of, was on the part of the respondent department and they cannot be allowed to benefit out of their own wrong. In any case not after 20 years. As has been held by the august Supreme Court of Pakistan in the case reported as "Secretary Government of NWFP Vs. Saadullah Khan (1996-SCMR-413). Having himself appointed the civil servants the respondents cannot take the benefits of their own lapses, if any, after considerable long time when valuable rights have been created in favour of the employees.

12. Judging the case on the touch stone of the above authorities, the respondents cannot be allowed to term the appointment of the appellant as illegal after 20 years of his service, coupled with the facts that there is no allegation of his ineligibility, incapability to perform his duties. Interestingly, in the instant case the appellant was allowed move-over from BPS-17 to BPS-18, vide order dated 27.10.2001 w.e.f. 1.12.2000 (Annexure-J with the appeal). The Hon'ble Supreme Court of Pakistan had also approved the induction as well as entitlement to B-17 graded pay.

13. The learned AGP tried to argue that the appointment of the appellant was on stop gap arrangements, however, when he was confronted with the appointment letter (Annexure-B with the appeal); it only referred to the appointment as temporary. The learned counsel for the appellant pointed out that it is an appointment for indefinite period and regular one in view of an earlier reported case "Abdul Majid Sheikh Vs. M. Ahmad, Section Officer & another (PLD-1965-SC-208). The learned counsel for the appellant has placed on file, the pay roll of the appellant which also refers to the appointment of appellant as temporary. Moreover, in the column of qualifying service, the period of his service has been given as 21 years and 11 months. The fate of a person who has put in 18 to 22 years service could not be determined just with a stroke of pen without application of mind to the material facts involved in the case, therefore, the arguments put forth by the learned AGP that the appointment was on stop gap arrangements, holds no ground. In another aspect of the case under the NWFP Civil

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Peshawar

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Servants Removal from Service Special Powers Ordinance 2000, if there is any allegation that the appointment was made on extraneously consideration, in violation of law and relevant appointment rules, then the procedure prescribed u/s 5 of the said Ordinance is to be followed. The termination order of the appellant clearly refers to the appointment of the appellant as in violation of the recruitment rules, therefore, Section 3 sub clause of the RSO 2000 was applicable and while dealing with the case of the appellant, show cause notice, constitution of the departmental inquiry was required which has not been done in this case. Therefore, the order of termination from service of the appellant is also not sustainable at this stage.

14. The upshot of the above discussion is that we accept the appeal as prayed for and set aside the impugned order of termination of the appellant dated 19.3.2008. The respondent department is directed to re-instate the appellant in service with all back benefits of service.

15. This judgment will also dispose of the other connected appeals bearing Nos. 912/2008 Abdul Hamid Butt, 913/2008 Darvesh Khan, 914/2008 Hamidul Haq, 915/2008 Ali haidar, 916/2008 Jehan Didar, 917/2008 Muhammad Amin, 918/2008 Mujtaba Khan, 919/2008 Biradar Khan, 920/2008 Sardar Ali, 921/2008 Humayun Khan, 922/2008 Humayun, Versus Chief Secretary NWFP etc, involving common question of law, in the same manner.

No order as to costs. File be consigned to the record.

ANNOUNCED.

21.10.2008.

(SYED MANZOOR ALI SHAH)
MEMBER.

(NGOR UL HAQ)
MEMBER.

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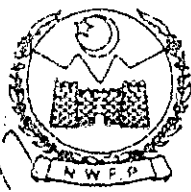
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19/12

ADVOCATE-GENERAL, N.W.F.P, PESHAWAR.

No. 7975 /AG Dated 18-12 /2008

Address: High Court Building, Peshawar Exchange No 9213833

Tele: No.091-9210119

Fax No.091-9210270

not fit

The Secretary,
Government of NWFP,
Law Department,
Peshawar.

SUBJECT: PROPOSED CPLA IN THE SUPREME COURT OF PAKISTAN AGAINST THE JUDGMENT OF NWFP SERVICE TRIBUNAL PESHAWAR PASSED IN APPEAL NO. 970/2008 TITLED FAZAL IQBAL S.S VERUS GOVT. OF NWFP ETC.

Dear Sir,

Reference your letter No.Lit/LD/1-9(180)E&SED/2008/11331-33, dated 27.11.2008 on the subject noted above.

The learned Advocate General, NWFP agrees with the opinion of the learned Advocate on Record to the effect that it is not a fit case for filing petition in the Supreme Court of Pakistan. (Copy enclosed).

[Signature]
For Advocate General, NWFP,
Peshawar.

No. _____ /AG

Copy to:

The Secretary to Govt. of NWFP, Elementary & Secondary Education,
Department, Peshawar.

[Signature]
19/12

So (fit)
20/12/08

SP
For Advocate General, NWFP,
Peshawar.

[Signature]

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LEGAL OPINION OF CASE APPEAL NO. 970/2008 FILED BY FAZAL
IQBAL SUBJECT SPECIALIST.

The peculiar history of this service case is that on 03.09.1987 Education Department published a News inviting applications from the candidates for appointment of Subject Specialist BPS-17 with the qualification of M.A in the relevant subjects with M.Ed or B.Ed. The appellant being M.A applied in response to the said advertisement, however the required number of candidates were not available, hence the Departmental Selection Committee considered case of the appellant on the qualification of M.A and it was decided that he be allowed BPS-15 in his appointment letter. It is pointed out during those days the candidates with the qualification of B.Ed and M.Ed were not found and the department was in dire need of appointment of teacher for children to teach, in Higher Secondary Schools, which could not be kept out of site due to non-availability of the required candidates and the Fazal Iqbal was selected. Later-on the Provincial Govt. issued the notification dated 21.11.1991 amending the rules for qualification of the Subject Specialist BPS-17. The appellant according to the changed rules improved his qualification of B.Ed. within the required period. It may be pointed out that in the meantime the Provincial Govt. promulgated Regularization Acts for regularization of Adhoc & Contract Appointees in the year 1988 and another Acts of Employees on Contract basis Regularization of Service Act, 1989. Moreover another Act 1990. The appellant did not ^{take} ~~took~~ pain to get him regularized under the above newly promulgated Act. The department issued requisition to the Public Service Commission for the fresh appointment against posts which appellant filed a Writ Petition in the Peshawar High Court, Peshawar and prayed for regularization in terms of the above existing Acts, his appeal was not competent before the High Court being hit under Article 212 of Constitution of Pakistan and it was withdrawn with the permission to file fresh petition in the competent forum. The appellant approached the Service Tribunal and also demanded the arrear of pay for B.P.S.17. The learned Service Tribunal accepted the prayer of pay for the preceding three years from the date when he filed the Writ Petition, however his prayer for regularization in service was refused and it was left to the discretion of the department to process the regularization of the Subject Specialist. Provincial Govt. then filed an appeal before the apex court against the decision of the Service Tribunal. The apex court dismissed the appeal of the Provincial Govt. with regard to the regularization, however his salary was ordered to be paid from inception.

Interestingly Muhammad Riaz is a Subject Specialist similar employee filed appeal No. 92/1995 in Service Tribunal which was however allowed by the Tribunal and order stood implemented by the department allowing of grading pay of B.P.S-17 from 23.05.1988 he was also allowed seniority from the date of acquiring qualification. The said Muhammad Riaz also

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acceded

filed another appeal No. 649/2000 seniority from the date of 1988 which was not exceeded to, however according to notification he was allowed seniority w.e.f. 17.10.1992. The appellant relying on the said dictum of the Service Tribunal of Mr. Riaz approached the concerned quarter the appeal was accepted for to moveover B.P.S-17 from B.P.S-15 vide notification dated 27.01.2001 from 01.12.2000 which was duly recommended by the Departmental Promotion Committee against the said appellant.

The present appellant had challenged the Notification dated 28.05.1997 for refusal of his claim of seniority vide Service Appeal No. 2175/1997. The Tribunal in his order dated 27.08.2004 again dismissed the appeal for regularization of the appellant and directed the respondent Department to settle this old standing matter of regularization of service within reasonable time. Later-on his case was placed before the Departmental Promotion Committee to consider his case, Departmental Promotion Committee held that his case can only be considered by the Provincial Govt. as per Policy in vague. Moreso again Departmental Promotion Committee was constituted to consider the request of the employees. Strange enough, the Departmental Promotion Committee instead of considering the request for regularization on the basis of record recommended for termination from service of the appellant. It transpires from the record that the appellant approached through a representation to the Hon'ble Chief Minister for considering his case that instead of regularization he was awarded punishment of termination of service. The Chief Minister accepted the appeal of regularization of the petitioner with others appellants with immediate effect and under said order he was placed as lowest in the seniority list of Subject Specialist. It is surprising to note that the order of the Chief Executive was not complied with and the department on 19.03.2008 terminated the service of the appellant with immediate effect. Again an appeal was filed before the appellate authority which remained unattended, a writ petition was filed in the Peshawar High Court, Peshawar. The Hon'ble Judges of the Peshawar High Court directed the department to decide the case of the appellant within 30 days.

In view of the above facts and stale history of the case the appellant approached the Service Tribunal. Vide Service Appeal No. 270/08 which was decided on 21.08.2008 and considering the above detailed facts of the case and relying on bulk of the judgment of Supreme Court of Pakistan incorporated of the body of the judgment allowed the appeal and set aside the order of termination of the appellant with the direction to reinstate him in service with all back benefits.

The judgment of the learned Service Tribunal is well founded and is based on not attending appropriate grievance of the petitioner and that the of the Chief Minister of the NWFP who being the head of the Province. Difference to the view of the Chief Minister

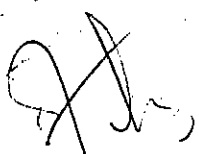
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seem to not support to any principle of law. He being the Chief Executive a policy maker and decides a matter which binds the entire subordinates. The request of the law department vide letter dated 27.11.2008 for submission of the CPLA before the Supreme Court of Pakistan is answered negatively as the case is absolutely not fit on all its four for Supreme Court.

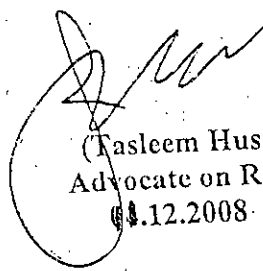
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Ld. Advocate General.



(Tasleem Hussain)
Advocate on Record.
04.12.2008

✓

IMMEDIATE

Government of N.W.F.P.
Elementary & Secondary Education Department
No.SO(S)1-4/05/Regularization
Dated: 12-02-2009

To

The Secretary to Govt. of NWFP
Law Department Peshawar

Subject:

**APPOINTMENT OF SUBJECT SPECIALISTS IN DIFFERENT
EDUCATIONAL INSTITUTIONS BY THE DEFUNCT
DIVISIONAL DIRECTORS MALAKAND DIVISION IN THE
YEARS 1988-90.**

The following were appointed as Senior English Teachers (SETs)/Subject Specialists (S.S) by defunct Directorate of Education Malakand Division in different educational institutions irrespective of Government Policy/Procedure in the years 1988-90 (Annex-I):-

| S.# | Name | Post/Grade | Remarks |
|-----|---|-----------------------------------|--|
| 1. | Mr. Abdul Hameed S/O M. Asadullah | SET (BS-15) | Temporary till arrival of selectee of the PSC and adjusted against the post of Subject Specialist. Fixed pay/temporary |
| 2. | Mr. Fazal Iqbal S/O Badshah Khan | Subject Specialist (BS-15) | Fixed pay/temporary |
| 3. | Mr. Humayun Khan CT GHS Dheri Julagram Malakand | Subject Specialist/SET (BS-15) | Fixed pay/temporary till arrival of selectee of the PSC. |
| 4. | Mr. Sardar Ali S/O Bakht Afsar | Subject Specialist (BS-15) | Fixed pay/temporary |
| 5. | Mr. Muhammad Amin S/O Muhammad Akram | Subject Specialist (BS-15) | Fixed pay/temporary |
| 6. | Mr. Muhammad Mujtaba Khan S/O Muhammad Mustafa | Subject Specialist (BS-15) | Fixed pay/temporary |
| 7. | Mr. Ali Haidar CT GHSS Mingora Swat | Subject Specialist (BS-15) | Fixed pay/temporary |
| 8. | Mr. Biradar Khan S/O Sher Zamin | Subject Specialist (BS-15) | Fixed pay/temporary |
| 9. | Mr. Darwaish Khan S/O Gul Ahmad Khan | SET (BS-15) | Adjusted against S.S on temporary/fixed pay |
| 10. | Mr. Humayun S/O Jan Mian | SET (BS-15) | Adjusted against S.S on temporary/fixed pay |
| 11. | Mr. Jehan Didar CT GHS Kabal Swat | Subject Specialist (BS-15) | Fixed pay/temporary |
| 12. | Mr. Hameedul Haq S/O Muhammad Anwarul Haq | Subject Specialist (BS-15) | Fixed pay/temporary |

2. In the year 1993, Mr. Abdul Hameed at S.# 1 above filed an appeal in the NWFP Service Tribunal Peshawar to allow pay of the post of Subject Specialist (BS-17) and to regularize his services from the date of appointment i.e. 05.03.1988.

The NWFP Service Tribunal decided...

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"There is no dispute with respect to the legal position that a person who is working against the post is entitled to the pay thereon and thus the appellant is also entitled to the pay of the post as Subject Specialist from the date when he was adjusted as such. But the period for which he would be entitled to the pay of Subject Specialist would be reckoned upto 3 years back from the date when a writ petition was preferred in the High Court and the claim beyond that would be time barred. As regards the prayer for regularization of service, it is for the Department to process the case of selection of the appellants as Subject Specialist. The appeal is accepted in the above terms".

3. Mr. Abdul Hameed alongwith 6 others submitted appeal in the Supreme Court of Pakistan in the year 1995 against the above decision of the Services Tribunal. The Supreme Court of Pakistan after detailed discussion, made the following decision in the case (Annex-III):-

"In so far the claim of appellants in the above appeals with regard to their regularization against the post of Subject Specialists (BS-17) is concerned, the learned Tribunal rightly declined to grant the same as in the first instance the question of regularization of appellants against the post of Subject Specialist is to be considered by the Department. Therefore, no exception can be taken to the judgment of the Tribunal in so far it left the question of regularization of appellants against the post of Subject Specialist (BS-17) to be decided by the Department. The appeals stand disposed off accordingly, with no order as to costs".

4. Consequent upon the above decision of the Supreme Court of Pakistan, the department allowed these Subject Specialists the minimum pay in BPS-17 alongwith increments from the date of their initial appointments vide notification No.SO(S) 7-15/93/S.S dated 28-05-1997 (Annex-IV).

5. The case was considered at different levels in the Department and remained under correspondence between this Department & Establishment Department for quite a long time of about two years vide summary (Annex-V). Ultimately, the competent authority/Chief Secretary NWFP terminated the services of the above irregular appointees vide Para-30 of the summary. Accordingly, the services of the above Subject Specialists were terminated vide this Department Notification No. SO(S)S&L/1-4/05-Regulation KC dated 19.03.2008 (Annex-VI).

6. Mr. Fazal Iqbal, one of the above Subject Specialist (at S.# 2) again submitted an appeal in the NWFP Service Tribunal Peshawar in the year 2008 against his termination from service with the request that the impugned notification may be set aside, he may be declared as regular employee for all intents and purposes with effect from the date of his appointment.

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back wages and benefits of service. The Tribunal after discussing their earlier judgment, judgment of the Supreme Court of Pakistan, process and decision of the Department, gave the following decision in the case (Annex-VII):-

"The up-shot on the above discussion is that we accept the appeal as prayed for and set aside the impugned order of termination of the appellant dated 19.03.2008. The respondent Department is directed to re-instate the appellant in service with all back benefits of service.

This judgment will also dispose of the other connected appeals bearing Nos. 912/2008 Abdul Hamid Butt, 913/2008 Darvesh Khan, 914/2008 Hamidul Haq, 915/2008 Ali Haidar, 916/2008 Jehan Didar, 917/2008 Muhammad Amin, 918/2008 Mujtaba Khan, 919/2008 Biradar Khan, 920/2008 Sardar Ali, 921/2008 Humayun Khan, 922/2008 Humayun, Versus Chief Secretary NWFP etc, involving common question of law, in the same manner".

7. Law Department vide letter No.Lit/LD/1-9(180)E&S.E/2008/12054 dated 23.12.2008 has also advised this Department that the case is not fit for filing appeal/CPLA in the Supreme Court of Pakistan (Annex-VIII).

8. Keeping in view the above details of the case, the Law Department is requested to advise this Department on the following:-

i. Whether a writ petition can be filed in any Court of Law against the last judgment of the Services Tribunal?

OR

ii. In case of otherwise, further course of action in the matter.

Yours faithfully

(Syed Ahmad Khan)
Section Officer (Schools)

Copy for information to:

✓ The Director Elementary & Secondary Education NWFP Peshawar

17/12/09

Section Officer (Schools)

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GOVERNMENT OF NWFP
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

No.Lit/LD/1-9(180)E&SE/2008/1629
Dated Peshawar the 25/2/2009.

To

The Secretary to Govt: of NWFP,
Elementary & Secondary Education Department.

SUBJECT:- PROPOSED CPLA IN THE SUPREME COURT OF PAKISTAN AGAINST THE
JUDGMENT DATED 21-10-2008 IN APPEAL NO. 970/2008 TITLED FAZAL IQBAL
EX-SUBJECT SPECIALIST AND OTHERS R/O DIR LOWER VERSUS EDUCATION
DEPARTMENT.

Dear Sir,

I am directed to refer to your letter No.SO(S)1-4/05/Regularization, dated 12-02-2009 and Advocate General, NWFP Peshawar letter No. 7975/AG dated 18-12-2008 (Copy attached herewith) on the subject noted above and to advise you to implement the judgment of the NWFP Service Tribunal, Peshawar dated 21-10-2008 in letter & spirit as opined by the Advocate General, NWFP.

Yours faithfully,

[Handwritten signature]

SECTION OFFICER (LIT)

25.02.09

Endst: of even No. & Date.

Copy forwarded to the P.S to Secretary Law

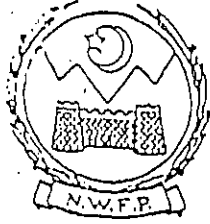
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SECTION OFFICER (LIT)

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GOVERNMENT OF NWFP
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

SUMMARY FOR CHIEF SECRETARY, NWFP.

SUBJECT: - APPOINTMENT OF SUBJECT SPECIALISTS IN DIFFERENT EDUCATIONAL INSTITUTIONS BY THE DEFUNCT DIVISIONAL DIRECTOR MALAKAND DIVISION IN THE YEARS 1988-90.

The following persons were appointed as Senior English Teachers (SET's) Subject Specialists (S.S) by the defunct Directorate of Education Malakand Division in different educational institutions in violation of the Government Policy/Procedure in the years 1988-90 (F/A): -

| S.# | Name | Post/Grade | Date of Initial appointment | Remarks |
|-----|---|---|-----------------------------|--|
| 1 | 2 | 3 | 4 | 5 |
| 1 | Mr. Abdul Hameed S/O M. Asadullah | SET (BS-15) | 5-3-1988 | Temporary till arrival of selectee of the PSC and adjusted against the post of Subject Specialist. |
| 2 | Mr. Fazal Iqbal S/O Badshah Khan | Subject Specialist (BS-15) | 17-8-1988 | Fixed pay/temporary |
| 3 | Mr. Humayun Khan CT GHS Dheri Julagram Malakand | Subject Specialist (BS-15)/ SET (BS-15) | 25-5-1988 | Fixed pay/temporary till arrival of selectee of the PSC |
| 4 | Mr. Sardar Ali S/O Bakht Afsar | Subject Specialist (BS-15) | 11-12-1988 | Fixed pay/temporary |
| 5 | Mr. Muhammad Amin S/O Muhammad Akram | Subject Specialist (BS-15) | 25-7-1990 | Fixed pay/temporary |
| 6 | Mr. Muhammad Mujtaba Khan S/O Muhammad Mustafa | Subject Specialist (BS-15) | 24-3-1990 | Fixed pay/temporary |
| 7 | Mr. Ali Haidar CT GHSS Mingora Swat | Subject Specialist (BS-15) | 21-3-1990 | Fixed pay/temporary |
| 8 | Mr. Biradar Khan S/O Sher Zamin | Subject Specialist (BS-15) | 21-3-1990 | Fixed pay/temporary |
| 9 | Mr. Darwaish Khan S/O Gul Ahmad Khan | SET (BS-15) | 3-3-1988 | Adjusted against S.S on temporary/fixed pay |
| 10 | Mr. Humayun S/O Jan Main | SET (BS-15) | 3-3-1988 | Adjusted against S.S on temporary/fixed pay |
| 11 | Mr. Jehan Didar CT GHS Kabal Swat | Subject Specialist (BS-15) | 14-12-1989 | Fixed pay/temporary |
| 12 | Mr. Hameedul Haq S/O Muhammad Anwarul Haq | Subject Specialist (BS-15) | 13-2-1990 | Fixed pay/temporary |

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2. In the year 1993, Mr. Abdul Hameed at S.# 1 above filed an appeal in the NWFP Service Tribunal Peshawar to allow him pay of the post of Subject Specialist (BS-17) and to regularize his services from the date of appointment i.e 05-03-1988. The NWFP Service Tribunal decided his appeal in his favour as far as pay of the post was concerned. The court however, passed no orders for regularization of his services. The operating part of the above judgment is as under (F/B): -

"There is no dispute with respect to the legal position that a person who is working against the post is entitled to the pay thereon and thus the appellant is also entitled to the pay of the post as Subject Specialist from the date when he was adjusted as such. But the period for which he would be entitled to the pay of Subject Specialist would be reckoned upto 3 years back from the date when a writ petition was preferred in the High Court and the claim beyond that would be time barred. As regards the prayer for regularization of service, it is for the Department to process the case of selection of the appellants as Subject Specialist. The appeal is accepted in the above terms".

3. Mr. Abdul Hameed alongwith 6 others submitted appeal in the Supreme Court of Pakistan in the year 1995 against the above decision of the Service Tribunal. The Supreme Court of Pakistan after detailed discussion, made the following decision in the case (F/C): -

"In so far the claim of appellants in the above appeals with regard to their regularization against the post of Subject Specialists (BS-17) is concerned, the learned Tribunal rightly declined to grant the same as in the first instance the question of regularization of appellants against the post of Subject Specialist is to be considered by the Department. Therefore, no exception can be taken to the judgment of the Tribunal in so far it left the question of regularization of appellants against the post of Subject Specialist (BS-17) to be decided by the Department. The appeals stand disposed off accordingly, with no order as to costs".

4. Consequent upon the above decision of the Supreme Court of Pakistan, the Department allowed these Subject Specialists the minimum pay in BPS-17 alongwith increments from the date of their initial appointment vide notification No. SO (S) 7-15/93/S.S dated 28-5-1997 (F/D).

5. The case was considered at different levels in the Department and remained under correspondence between this Department & Establishment Department for quite a long time of about two years. Ultimately, the competent authority/Chief Secretary NWFP decided to terminate the services of the above appointees vide Para-30 of the summary (F/E). Accordingly, the services of the above Subject Specialists were terminated vide this Department Notification No. SO (S) S&L /1-4/05- Regulation KC dated 19-3-2008 (F/F).

6. Mr. Fazal Iqbal, one of the above Subject Specialist (at S.# 2) again submitted an appeal in the NWFP Service Tribunal Peshawar in the year 2008 against his termination from service with the request that the impugned notification may be set aside and he may be declared as regular employee for all intents and purposes with effect from the date of his appointment and he may also be re-instated with full back wages and benefits of service. The Tribunal after considering its earlier judgment as well as

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judgment of the Supreme Court of Pakistan and other related documents, decided the case as under (F/G) :-

"The up-short on the above discussion is that we accept the appeal as prayed for and set aside the impugned order of termination of the appellant dated 19-3-2008. The respondent Department is directed to re-instate the appellant in service with all back benefits of service.

This judgment will also dispose of the other connected appeals bearing Nos 912/2008 Abdul Hamid Butt, 913/2008 Darvesh Khan, 914/2008 Hamidul Haq, 915/2008 Ali Haidar, 916/2008 Jehan Didar, 917/2008 Muhammad Amin, 918/2008 Mujtaba Khan, 919/2008 Biradar Khan, 920/2008 Sardar Ali, 921/2008 Humayun Khan, 922/2008 Humayun versus Chief Secretary NWFP etc, involving common question of law, in the same manner".

7. Law Department vide letter No. Lit/LD/1-9 (180)E&SE/2008/12054 dated 23.12.2008 has also advised this Department that the case is not fit for filing appeal/CPLA in the Supreme Court of Pakistan (F/H). The Law Department was again requested to advise this Department on the following points:-

- i. Whether a writ petition can be filed in any Court of Law against the last judgment of the Service Tribunal?
- OR
- ii. In case of otherwise, further course of action in the matter.

8. The Law Department again repeated its earlier contention vide No. Lit/LD/1-9(180)E&SE/2008/1629 dated 25-2-2009 (F/I) to implement the judgment of the NWFP Service Tribunal Peshawar dated 21-10-2008 in letter and spirit as opined by the Advocate General, NWFP.

9. In view of the above, it is proposed that:-
- (i) All the above twelve Subject Specialists be re-instated in service with all back benefits of service from the date of their termination of service i.e 19-3-2008
 - (ii) The service be regularized as Subject Specialist with effect from the date of their initial appointment/officiating as Subject Specialist as per column 4 of Para-1 above.

10. The Chief Secretary NWFP/Competent Authority is requested to approve the proposal contained in Para-9 above.

ATTACHED

(MUHAMMAD ARIFEEN)
Secretary to Govt. of NWFP
Elementary & SE Department.

Chief Secretary NWFP

11. *Vicars please*

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12. Summary of Elementary & Secondary Education Department regarding the appointment of Subject Specialists in different Educational Institutions by the defunct Divisional Directorate Malakand Division in the years 1988-90 has been examined. The Service Tribunal NWFP has decided the case in favour of the appellants (F/G) and the Law Department/ Advocate General have also advised that the case is not fit for filing appeal / CPLA in the Supreme Court of Pakistan (F/H).

13. In view of the foregoing, there is no other option except to implement the judgment of the Service Tribunal dated 21-10-2008 (F/G). Proposal contained in para-9 of the summary regarding re-instatement and regularization of the appellants is therefore, endorsed.

14. The Chief Secretary NWFP being, the competent authority may kindly approve the proposal contained in para-9 of the summary.

(Mian Sahib Jan)
Secretary Establishment
April 6 2009.

Chief Secretary, NWFP.

para 9

Secy E & S.E

Attested
by

04. 4. 2009

ATTACHED

IN THE PESHAWAR HIGH COURT PESHAWAR

W No 381 /2009

1. Fazal Iqbal Ex- Subject Specialist Government Higher Secondary School Samar Bagh Dir Lower.
2. Abdul Hameed Butt Ex- Subject Specialist Government Higher Secondary School No. 1 Peshawar City.
3. Darwaish Khan Ex- Subject Specialist Government Higher Secondary School Ziarat, Talash Dir Lower.
4. Hamid ul Haq Ex- Subject Specialist Government Higher Secondary School Kabal District Swat.
5. Ali Haider Ex- Subject Specialist Government Higher Secondary School Kabal District Swat.
6. Irfan Didar Ex- Subject Specialist Government Higher Secondary School Sandoc Shangla.
7. Muhammad Amin Ex- Subject Specialist Government Higher Secondary School Balogram District Swat.
8. Muhammad Mujtaba Khan Ex- Subject Specialist Government Higher Secondary School Ochi Dir Lower.
9. Buradar Khan Ex- Subject Specialist Government Higher Secondary School Warai Dir Upper.
10. Sardar Ali Ex- Subject Specialist Government Higher Secondary School Khwaza Khela Swat.
11. Humayun Khan Ex- Subject Specialist Government Higher Secondary School Totakan Malakand Agency.
12. Humayun Ex- Subject Specialist Government Higher Secondary School Madyan District Swat.

(Petitioners)

Versus

1. Government of NWFP through Chief Secretary NWFP Peshawar.
2. Secretary Establishment NWFP Civil Secretariat Peshawar.
3. Secretary Elementary and Secondary Education NWFP Peshawar.

(Respondents)

FILED TODAY

21 FEB 2009

ATTESTED

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FORM 'A'

FORM OF ORDER SHEET

Court of

Case No. of



| Date of Order or Proceedings | Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary. |
|------------------------------|--|
| 16.4.2009. | <p><u>W.P.No.381/2009.</u></p> <p><u>Present:</u> One of the petitioners in person.</p> <p>Mr. Muhammad Yousaf Qadri, Section Officer (Litigation), Education Department, Peshawar.</p> <p>-----</p> <p><u>EJAZ AFZAL KHAN, J.-</u> The latter states that order of reinstatement of the petitioner is ready and would thus be out in a couple of days. There is no hesitancy on the part of the department to implement the order of the Service Tribunal. When this is state of things, this petition is disposed of with the direction to the respondents to do the needful accordingly.</p> <p>Announced <u>16.4.2009.</u></p> |

ATTACHED

Other
17/4
[Signature]

Sh Ejaz Afzal Khan
Sh Saad Mansoor Khan

Issue
by
PJ
20/4

Receipt *02/05/09*

Date of Presentation of Application

No. of Pages *10/1*

Copying Fee

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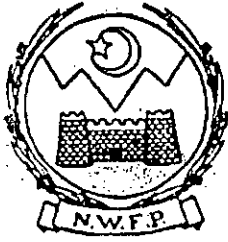
Total *02/05/09*

Date of Preparation Complete

Date of Delivery of Copy *02/05/09*

Accepted by *02/05/09*

Peshawar
Authorized Order Section 75 Act 1973



**GOVERNMENT OF NWFP
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Dated the Peshawar April 18, 2009

NOTIFICATION

No. SO (S)/ S&L/1-4/05- Regularization KC. In pursuance of NWFP, Service Tribunal, Peshawar judgment dated 21-10-2008 in Appeals No. 912/2008, 913/2008, 914/2008, 915/2008, 916/2008, 917/2008, 918/2008, 919/2008, 920/2008, 921/2008, 922/2008 & 970/2008, the competent authority is pleased to re-instate the following Subject Specialists (BS-17), on the terms & conditions mentioned below:-

| S.# | Name | Date of Initial appointment |
|-----|--|-----------------------------|
| 1 | Mr. Abdul Hameed S/O M. Asadullah | 5-3-1988 |
| 2 | Mr. Fazal Iqbal S/O Badshah Khan | 17-2-1988 |
| 3 | Mr. Humayun Khan CT GHS Dheri Julagram Malakand | 25-5-1988 |
| 4 | Mr. Sardar Ali S/O Bakht Afsar | 11-12-1988 |
| 5 | Mr. Muhammad Amin S/O Muhammad Akram | 25-7-1990 |
| 6 | Mr. Muhammad Mujtaba Khan S/O Muhamad Mustafa | 24-3-1990 |
| 7 | Mr. Ali Haidar CT GHSS Mingora Swat | 21-3-1990 |
| 8 | Mr. Biradar Khan S/O Sher Zamin | 21-3-1990 |
| 9 | Mr. Darwaish Khan S/O Gul Ahmad Khan | 3-3-1988 |
| 10 | Mr. Humayun S/O Jan Main | 3-3-1988 |
| 11 | Mr. Jehan Didar CT GHS Kabal Swat | 14-12-1989 |
| 12 | Mr. Hameedul Haq S/O Muhammad Anwarul Haq | 13-2-1990 |

2 Terms & Conditions for re-instatement

- i) All the above twelve Subject Specialists are re-instated in service with all back benefits of service from the date of their termination of service i.e 19-3-2008.
- (ii) Their services are regularized as Subject Specialist with effect from the date of their initial appointment/officiating as Subject Specialist as per column 3 of para-1 above.

3 The competent authority is further pleased to adjust/post the officers after re-instatement in the service as per following: -

| S.# | Name of officer/Designation | Place of adjustment | Remarks |
|-----|---|--|----------|
| 1 | Mr. Abdul Hameed , SS (H/C) (BS-17) | SS (H/C) (BS-17) GHSS No.1, Peshawar City | A. V. P. |
| 2 | Mr. Fazal Iqbal, SS (H/C) (BS-17) | SS (H/C) (BS-17) GHSS Jandool Mayhar, Dir Lower | A. V. P. |
| 3 | Mr. Humayun, SS (Eng) (BS-17) | SS (Eng) (BS-17) GHSS No.1 Haripur | A. V. P. |
| 4 | Mr. Sardar Ali, SS (Eng) (BS-17) | SS (Eng) (BS-17) GHSS Jalozai, Nowshera | A. V. P. |
| 5 | Mr. Muhammad Amin, SS (Eng) (BS-17) | SS (Eng) (BS-17) GHSS Chowga, Shangla | A. V. P. |
| 6 | Mr. Muhammad Mujtaba Khan, SS (Stat) (BS-17) | SS (Stat) (BS-17) GHSS Wari, Dir Upper | A. V. P. |

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To,

Secretary to Government of NWFP
Elementary & Secondary Education,
Peshawar.

Subject: - Fixation of Seniority

Respected Sir:-

With reference to the notification No. SO(S)/S&L/1-4/05 Regularization, dated 18th April 2009 (Copy enclosed for ready reference). I beg to submit that I have been re-instated in service and my service is regularized w.e.f. the date of my initial appointment i.e 5/3/1988 on the terms and conditions mentioned in the said notification.

It is therefore very humbly requested that my seniority may kindly be fixed according to the law and rules regulating the service.

Dated: 12/05/2009

Yours Obediently

Mujtaba Khan
Muhammad Mujtaba Khan
Subject Specialist
GHS Wari Dir Upper

[Signature]

88

101

IMMEDIATE



GOVERNMENT OF NWFP
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

NO. SO(S) E&SED/
Dated April 13, 2010

To ✓
The Director,
Elementary & Secondary Education, Peshawar

Attention: Deputy Director Establishment

Subject: - FINAL SENIORITY LIST OF HEADMASTERS/SUBJECT SPECIALISTS
MALE BS-17

Kindly refer to the correspondence resting with your letter No. 3366/A88 88/SL/BS-17 M dated 10-4-2010 and the discussion of the undersigned with Deputy Director Establishment this morning on the subject cited above and to state that I have never asked any one of the Directorate to award seniority to any one from their date of incharge posting as HM/SS instead of their regular appointment or promotion on these posts. It is concocted statement of the directorate itself.

2. I am therefore directed to request that the seniority list may be re-checked and prepared strictly in accordance with the rules keeping in view the following:-

- (i) All the HMs/SS may be given seniority position in the seniority list strictly from their date of regular promotion or regular appointment as SS/HM in BS-17 instead of their date of taking over incharge as HM/Subject Specialist.
- (ii) Those HM/SS who filed appeals/writ petitions in the court for regularization of their promotion/appointment from their date of taking over charge as HM/SS, the court decided their appeals in their favour awarding regularization from their incharge posting and the Department also notified this award after approval of the competent authority, may be given seniority from the date of their regularization on the basis of court decision as well as approval/notification issued by the Administrative Department.
- (iii) The list so prepared strictly in accordance with the rules and keeping in view the above, may be initialed on each page and signed on the last page by the Deputy Director Establishment E&Se before re-submission to the Administrative Department with in a week positively.

(SYED AHMED KHAN)
SECTION OFFICER (SCHOOLS)

Endst: of even No. & Date

Copy to the: -

PS to Secretary/PAs to AS/DS (Admn) E&SE Department.

SECTION OFFICER (SCHOOLS)

10

FINAL SENIORITY LIST

OF

89

OFFICERS B - 17 (MALE) REGULAR

HEAD MASTERS & SUBJECT SPECIALISTS

AS IT STOOD ON

15 October 2010

11



90

(Signature)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the November 10, 2010

NOTIFICATION

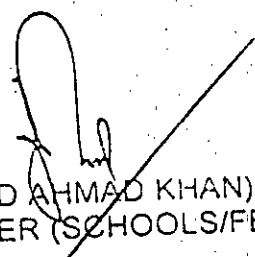
NO. SO(S) E&SE/4-24/2010/FSL/Male: In exercise of powers conferred under Sub Section (1) of Section-8 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 No. XVIII of 1973, the Final Seniority List of Headmasters/Subject Specialists Male (BPS-17) of Elementary & Secondary Education Department as it stood on 15.10.2010, is hereby notified for information of all concerned.

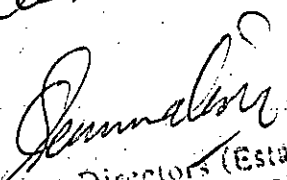
CHIEF SECRETARY
Khyber Pakhtunkhwa

Endst: of even No. & Date

Copy forwarded to the:

1. Director, E&SE Khyber Pakhtunkhwa, Peshawar, with the request to circulate the Seniority List to all concerned.
2. Director of Education (FATA), Khyber Pakhtunkhwa Peshawar.
3. Director Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad.
4. Director (PITE) Khyber Pakhtunkhwa.
5. All EDO's (E&SE) in Khyber Pakhtunkhwa.
6. PS to Secretary, Govt. of Khyber Pakhtunkhwa, E&S Education Peshawar.


(SYED AHMAD KHAN)
SECTION OFFICER (SCHOOLS/FEMALE)

Attested

Assistant Directors (Estab.)
Directorate of (E&SE)
NWFP, Peshawar.

W

New

15.10.2010.

FINAL SENIORITY LIST OF HEADMASTER/SUB SPECIALIST MALE (B-17) OF Elementary & Secondary Education DEPARTMENT AS IT STOOD ON

| S.No | Name of Officers with Qualification | D/O Birth | Domicile | Date of 1st Entry in Edu; Deptt; | Regular appionment / Promtion to the present post | | | Designation/Place of Posting | Remarks |
|------|---------------------------------------|------------|-------------|----------------------------------|---|-----|-----------------------|----------------------------------|-------------------------------------|
| | | | | | Date | SPS | Method of Recriutment | | |
| 1 | Fazal Iqbal M.A. B.Ed | 1/1/1960 | DIR | 17-02-1988 | 17-02-1988 | 17 | Direct | SS GHSS MAYAR DIR LOWER | so(s)/S&L1-4/05 Reg. KC dt 18/4/09 |
| 2 | Darwesh Khan M.A. B.Ed | 1/5/1958 | DIR | 18-04-1979 | 3/3/1988 | 17 | do | SS GHSS Bagh Maidan Dir Lower | do |
| 3 | Humayoun M.A. B.Ed | 17-5-1961 | Swat | 3/3/1988 | 3/3/1988 | 17 | do | SS GHSS No.1 Hari Pure | do |
| 4 | Abdul Hamid M.A. B.Ed | 12/7/1962 | Swat | 5/3/1988 | 5/3/1988 | 17 | do | SS GHSS No.1 Peshawar City | do |
| 5 | Humayoon Khan MSc / MEd | 27-3-1957 | Malakand | 27-04-1985 | 25-5-1988 | 17 | do | SS GHSS Kel Malakand Agency | do |
| 6 | Sardar Ali M.A. B Ed | 12/1/1964 | Swat | 11/12/1989 | 11/12/1989 | 17 | do | SS GHSS Nawagi Bunir | do |
| 7 | Jehan-Didar M.A. B.Ed | 15-7-1960 | shangla | 1/11/1987 | 14-12-1989 | 17 | do | SS GHSS Sandovi Shangla | do |
| 8 | Hamid Ul Haq M.A. B.Ed | 19-1-1960 | Swat | 21-9-1989 | 14-2-1990 | 17 | do | SS GHSS Sandovi Shangla | do |
| 9 | Ali Haidar M.A. B.Ed | 15-5-1951 | Swat | 16-08-1980 | 21-3-1990 | 17 | do | SS GHSS Palai Malakand | do |
| 10 | Biradar Khan M.A. B.Ed | 4/4/1960 | DIR | 21-3-1990 | 21-3-1990 | 17 | do | SS GHSS Wari Dir Upper | do |
| 11 | Muhammad Mujtaba Khan M.Sc. B.Ed | 2/3/1964 | DIR | 24-03-1990 | 24-03-1990 | 17 | do | SS GHSS Wari Dir Upper | do |
| 12 | Muhammad Amin M.A. B.Ed | 15-3-1961 | Swat | 25-7-1990 | 25-07-1990 | 17 | do | SS GHSS Chowga Shangla | do |
| 13 | Habib Ullah Khan M.A. B.Ed | 20-03-1962 | Ork. Agency | 5/3/1990 | 8/5/1994 | 17 | do | SS GHSS Spin Dand K. Agency | SO(S) E&SED/3-2/2009/Habibullah |
| 14 | Shad Muhammad Afridi M.A. B.Ed | 15.05.1952 | FR Pesh. | 13.10.1974 | 8/11/1995 | 17 | By Promotion | HM GHS Sara Dargai | sen.aw.vd so(s)1-5/2007 dt 30-10-08 |
| 15 | Noor Rehman M.A. B.Ed | 15.08.1951 | Bajour Agy | 15.03.1970 | 8/11/1995 | 17 | By Promotion | HM GHS Zoor Bandar Bajour | sen.aw.vd so(s)1-5/2007 dt 30-10-08 |
| 16 | Mr Dil Muhammad B.A B.Ed | 05.07.1954 | NWA | 5/10/1975 | 3/9/1996 | 17 | do | HM GHS, Pindi Lalina K. Agency | SO(S) E&SE/4-16/2010/Dil Muhammad |
| 17 | Hussain Ali M.A. B.Ed | 10.04.1959 | Swat | 28.08.1996 | 28.08.1996 | 17 | <i>D/Selectee</i> | SS GHSS Barikot Swat | |
| 18 | Khan Afsar M.A. B.Ed | 04.05.1957 | Abbottabad | 26.08.1996 | 26.08.1996 | 17 | do | SS GHSS Nawan Shaheer Abbottabad | |
| 19 | Muhammad Mustafa M.A. B.Ed | 26.01.1968 | karak | 28.08.1996 | 28.08.1996 | 17 | do | SS GHSS Usterzai Kohat | |
| 20 | Hidayat Ullah Khan M.A. B Ed | 15.02.1966 | Bannu | 28.08.1996 | 28.08.1996 | 17 | do | SS GHSS Palo Dheri Mardan | |
| 21 | Hanif Ullah S/o Muhad Iqbal M.A. B.Ed | 06.03.1968 | FR.Bannu | 28.08.1996 | 28.08.1996 | 17 | do | SS GHSS Hazar Khawani Peshawar | |
| 22 | Riaz Ali S/O Mohd Jamil M.A. B.Ed | 03.11.1962 | Mardan | 28.08.1996 | 28.08.1996 | 17 | do | SS GHSS Akbarpura NSR | |
| 23 | Muhammad Haroon M.A. B.Ed | 15.03.1958 | Mansehra | 05.03.1983 | 1/8/1996 | 17 | do | SS GHSS Battal Mansehra | |
| 24 | Khair-Ur-Rahman M.A. B.Ed | 15.03.1966 | Baj. Agency | 26.08.1996 | 26.08.1996 | 17 | do | SS GHSS Sherpao Charsadda | |
| 25 | Muhammad Anwar Khan M.A. | 05.11.1969 | Bannu | 11.07.1996 | 11.07.1996 | 17 | do | SS GHSS Lora Abbottabad | |
| 26 | Hayat Muhammad Khan M.A. B Ed | 15.04.1968 | Malakand | 11.07.1996 | 11.07.1996 | 17 | do | SS GHSS Ghani Dheri Malakand | |
| 27 | Abdul Ali M.A. B.Ed | 11.08.1964 | Mohi Agy | 11.07.1996 | 11.07.1996 | 17 | do | SS GHSS No 4 Mardan | |
| 28 | Khaista Rahman M.A. | 06.04.1969 | Baj. Agency | 11.07.1996 | 11.07.1996 | 17 | do | SS GHSS Gardia Bajour Agency | |
| 29 | Muhammad Zaveel M.A. | 05.11.1969 | SW.Agency | 11.07.1996 | 11.07.1996 | 17 | do | SS GHSS Eidak NWA | |
| 30 | Zia Shahid M.A. | 14.12.1964 | Abbottabad | 11.07.1996 | 11.07.1996 | 17 | do | SS GHSS Nawan Sheher Abbottabad | |
| 31 | Abdul Jabar Khan M.A. B.Ed | 15.08.1965 | SWA | 12.11.1996 | 17.11.1996 | 17 | do | SS GHSS Usterzai Payan Kohat | |
| 32 | Khizar Hayat. M.A. B.Ed | 24.04.1963 | Haripur | 23.05.1997 | 23.05.1997 | 17 | do | SS GHSS Hari Pur | |
| 33 | Sultan Mehmood.M.A. B.Ed | 10.04.1968 | Haripur | 23.05.1997 | 23.05.1997 | 17 | do | SS GHSS Beer. Hari Pur | |
| 34 | Abdul Aziz Khan.M.A. B.Ed | 06.01.1968 | Dir | 23.05.1997 | 23.05.1997 | 17 | do | SS GHSS Nathia Gali A/Abad | |
| 35 | Farakh Jalees M.A. B.Ed | 01.03.1968 | DiKhan | 23.05.1997 | 23.05.1997 | 17 | do | SS GHSS Beer Hari Pur | |
| 36 | Sajjad Ahmed. M.A. B.Ed | 15.04.1967 | Bannu | 23.05.1997 | 23.05.1997 | 17 | do | SS GHSS S.K.Bala Bannu | |
| 37 | Kamram Sarfar Baig M.A B.Ed | 06.03.1968 | Swat | 12.11.1997 | 12.11.1997 | 17 | do | SS GHSS Samar Bagh Dir L | |
| 38 | Ahmad Ullah M.A. B.Ed | 15.03.1968 | Ch. Jda | 23.05.1997 | 23.05.1997 | 17 | do | SS Jatozar Nowshetra | |

ADDED

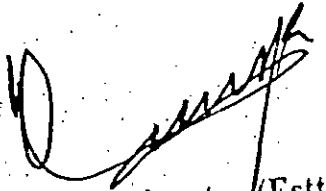
FINAL SENIORITY LIST OF HEADMASTER/SUB SPECIALIST MALE (B-17) OF Elementary & Secondary Education DEPARTMENT AS IT STOOD ON 15.10.2010.

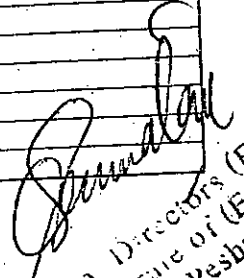
| No | Name of Officers with Quilification | D/O Birth | Domicile | Date of 1st; Entry in Edu; Deptt; | Regular appionment / Promtion to the present post | | | Designation/Place of Posting | Remarks |
|----|---------------------------------------|------------|-------------|-----------------------------------|---|--------|-------------------------------|--|---------|
| | | | | | Date | BPS | Method of Recruitment | | |
| | | | | | | | SS GHSS MAYAR DIR LOWER | so(s)/S&L1-4/05 Reg. KC dt:18/4/09 | |
| | | | | | | Direct | SS GHSS Bagh Maidan Dir Lower | do | |
| 1 | Fazal Iqbal M.A, B.Ed | 1/1/1960 | DIR | 17-02-1988 | 17-02-1988 | 17 | do | do | |
| 2 | Darwesh Khan M.A, B.Ed | 1/5/1958 | DIR | 18-04-1979 | 3/3/1988 | 17 | do | do | |
| 3 | Humayoun M.A, B.Ed | 17-5-1961 | Swat | 3/3/1988 | 3/3/1988 | 17 | do | do | |
| 4 | Abdul Hamid M.A, B.Ed | 12/7/1962 | Swat | 5/3/1988 | 5/3/1988 | 17 | do | do | |
| 5 | Humayoon Khan MSc / MEd | 27-3-1957 | Malakand | 27-04-1985 | 25-5-1988 | 17 | do | do | |
| 6 | Sardar Ali M.A, B.Ed | 12/1/1964 | Swat | 11/12/1989 | 11/12/1989 | 17 | do | do | |
| 7 | Jehan Didar M.A, B.Ed | 15-7-1960 | shangla | 1/11/1987 | 14-12-1989 | 17 | do | do | |
| 8 | Hamid Ul Haq M.A, B.Ed | 19-1-1960 | Swat | 21-9-1989 | 14-2-1990 | 17 | do | do | |
| 9 | Ali Haidar M.A, B.Ed | 15-5-1951 | Swat | 16-08-1980 | 21-3-1990 | 17 | do | do | |
| 10 | Biradar Khan M.A, B.Ed | 4/4/1960 | DIR | 21-3-1990 | 21-3-1990 | 17 | do | do | |
| 11 | Muhammad Mujtaba Khan M.Sc, B.Ed | 2/3/1964 | DIR | 24-03-1990 | 24-03-1990 | 17 | do | do | |
| 12 | Muhammad Amin M.A, B.Ed | 15-3-1961 | Swat | 25-7-1990 | 25-07-1990 | 17 | do | do | |
| 13 | Habib Ullah Khan M.A, B.Ed | 20-03-1962 | Ork. Agency | 5/3/1990 | 8/5/1994 | 17 | By Promotion | SO(S) E&SED/3-2/2009/Habibullah sen.aw.vd so(s)1-5/2007 dt 30-10-08 | |
| 14 | Shad Muhammad Afridi M.A, B.Ed | 15.05.1952 | FR Pesh: | 13.10.1974 | 8/11/1995 | 17 | By Promotion | sen.aw.vd so(s)1-5/2007 dt 30-10-08 | |
| 15 | Noor Rehman M.A, B.Ed | 15.08.1951 | Bajour Agy | 15.03.1970 | 8/11/1995 | 17 | do | SO(S) E&SE/4-16/2010/Dil Muhammad | |
| 16 | Mr Dil Muhammad B.A B.Ed | 05.07.1954 | NWA | 5/10/1975 | 3/9/1996 | 17 | Direct select | | |
| 17 | Hussain Ali M.A, B.Ed | 04.05.1957 | Abbottabad | 28.08.1996 | 28.08.1996 | 17 | do | | |
| 18 | Khan Afsar M.A, B.Ed | 26.01.1968 | karak | 28.08.1996 | 28.08.1996 | 17 | do | | |
| 19 | Muhammad Mustafa M.A, B.Ed | 15.02.1966 | Bannu | 28.08.1996 | 28.08.1996 | 17 | do | | |
| 20 | Hidayat Ullah Khan M.A, B.Ed | 06.03.1968 | FR.Bannu | 28.08.1996 | 28.08.1996 | 17 | do | | |
| 21 | Hanif Ullah S/O Muhad Iqbal M.A, B.Ed | 03.11.1962 | Mardan | 28.08.1996 | 28.08.1996 | 17 | do | | |
| 22 | Riaz Ali S/O Mohd Jamil M.A, B.Ed | 15.03.1958 | Mansehra | 05.03.1983 | 1/8/1996 | 17 | do | | |
| 23 | Muhammad Haroon M.A, B.Ed | 15.03.1966 | Baj. Agency | 26.08.1996 | 26.08.1996 | 17 | do | | |
| 24 | Khair-Ur-Rahman M.A, B.Ed | 05.11.1969 | Bannu | 11.07.1996 | 11.07.1996 | 17 | do | | |
| 25 | Muhammad Anwar Khan M.A, | 15.04.1968 | Malakand | 11.07.1996 | 11.07.1996 | 17 | do | | |
| 26 | Hayat Muhammad Khan M.A, B.Ed | 11.08.1964 | Moh Agy | 11.07.1996 | 11.07.1996 | 17 | do | | |
| 27 | Abdul Ali M.A, B.Ed | 06.04.1969 | Baj. Agency | 11.07.1996 | 11.07.1996 | 17 | do | | |
| 28 | Khaista Rahman M.A, | 05.11.1969 | SW.Agency | 11.07.1996 | 11.07.1996 | 17 | do | | |
| 29 | Muhammad Zaveel M.A, | 14.12.1964 | Abbottabad | 11.07.1996 | 11.07.1996 | 17 | do | | |
| 30 | Zia Shahid M.A, | 15.08.1965 | SWA | 12.11.1996 | 17.11.1996 | 17 | do | | |
| 31 | Abdul Jabar Khan M.A, B.Ed | 24.04.1963 | Haripur | 23.05.1997 | 23.05.1997 | 17 | do | | |
| 32 | Khizar Hayat. M.A, B.Ed | 10.04.1968 | Haripur | 23.05.1997 | 23.05.1997 | 17 | do | | |
| 33 | Sultan Mehmood.M.A, B.Ed | 06.01.1968 | Dir | 23.05.1997 | 23.05.1997 | 17 | do | | |
| 34 | Abdul Aziz Khan.M.A, B.Ed | 01.03.1968 | DIKhan | 23.05.1997 | 23.05.1997 | 17 | do | | |
| 35 | Farakh Jalees M.A, B.Ed | 15.04.1967 | Bannu | 23.05.1997 | 23.05.1997 | 17 | do | | |
| 36 | Sajjad Ahmed. M.A, B.Ed | 06.03.1968 | Swat | 12.11.1997 | 12.11.1997 | 17 | do | | |
| 37 | Kanram Sarfar Baig M.A B.Ed | 15.03.1968 | Charsadda | 23.05.1997 | 23.05.1997 | 17 | do | | |
| 38 | Arnan Ullah M.A, B.Ed | | | | | | | | |

Attached
 Director (Estab.)
 Directorate of (E&SE)
 Peshawar

| S.No | Name of Officers with Qualification | D/O Birth | Domicile | Date of 1st: Entry in Edu; Deptt; | Regular appoinment / Promotion to the present post | | | Designation/Place of Posting | Remarks |
|------|---|------------|-------------|---|---|-----|--------------------------|------------------------------|---------|
| | | | | | Date | BPS | Method of Recruitment | | |
| | | | | | | | | | |
| 1351 | Multan Khan s/o Akbar Shah B A B Ed | 28-12-1966 | FR-Peshawar | 15-11-1994 | 24-09-2007 | 17 | do | HM GHS C/O FATA | |
| 1352 | Liaq Khan s/o Amir Shah B A B Ed | 19-07-1970 | KHY Agency | 28-03-1996 | 24-09-2007 | 17 | do | HM GHS C/O FATA | |
| 1353 | Muhammad Ullah Jan s/o Ghulam Jan B A B Ed | 1/3/1972 | Orzk Agency | 21-09-1998 | 24-09-2007 | 17 | do | HM GHS C/O FATA | |
| 1354 | Fazali Kabir Afridi s/o Fatah Khan B A B Ed | 25-02-1962 | KHY Agency | 2/2/1981 | 24-09-2007 | 17 | do | HM GHS C/O FATA | |
| 1355 | Saif Ullah Khan s/o Gul Muhammad B A B Ed | 3/6/1964 | FR-Bannu | 12/9/1989 | 24-09-2007 | 17 | do | HM GHS C/O FATA | |
| 1356 | Muhammad Ilyas Khan s/o Usman Khan B A B Ed | 15-01-1969 | M-Agency | 1/12/1994 | 24-09-2007 | 17 | do | HM GHS C/O FATA | |
| 1357 | Alfal Hussain s/o Taza Gul B A B Ed | 3/6/1969 | Orzk Agency | 20-09-1998 | 24-09-2007 | 17 | do | HM GHS Sikandri Mardan | |
| 1358 | Falak Naz s/o Habib Gul B A B Ed | 1/1/1973 | M-Agency | 24-09-2007 | 24-09-2007 | 17 | do | HM GHS C/O FATA | |
| 1359 | Sanobar Khan s/o Hazrat Khan B A B Ed | 12/4/1973 | FR-Bannu | 24-09-07 | 24-09-2007 | 17 | do | HM GHS C/O FATA | |
| 1360 | Anwar Shah s/o Shah Zaman B A B Ed | 20-12-1965 | M-Agency | 1/2/2002 | 24-09-2007 | 17 | do | HM GHS C/O FATA | |

It is certified that the Seniority List is Final and undisputed.


Deputy Director (Estt.)
Elementary & Secy: Education
Khyber Pakhtunkhwa Peshawar


Assistant Director (Estab.)
Directorate of (E&SE)
NWFP, Peshawar.

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the April 12, 2011

P - 94

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NOTIFICATION

NO. SO(S/M) E&SED/1-3/2011/Promotion BS-17 to BS-18 (Male): The Competent Authority on the recommendations of the Provincial Selection Board is pleased to promote/appoint the following One Hundred & Thirty Two (132) Officers of Teaching Cadre of Elementary and Secondary Education Department from BS-17 to BS-18 on regular/acting charge basis with immediate effect as under:-

| S. # | Name of officers | From | To | Remarks |
|------|----------------------|-------|-------|--------------------------------------|
| 1. | Fazal Iqbal | BS-17 | BS-18 | Against Vacant Post on regular basis |
| 2. | Derwesh Khan | BS-17 | BS-18 | -do- |
| 3. | Humayoun | BS-17 | BS-18 | -do- |
| 4. | Abdul Hamid | BS-17 | BS-18 | -do- |
| 5. | Humayoon Khan | BS-17 | BS-18 | -do- |
| 6. | Sardar Ali | BS-17 | BS-18 | -do- |
| 7. | Jehan Didar | BS-17 | BS-18 | -do- |
| 8. | Hamid Ul Haq | BS-17 | BS-18 | -do- |
| 9. | Ali Haidar | BS-17 | BS-18 | -do- |
| 10. | Biradar Khan | BS-17 | BS-18 | -do- |
| 11. | Muhammad Mujtaba | BS-17 | BS-18 | -do- |
| 12. | Muhammad Amin | BS-17 | BS-18 | -do- |
| 13. | Habib Ullah Khan | BS-17 | BS-18 | -do- |
| 14. | Shad Muhammad Afridi | BS-17 | BS-18 | -do- |
| 15. | Noor Rehman | BS-17 | BS-18 | -do- |
| 16. | Mir. Dil Muhammad | BS-17 | BS-18 | -do- |
| 17. | Hussain Ali | BS-17 | BS-18 | -do- |
| 18. | Khan Afsar | BS-17 | BS-18 | -do- |
| 19. | Hidayat Ullah | BS-17 | BS-18 | -do- |
| 20. | Hamid Ullah | BS-17 | BS-18 | -do- |
| 21. | Muhammad Haroon | BS-17 | BS-18 | -do- |
| 22. | Khair-Ur-Rahman | BS-17 | BS-18 | -do- |
| 23. | Muhammad Anwar Khan | BS-17 | BS-18 | -do- |
| 24. | Hayat Muhammad Khan | BS-17 | BS-18 | -do- |
| 25. | Abdul Ali | BS-17 | BS-18 | -do- |
| 26. | Khair-Ur-Rahman | BS-17 | BS-18 | -do- |
| 27. | Muhammad Zaveel | BS-17 | BS-18 | -do- |
| 28. | Zia Shahid | BS-17 | BS-18 | -do- |
| 29. | Abdul Jabbar Khan | BS-17 | BS-18 | -do- |
| 30. | Khizar Hayat | BS-17 | BS-18 | -do- |
| 31. | Abdul Aziz Khan | BS-17 | BS-18 | -do- |
| 32. | Sajjad Ahmed | BS-17 | BS-18 | -do- |
| 33. | Saeed Ur Rehman | BS-17 | BS-18 | -do- |
| 34. | Abdus Salam | BS-17 | BS-18 | -do- |
| 35. | Ali Sher | BS-17 | BS-18 | -do- |
| 36. | Nadir Ali | BS-17 | BS-18 | -do- |
| 37. | Qaisar Anwar | BS-17 | BS-18 | -do- |
| 38. | Muhammad Wasim | BS-17 | BS-18 | -do- |
| 39. | Abdul Sattar | BS-17 | BS-18 | -do- |
| 40. | Muhammad Rasool | BS-17 | BS-18 | -do- |
| 41. | Ali Akbar | BS-17 | BS-18 | -do- |

ATTACHED

| S. # | Name of officers & Present Stations | Proposed place of posting | Remarks |
|------|---|---|---|
| 116. | Tashrif Ullah, HM BS-17 GHS Mani Khela Charsadda | Principal BS-18 GHS Ibrahim Zai Charsadda. | Against Vacant Post on acting charge basis. |
| 117. | Noor Khan HM BS-17 GHS Dalo Khel Lakki Marwat. | Principal BS-18 GHS Havelian Abbottabad. | -do- |
| 118. | Zait Ullah HM BS-17 GHS Kota Abu Khan NWA | Service placed at the disposal of DE (FATA). | -do- |
| 119. | Ali Nawaz HM BS-17 GHS Moorat Maira Mansehra | Principal BS-18 GHS No.2 Mansehra. | -do- |
| 120. | Umar Zaman HM BS-17 GHS Piran Mansehra | Principal BS-18 GHS Shawal Mazullah Mansehra. | -do- |
| 121. | Muhammad Aslam Khan, HM BS-17 GHS M/Mandra Khel Lakki. | Principal BS-18 GHSS Khadezai Kohat | -do- |
| 122. | Araf Elahi, HM BS-17 GHS Bandi Shungli Mansehra. | Principal BS-18 GHS Shamdra Mansehra. | -do- |
| 123. | Rambail Khan, HM BS-17 GHS Syed Tughal Khel Bannu. | Principal BS-18 GHS Nari Panoos Karak. | -do- |
| 124. | Muhammad Hamid, HM BS-17 GHS No.2 Rajjar Charsadda. | Principal BS-18 GHS Tarnab Charsadda. | -do- |
| 125. | Ahmad Rashid, HM BS-17/Assistant Secretary BISE Malakand | Principal BS-18 GHS No.2 Tangi Charsadda. | -do- |
| 126. | Abdur Rashid, HM BS-17/Assistant Secretary BISE Abbottabad. | Principal BS-18 GHS Chamhad Abbottabad | -do- |
| 127. | Nazir Ahmad, HM BS-17 GHS Namli Maira Abbottabad. | Principal BS-18 GHS Damtour Abbottabad. | -do- |
| 128. | Masaud Khan, HM BS-17 GHS Bost Khel FR Kohat. | Service placed at the disposal of DE (FATA). | -do- |
| 129. | Hazrat Rehman, HM BS-17//C. Principal GHS Nawan Killi Swat. | Principal BS-18 GHS Nawan Killi Swat. | -do- |
| 130. | Iftikhar Ahmad, HM BS-17 /DDO (M) Kohat. | Principal BS-18 GHS Dhoda Kohat. | -do- |
| 131. | Syed Wahab, HM BS-17 GHS Gabasani (Gadoon) Swabi. | Principal BS-18 GHS Tarakai Swabi. | -do- |
| 132. | Muhammad Rehman, HM BS-17 GHS Suni Khel FR Kohat. | Service placed at the disposal of DE (FATA). | -do- |

2. No TA/DA will be allowed to the appointees for joining their duty.

SECRETARY

Endst: of even No. & Date:

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Principal Staff Officer to Chief Minister Khyber Pakhtunkhwa.
3. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
4. Director, Curriculum & Teacher Education Abbottabad.
5. Director, Information Khyber Pakhtunkhwa.
6. Director, Education FATA, FATA Secretariat, Wasrak Road Peshawar.
7. District Accounts Officers concerned.
8. Executive District Officer concerned.
9. PS to Chief Secretary Khyber Pakhtunkhwa.
10. PS to Minister E&SE, Khyber Pakhtunkhwa.
11. Incharge EMISE E&SE Department.
12. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
13. PS to Additional Secretary E&SE Department, Khyber Pakhtunkhwa.
14. Officers concerned.
15. Office order file.

ATTACHED

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

96

108

WORKING PAPER FOR PROVINCIAL SELECTION BOARD
Department of Elementary & Secondary Education - Government of Khyber Pakhtunkhwa

PSB-I

| | | | | |
|------|---|--|---------------------|--|
| 1. | Nomenclature of the post/Basic Scale | Principal GHS/GHSS/Comp. High School/RITE & other equivalent posts in the teaching Cadre (BPS-18) | | |
| 2. | Service/Group/Cadre | Provincial Education Service Group B-17 Officers of Teaching Cadre (Men Section) | | |
| 3. | Sanctioned Strength of the Cadre | Total sanctioned posts in BS-18 are 551 out of which 29 posts are reserved for Management Cadre. Hence 522 posts are available for Teaching cadre. | | |
| 4. | | | | |
| i. | Percentage of Share | Direct | Promotion | Transfer |
| ii. | No. of posts allocated to each category | 20% | 80% | |
| iii. | Present occupancy position | 104 | 418 | |
| iv. | No. of Vacancies in each category | 10 | 345 (Regular Basis) | |
| | | 94 Out of which requisition of 27 vacancies have been placed with PSC | | 73 posts (on regular basis) 59 posts (on acting charge basis) |

Total 60 regular officers of BS-18 have been promoted to BS-19 on acting charge basis, out of which 48 posts falls in promotion quota, and 11 officers are posted on deputation/excadre as per details given at column 4(iii-iv), against which 59 officers to BS-18 on acting charges basis are proposed for promotion.

| | |
|---|--|
| v. How did the vacancy (ies) under promotion quota occurred and since when? | Posts became vacant due to retirement/death promotion/newly creation/up gradation of schools |
| | i. No. of retired officers in BPS-18 = 40 (Annexure - A1-40) |
| | ii. No. of newly created/upgraded posts = 33 (Annexure-B1-33) |
| | iii. No. of officers promoted from B-18-B19 on acting charge basis = 48 (Annexure-C) |
| | iv. No. of Officers on deputation/Ex-Cadre = 11 (Annexure - D1-12) |

vi. Recruitment Rules:

Notification SO (G) S&LD (1-28/2003/Vol-II, dated April 9, 2004 (Annexure-E). Eighty percent (80%) by promotion on the basis of seniority cum fitness from amongst Headmasters Government High Schools/Subject Specialists/Government Comprehensive high School /Government Higher Secondary Schools and others equivalent Posts in B-17 with five years service as such and twenty percent (20%) by initial recruitment.

- vii. Required length of Service
- viii. Whether to be promoted on regular Basis or appointment on acting charge Basis ?
- ix. Mandatory training, if any
- x. Minimum required score on EI

Five Years in BPS-17.
i. On regular basis = 73
ii. On acting charge basis = 59
Total = 132
No mandatory training is required

Note:- The officers at S#1 to 12 of the seniority list/panel or regularized and awarded all service benefits from the dates of their initial appointments by the court/department vide para-1&2 of the Notification dated 18.4.2003 (annexure-F)-Mr. Habibullah, subject specialist (Seniority number 13) and Mr. Dil Muhammad Khan (Seniority number 16) have also been awarded service regularization by the court/department vide Notification dated 13.02.2010 (annexure-G) and 29.7.2010 (annexure-I) with effect from 8.5.1994 and 3.9.1996. Hence they all will retain their inter-se seniority from the date where their erstwhile juniors have been promoted to B-18 vide No. (SOS) 1-2/1998(B-18), dated 14.3.1998 (annexure-I), in the light of para-7 of the Establishment department circular letter No. SOR-1(S&GAD)-29/75, dated 13.4.1997 (Annexure-J)

DEPUTY DIRECTOR (Estt)
Elementary & Secondary Education
Khyber Pakhtunkhwa
Deputy Director (Estt)
Elementary & Secy Education
Khyber Pakhtunkhwa Peshawar.

Secretary
Government of Khyber Pakhtunkhwa
Elementary & Secondary Education Department
Secretary to Govt. of Khyber Pakhtunkhwa
E&SE Department

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

(X) - (1)

(1)

97

~~(1)~~

To

The Secretary to Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.

Through: PROPER CHANNEL

SUBJECT: REGAINING OF SENIORITY IN BS 18 and PROMOTION TO BS 19.

Sir,

Respectfully it is submitted that we were appointed by the E&SE Department as Subject Specialists during 1988 to 1990 on the dates as per detail given in column 4 of Para 3 below. Elementary & Secondary Education Department vide Notification No. SO (S)/S&L/1-4/05/ Regularization KC dated 19/03/2008 terminated our services with effect from 19/3/2008 (Flag A). We filed an appeal in Service Tribunal, Khyber Pakhtunkhwa Peshawar against the said termination orders. On the direction/judgment of Service Tribunal, dated 21/10/2008 the E&SE Department vide Notification No. SO(S)S&L/1-4/05-Regulation dated 18/4/2009 (Flag-B) re-instated the undersigned officers with all back benefits as per following terms & conditions i.e.

- i) All the above twelve subject specialists are re-instated in service with all back benefits of service from the date of their termination of service i.e. 19/3/2008.
- ii) Their Services are regularized as subject specialist w.e.f. the date of their initial appointment / officiating as subject specialist as per column 3 of Para-1 above.

2) According to the said notification our names were placed on the top of the seniority list of B-17 /2010 (i.e. from S.No.1 to 12), and we have been promoted to BS-18, vide E&SE Department Notification No. SO(M) E&SED/1-3/2011, promotion from BS17 to BS-18 (Male) dated April 12, 2011 (Flag C).

3) But according to our appointment dates as per column 4 below & Establishment Department instructions vide Para V (d) of Letter No. SOE-III/E&AD 1-3/2008 dated 28/01/2009; our names might stand at Seniority No's ^{B-17} as given in column 3 below in the seniority list ^{B-17} of 1991 (Flag D).

Handwritten notes:
C.O. 2
Ad. Dir. (F)
S.P. Please
Study
Process
11/5/11

Handwritten notes:
DDE (M)
11/5/11
9/2011

Handwritten notes:
73
12/5
556
16/5/11

P. A. to Director E & S E
Khyber Pakhtunkhwa, Peshawar.
D. No. 4723
Dated 12/5

| S# | NAME | SENIORITY NO | DATE OF APPOINTMENT / REGULARIZATION |
|----|-----------------------|--------------|--------------------------------------|
| 1 | FAZAL IQBAL | 788 (A) | 17-02-1988 |
| 2 | DARWASH KHAN | 788 (B) | 03-03-1988 |
| 3 | HUMAYUN | 788 (C) | 03-03-1988 |
| 4 | ABDUL HAMID BUTT | 788 (D) | 05-03-1988 |
| 5 | HUMAYUN KHAN | 790 (A) | 25-03-1988 |
| 6 | SARDAR ALI | 842 (A) | 11-12-1989 |
| 7 | JEHAN DIDAR | 842 (B) | 14-12-1989 |
| 8 | HAMID UL HAQ | 842 (C) | 13-02-1990 |
| 9 | ALI HAIDER | 842 (D) | 21-03-1990 |
| 10 | BIRADAR KHAN | 842 (E) | 21-03-1990 |
| 11 | MUHAMMAD MUJTABA KHAN | 842 (F) | 24-03-1990 |
| 12 | MUHAMMAD AMIN | 842 (G) | 25-07-1990 |

4) In the said seniority list, 219 officers Junior to us have already been promoted to BS18 vide E&SE Department Notification No.SO(S) 1-2/98 (B-18) dated 14th March 1998 (Flage E). Moreover again these officers have been promoted to BS-19 vide Notification No.SO(S) 1-2/2004 / B-18 to B-19 dated 9-2-2004 (Flag F).

5) The following explanation as per Para 3 and 4 was given in the working paper by E&SE Department discussed in PSB meeting held on 28th February 2011 for promotion of officers from BS-17 to BS-18 i.e.

“The Officers at S# 1 to 12 of the seniority list / penal are regularized & awarded all service benefits from the dates of their initial appointments by the Court / Department vide para 1 & 2 of the Notification dated 18-04-2009. Hence they all will retain their inter-se-seniority from the dates where their erstwhile Juniors have been promoted to BS-18 vide No.(SOS)1-2/1998 (B-18), dated 14/03/1998”.

6) In view of the position explained above, it is submitted that in terms of para 7 of Establishment Department letter No. SOR-1 (S&GAD) 1-29/75 dated 13/4/1985 (Flag G) and para V(d) of Establishment letter No. SOE-III / E&AD 1-3 / 2008 dated 28/1/2009, (Flag H) we shall be deemed to have been cleared for