

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

CMA No. _____/2023

In Service Appeal No: 7148 to 7196

ZOHAB KHAN & (48) OTHERS

VS

GOVT; OF KP THROUGH CHIEF SECRETARY & OTHERS

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4021

Dated 2/3/2023

**Application for submission of reliance certificate for considering reply to
the title appeal as replies for other connected (48) Service Appeals on
behalf of Respondents.**

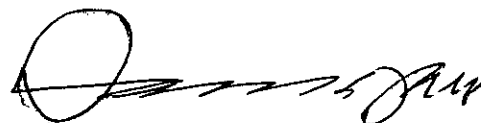
Respectfully Sheweth;

Respondents humbly submit as under;

1. That the above titled appeals are pending adjudication before this Honorable Tribunal for reply on behalf of respondents today (02-03-2023).
2. That memorandum of the titled Service Appeal No. 7148/2021 & other connected Service Appeal No: 7149-7196, transpire that they have identical question of law & facts of the case. Moreover, reply in the Service Appeal No.7148 has been drafted, duly vetted by the AAG Service Tribunal & signed by the Respondents & is going to be submitted before this Honorable Tribunal today with the request that same may also be considered in the other connected appeals for having identical question of law & facts of the case.

Therefore, it is humbly prayed that on acceptance of the instant application this Honorable Tribunal may graciously be pleased to consider the instant reply, as replies in the other identical connected appeals on behalf of respondents please.

Dated: 02-03-2023



Director E & SE Department
Khyber Pakhtunkhwa, Peshawar
Respondents No. 1-3

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

Service Appeal No: 7148/2021

Zahab Khan District Dir Lower.....Appellant

VERSUS

**Government of, Khyber Pakhtunkhwa through the Chief Secretary &
others.....Respondents**

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

Respectfully Sheweth:

The Respondents 1 to 3 submit as under:-

PRELIMINARY OBJECTIONS.

- 1 *That* the Appellant has got no cause of action/locus standi.
- 2 *That* the Appellant has not come to this Honorable Tribunal with clean hands.
- 3 That the appeal in hand is based on mala fide intentions.
- 4 *That* the appellant has concealed material facts from the ambit of this Honorable Tribunal in the titled appeal.
- 5 *That* the case is bad for mis-joinder and non-joinder of the necessary parties.
- 6 *That* the appeal is barred by law of limitation Act 1908.
- 7 *That* the appellant has been treated as per law, rules and policy by the Department.
- 8 That this Honorable Tribunal has got no jurisdiction to entertain the tiled case in view of legal bar under the law.
- 9 *That* the service rule dated 24-7-2014 & 24-4-2018 are legally competent.
- 10 *That* the appellant is not entitled for the relief he has sought from this Honorable Tribunal through the instant appeal.

ON FACTS.

- 1 That Para-1 is subject to the proof being pertain to the service record of the appellant.


- 2 That Para-2 is subject to the proof being pertain to the academic qualification of the appellant.
- 3 That Para-3 is correct to the extent of framing Service Structure/Rules for the grant of promotion to the different Teaching Cadre posts in the Department including the SST (Sc/G) post of the appellant in the Department under the specified reserved Quota for promotion notified by the Respondent Department vide Notification dated 24-7-2014 attached as **Annexure-A** for ready reference.
- 4 That Para-4 is incorrect on the grounds that vide Notification dated 24-4-2018 attached as **Annexure-B**, the Respondent Department has already framed and notified Service Rule/Structure for different Teaching Cadres of information Technology (IT) including the SST (IT) in BPS-16, wherein, the prescribed qualification for promotion is as under:-
 - a) *Fifty percent by promotion on the basis of Seniority cum fitness from amongst the CT, (IT) with five years' service as such and having the qualification prescribed for the post of SST (IT) in BPS-16.*
 - b) *Fifty percent by initial recruitment. Provided that if no suitable candidate is available for promotion then by initial recruitment.*
- 5 That Para-5 is incorrect the aforesaid Service Structure of the Department, whereby, promotion is normally allowed in the upper scales under the prescribed Rules & criteria to the eligible staff, however, aggrieved from the said Notification, some persons have been filed a W.P No. 596-P/2019 before the learned Peshawar High Court Peshawar which was dismissed vide judgment dated 03-9-2020 in favor of the Responded Department on merits of the case and a copy of the cited Judgment dated 03-9-2020 is attached as **Annexure-C** for ready reference.
- 6 That Para-6 is incorrect, hence, denied on the grounds that the Department bound to the follow the prescribed Rules & policy as mentioned above, wherein, the appellant could not qualify, hence, made not entitled for promotion from PST (IT) to SST (IT) in BPS-16 on the grounds of being a dying Cadre in the Department.
- 7 That para-7 is incorrect on the grounds that the act of the Respondent Department with regard to the Notification dated 24-7-2014 & 24-04-2018 is legal & liable to be maintained.
- 8 That Para-8 is incorrect, hence, denied, as no Departmental appeal against the Service Rules notified on dated 24-7-2014 & 24-04-2018 has been filed by the appellant till date, therefore, the appeal in hand is liable to be rejected on the following grounds inter alia:-


ON GROUNDS.

- a. **Incorrect & not admitted.** The plea of the Appellant is without any cogent reason and legal justification as the impugned service rules/structure dated 24-7-2014 & 24-4-2018 are mainly based on natural justice and equality, wherein, each & every teaching cadre has a Quota/criteria for promotion in the upper scales in the Department on the basis of their seniority cum fitness. Therefore, the claim of the appellant is liable to be rejected.
- b. **Incorrect & not admitted.** The Appellant has been treated as per law, rules & service structure as mentioned above, whereas, the appellant seeks two separate channels for promotion against the SST (IT) post and SST (G) which is illegal and liable to be rejected.
- c. **Incorrect & not admitted.** The plea of the appellant is illegal and liable to be rejected in view of the above made submission in foregoing paras of the present reply on behalf of the Respondents.
- d. **Incorrect & not admitted.** The act of the Respondents with regard to the afore stated service Rules & structure dated 24-7-2014 & 24-4-2018 is within legal sphere & liable to be maintained.
- e. **Incorrect & not admitted.** The act of the Department is legal having no discrimination towards to the appellant in the aforementioned service Rules. Therefore, the stance of the appellant is liable to be rejected.
- f. **Incorrect & not admitted.** No disparity has been committed by the Department in the tilted case nor has violated the mandatory provision of Article 38 (e) of the constitutions of Islamic Republic of Pakistan 1973 by the Respondents, Hence, the plea of the appellant is liable to be rejected.
- g. **Incorrect & not admitted.** The plea of the appellant is illegal and liable to be rejected in view of the above made submissions in foregoing paras of the present reply on behalf of the Respondents.
- h. **Incorrect & not admitted.** Hence, needs no further comments, however, the Respondents also seek leave of this Honorable Bench to submit additional record, grounds and case Law at the time of arguments on the date fixed please.

Therefore, it is most humbly prayed that the appeal of the appellant may kindly be dismissed in favor of the Respondents in the interest of justice.

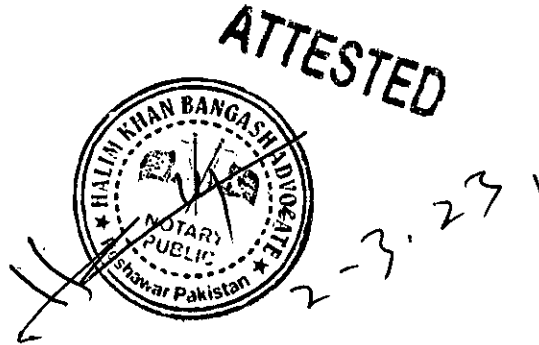
Dated ___/ ___/2023.



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


DIRECTOR
E&SE Khyber Pakhtunkhwa, Peshawar.
(Respondent No: 3)

AFFIDAVIT


I. Dr. Hayat Khan Assistant Director (Litigation-II) E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief.

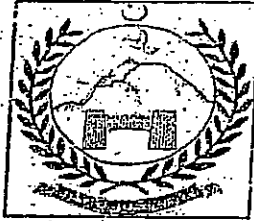



Deponent

NOTE:

It is submitted that Service Appeals No.7148-7196, 7320-7332, 7314-7345/2021 are identical in both question of Law & facts of the case, hence, these may also be treated to have been vetted with the titled case please on the analogy of rules consistency please.


Assistant Director (Lit-II)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 24th July, 2014.

NOTIFICATION

No.SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No.SO(G)S&LD/1-28/2003/Vol-II dated, 09-04-2004, Notification No.SO(G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and Notification No.SO(PE) 4-5/SSRC/Meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

(i) Serial No. 1 shall be renumbered as 1B and before Serial No. 1B, as so renumbered, the following new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1	Subject Specialist (BPS-17)	i. At least second class Master's Degree or four years BS Degree in the relevant subject; and ii. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualification from a recognized University.	23 to 35 years	(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16), with at least five years service as such and having qualification mentioned in column No. 3. Note: If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial

				recruitment; and (b) fifty percent by initial recruitment.
1A	Director Physical Education (BPS-17)	At least second class Master's Degree in Physical Education from a recognized University.	22-35 years	(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Physical Education Teachers (BPS-16), with at least five years service as Senior Physical Education Teacher and Physical Education Teacher and having qualification mentioned in column No. 3; Provided that if no suitable person is available from amongst Senior Physical Education Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst the Physical Education Teachers, with at least five years service as such and having qualification mentioned in column No. 3; Note:- If no suitable candidate is available in the relevant cadres of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment; and (b) fifty percent by initial recruitment"; and

ATTESTED

(ii) against Serial No. 1B, as so renumbered, for the existing entries, the following shall be substituted, in respective columns, namely:

1	2	3	4	5
1B	Secondary School Teacher (BPS-16)	<p>I. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology), Or (b) (Physics, Maths "A" or "B" or Statistics) Or (c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p>and</p> <p>II. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A. Education or equivalent qualifications from a recognized University.</p>	21 to 35 years.	<p>1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner:</p> <p>(a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher and having qualification mentioned in column No.3.</p> <p>Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters(BPS-16), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3:</p>

ATTESTED

8

Provided that if no suitable candidate is available from amongst Senior Drawing Masters for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3;

- (c) four per cent from amongst the Senior Arabic Teachers(BPS-16), with at least five years service as Senior Arabic Teachers and Arabic Teachers, and having qualification mentioned in column No.3:

Provided that if no suitable candidate is available from amongst Senior Arabic Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Arabic Teachers with at least five years service as such and having qualification mentioned in column No.3;

- (d) four per cent from amongst the Senior Theology Teachers(BPS-16), with at least five years service as Senior Theology Teachers and Theology Teachers and having qualification mentioned in column No.3:

ATTESTED

Provided that if no suitable candidate is available from amongst Senior Theology Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers with at least five years service as such and having qualification mentioned in column No. 3;

- (e) three per cent from amongst the Senior Qaris (BPS-16), with at least five years service as Senior Qari and Qari and having qualification mentioned in column No.3;

Provided that if no suitable candidate is available from amongst the Senior Qaris then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Qaris with at least five years service as such and having qualification mentioned in column No. 3;

- (f) twenty per cent from amongst the Primary School Head Teachers (BPS-16), with at least seven years service as Primary School Head Teachers and Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3;

Provided that if no suitable candidate is available from amongst

ATTESTED

10

			<p>Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least seven years service as Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No.3:</p> <p>Provided further that if no suitable candidate is available from amongst Senior Primary School Teachers for promotion then the post shall be filled from amongst Primary School Teachers with at least seven years service as such and having qualification mentioned in column No. 3; and</p> <p>(ii) twenty Five percent by initial recruitment.</p> <p>Note:</p> <p>I. If no suitable candidate is available in the relevant cadre of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment.</p> <p>II. Posts of General SST and SSTs-1 Science and SST-2 Science shall be filled by promotion or initial recruitment, each on need basis separately."</p>
--	--	--	--

TESTED



SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Endst : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PFTE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
22. Master file

ATTESTED

(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 24th APRIL, 2018.

GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

NOTIFICATION

Peshawar, dated: 24th April 2017.

No. SO(G)/E&SE/1-85/1.T/2017: In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of the notification issued in this behalf, the Elementary and Secondary Education Department in consultation with the Establishment & Administration Department and Finance Department hereby lays down the method of recruitment, qualification and other conditions specified in column No. 2 to 5 of the Appendix to the Notification which shall be applicable to the posts of Information Technology Teaching Cadre (Male/Female) in the Elementary and Secondary Education Department as specified in column No. 2 of the said Appendix.

APPENDIX:

S.No.	Name/nature of the post.	Minimum qualification for appointment by initial recruitment transfer	Age limit	Method of recruitment
1	Subject Specialist- Information Technology (SS-IT) (BPS-17)	<p>i. At least Second Class Master's Degree in Computer Science or Information Technology or Bachelor's Degree in Computer Science (BCS/BSCS Honours - 4 years) or equivalent qualification from a recognized University; and</p> <p>ii. Bachelor Degree in Education (B.Ed) or equivalent qualification from a recognized University.</p> <p>Note: A candidate, did not have the qualification under clause (ii), shall acquire the same within three years from the date of his/her appointment.</p>	24-35	<p>a) Fifty percent by promotion on the basis of seniority-cum-fitness from amongst the Secondary School Teacher-IT with at least five years service; and</p> <p>b) Fifty percent by initial recruitment.</p> <p>Provided that if no suitable candidate is available for promotion, then by initial recruitment.</p>

ATTESTED

ATC

2.	Secondary School Teacher-Information Technology (SST-IT) (BPS-16)	<p>i. At least Second Class Master's Degree in Computer Science or Information Technology or Bachelor's Degree in Computer Science (BCS/BSCS Honours 4 years) or Bachelor's Degree with a subject of Computer Science or equivalent qualification from a recognized University; and</p> <p>ii. Bachelor Degree in Education (B.Ed) or equivalent qualification from a recognized University.</p> <p>Note: A candidate did not have the qualification under clause (ii), shall acquire the same within three years from the date of his/her appointment.</p>	21-35	<p>a. Fifty percent by promotion on the basis of seniority-cum-fitness from amongst the Certified Teacher-IT with five years service as such and having the qualification prescribed for the post of Secondary School Teacher-IT.</p> <p>b. Fifty percent by initial recruitment.</p> <p>Provided that if no suitable candidate is available for promotion, then by initial recruitment.</p>
1.	Certified Teacher-Information Technology (CT-IT) (BPS-12).	<p>i. At least 2nd Division Intermediate School Certificate or equivalent qualification from a recognized Institution or Board with one year Diploma in Information Technology Computer Science from any recognized Institution; and</p> <p>ii. Certified Teacher Certificate (CT) or Associate Degree in Education (ADE) from any recognized Institution/ University.</p> <p>Note: A candidate did not have the qualification under clause (ii), shall acquire the same within three years from the date of his/her appointment.</p>	18-35	By initial recruitment.

50% CT (IT)

50% Fresh

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Printed and published by the Manager,
State & Ptg. Dept., Khyber Pakhtunkhwa, Peshawar.

ATTESTED

[Handwritten signature]

[Handwritten signature]

ATTESTED
[Handwritten signature]

hi

Minimum Qualification for Appointment by Initial List	Age	Method of Recruitment
<p>1) - Master Degree in Computer Science/IT at least in 2nd Division or equivalent qualification from any recognized University.</p> <p>ii) Bachelor Degree of Education (B.Ed) at least in 2nd Division from any recognized University.</p> <p>iii) Bachelor Degree of Education (B.Ed) at least in 2nd Division from any recognized institution.</p>	21-35	<p>a) Fifty percent by promotion on the basis of seniority-cum-merit from amongst the Secondary School Teachers (SST) (General/Science) possessing master degree in IT or equivalent qualification with 05 years' experience.</p> <p>b) Fifty percent by initial recruitment.</p> <p>Note: If no suitable candidate is available for promotion in the relevant cadre than by initial recruitment.</p> <p>Their seniority may be clubbed with SS and merged may be made in the existing service rules.</p>
<p>ii) subject of Computer Science in 2nd Division or equivalent qualification from any recognized institution.</p> <p>iii) Bachelor Degree of Education (B.Ed) at least in 2nd Division from any recognized institution.</p>	21-35	<p>a) Fifty percent by promotion on the basis of seniority-cum-merit from amongst the Computer Lab In-charges with (05) years' service having the qualification prescribed for the post of IT Teacher.</p> <p>b) Fifty percent by initial recruitment.</p> <p>Note: If no suitable candidate is available for promotion in the relevant cadre than by initial recruitment.</p>
<p>Intermediate or equivalent qualification from any recognized institution with one-year Diploma in IT/Computer Science from any recognized institution and Certified Teacher or Certificate/Diploma or equivalent qualification from any recognized institution.</p>	18-35	<p>By initial recruitment.</p>

ATTESTED

The committee members discussed the proposed amendments in the service rules in detail and were agreed upon unanimously for the SST (General/Science) & SST (IT) in depth and were agreed upon unanimously.

Scanned by CamScanner

Consensus:

The following decisions were made in consensus:-

- i. The proposed amendments in the service rules/structure as depicted in the above table was approved.
- ii. Nomenclature of the post of CT(IT) was changed as Junior Teacher Information Technology (JT-IT)
- iii. Seniority of SST (General/Science) & SST (IT) will be clubbed together immediately for the purpose of promotion in light of the above amended service rules for the post of SST (General/Science) & SST (IT) to the post of SS(IT/Computer Science)

The meeting ended with vote of thanks to/from the Chair.

(Javed Siddique)
Deputy Secretary (R), Finance Department

(Mohsin Mushtaq)
Assistant (R-1), E&AD Deptt:

Naik Muhammad
Section Officer (Primary), E&SE Department

Muhammad Shoaib
Deputy Secretary (A), E&SE Deptt:

(Mohammad Rafique Khattak)
Director, E & SE, Peshawar

(Qaiser Adam)
Special Secretary, E&SE Deptt:

Dr. Shahzad Khan Bangash
Secretary E&SE Department
(Chairman)

ATTESTED

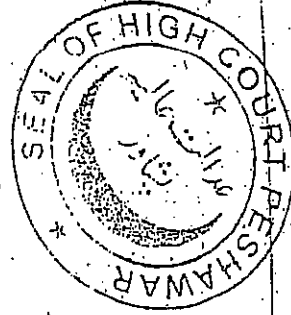
JUDGMENT SHEET
PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT

W.P. No.596-P/2019

Muhammad Raees Gul and another

Vs.

Government of Khyber Pakhtunkhwa through
Chief Secretary Khyber Pakhtunkhwa,
Peshawar and 06 others



JUDGMENT

Date of hearing 03.09.2020

Mr. Zahid Ullah Zahid, Advocate, for the petitioners.

Mr. Arshad Ahmad Khan, AAG, for the Provincial Government, w/w Mr. Jehangir Khan, AD (Litigation), Directorate of E&SED, Peshawar and Mr. Dawood Khan, ADO, office of DEO, Peshawar.

Mr. Aftab Khan, Advocate, for the private respondent No.7.

LIAZ ANWAR, J: Muhammad Raees

Gul and another, petitioners herein,

through the instant Constitutional petition

under Article 199 of the Constitution of

Islamic Republic of Pakistan, 1973, have

prayed for the following relief:-

*"It is, therefore, most graciously
prayed that while allowing this
writ petition, an appropriate writ
may kindly be issued by declaring
the act of omitting the subject of*

ATTESTED
EXAMINER
Peshawar High Court

ATTESTED

Computer Science from promotion to the post of SST is illegal, unlawful, discriminatory and without lawful authority with the direction to consider and include the subject of Computer Science in the criteria for promotion to the post of SST.

Any other relief though not specifically asked for to which the petitioner is found entitled in the circumstances may also be granted".

2. Keeping in view the averments made in the instant petition, comments were called from the respondents who furnished the same accordingly, wherein, they opposed the issuance of desired writ, as prayed for.

3. Arguments heard and records perused.

4. Perusal of the record reveals that petitioners have called in question the recruitment rules notified vide Notification dated 24.07.2014; whereby, according to them, the incumbents, holding the posts of Primary School Teacher (BPS-12) with qualification of

ATTESTED

EXAMINER
Peshawar High

ATTESTED

Computer Science, are not included in the
feed cadre for the post of Senior Science
Teacher (BPS-16).

5. Learned counsel for the
petitioners has laid much stress upon the
discrimination so meted out to the
petitioners and also about depriving them
from future prospect of promotion, albeit,
we are of the view that questioning the
vires of rules purely relates to the terms
and conditions of service, for which the
proper forum is Khyber Pakhtunkhwa
Service Tribunal established under the
Khyber Pakhtunkhwa Service Tribunals
Act, 1974. Besides, the jurisdiction of
this Court is barred under Article 212 of
the Constitution of Islamic Republic of
Pakistan, 1973. In this regard, reference
can be made to the cases of "LA Sherwani
and others (1991 SCMR 1041)", "Ali
Azhar Khan Baloch (2015 SCMR 456)"
and "Mubeen-ul-Salam (2006 SCMR
100)".

6. Thus, for the reasons recorded
hereinabove and in view of the bar

ATTESTED
EXAMINER
Peshawar High Court

ATTESTED

contained in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 and also in view of the availability of alternate remedy to the petitioners, this writ petition is not maintainable. Accordingly, it is dismissed in limine. Needless to observe that petitioners may approach to the Khyber Pakhtunkhwa Service Tribunal, Peshawar for the redressal of their grievance, if they are so advised.

Announced
Dt: 03.09.2020

JUDGE

JUDGE

(DD) The State Judge, Islamabad, Khyber Pakhtunkhwa Service Tribunal, Peshawar

33/2000-2004

6285
 Date of Presentation of Application 3/19/2020
 No of Pages 11-7
 Copying
 Total 194
 Date of Preparation of copy 7/19/2020
 Date of Delivery of copy 7/19/2020
 Received By [Signature]

[Signature]
 AUTHORIZED TO SIGN ON BEHALF OF THE...
 AUTHORIZED TO SIGN ON BEHALF OF THE...
 07 SEP 2020

ATTESTED

[Signature]