

**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1504/2022

Hazrat Said S/O Khurshid Room Cheel Shagai, Saidu Sharif, Tehsil Babuzai,  
District Swat.

.....Appellant

**Versus**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
3. District Education officer (Male) Swat.
4. District Account officer, Swat.

..... Respondents.

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DISTRICT EDUCATION OFFICER (M)  
SWAT AT GULKADA

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3. District Education officer (Male) Swat.

..... Respondents.

**Parawise Comments on Behalf of the Respondents**

**Respectfully shewith**

**Preliminary objections**

1. That the Appellant is not an aggrieved person within the meaning of Section 4 of the Service Tribunal Act, 1974.
2. That the Appellant has no cause of action / locus standi.
3. That the Appellant has not come to this Honorable Tribunal with clean hands.
4. That the Appellant has filed this instant Service Appeal just to pressurize the respondents.
5. The present Service Appeal is liable to be dismissed for non-joinder/mis joinder of necessary parties.
6. That the instant Service Appeal is against the prevailing law and rules.
7. That the Appellant has filed this instant Service Appeal on malafide motives.
8. That the instant Appeal is **time barred**.
9. That the instant Service Appeal is not maintainable in the present form, and above in the present circumstances of the issue.
10. That the Appellant has been estopped by his own conduct.
11. That the Appellant has concealed the material facts from this honorable tribunal.

**FACTS**

1. That the Para No.1 pertains to record, hence, no comments.
2. That the Para No.2 is correct. However, it is further added that the Appellant was not considered for promotion as SST (Math/Physics) on the grounds that the term additional qualification was not mentioned in

the course certificate issued by the concerned university by the appellant rather the term professional certificate was mentioned therein.

3. That the Para No.3, is correct to the extent that the department has promoted teachers of district cadre to the post of SST BPS-16 in the light of prevailing rules and policy in field.
4. That the Para No.4 is incorrect and denied on the ground that the respondent department has considered the promotion cases of teachers to the post of SST (Math/Physics) in the DPC meeting held on 01.09.2021. However they were not promoted for having course certificates which were not verified/clearfield by the authorities concerned. It is further added that a similar nature case is pending for disposal before the Honorable PHC Principle bench in wherein the same issued has been raised before the Honorable Court.**(Writ Copy annexed as annexure A)**
5. That the Para No. 5 is incorrect and denied on the grounds that the appellant has treated as per law and rules along with his other colleagues.
6. That the Para No. 6 is incorrect and denied on the ground that the appellant is not titled to promotion from the date of 29.10.2021 in the light of promotion policy 2009 of the provincial Government. Moreover, it is pertinent to mention here that different courts of law has been observed in numerous Judgments/orders that notifications/orders shall take affect prospectively and respectively. Hence, the claim of the appellant for promotion against the post in question with effect from 29.10.2021 is not legal and liable to be declined.
7. That the para No. 7 is incorrect and misleading in the ground that the appellant is not filed any such departmental appeal before the appellant authority.
8. That the para No. 8 is correct to the extent that service appeal No. 936/2022 was dismissed by the Honorable Service Tribunal vide order dated 22.06.2022. Hence, needs no further comments
9. That the para No. 9 is incorrect and denied on the ground that only one teacher namely Muhammad Ghaffar has been promoted by respondent department to the post of SST (Math/Physics) vide order dated 22.02.2022 after removing of observation regarding verification/clarification of additional subjects by the concerned authorities in according with law, rules and policy.
10. That the para No 10 is incorrect and denied on the grounds that the appellant has been treated as per rules and policy and he has not been discriminated by the respondents.
11. That the para No. 11 is incorrect and misleading in the ground that the appellant is not filed any such departmental appeal before the appellant authority.
12. Thus, the instant Service Appeal of the Appellant is bereft of any merit, hence, liable to be dismissed inter-alia following grounds.

**GROUND**

- i. That detail reply of this para is given in the above paras, hence, no comments.
- ii. The detail reply of this para has already been given in the foregoing paras. However, It is further mention that this issue has also been raised by some candidates/Petitioners in their Writ petition which is pending before the PHC Principle bench.
- iii. That the Para No. iii pertains to record, hence needs no comments.
- iv. That the Para No. iv is incorrect and denied. The respondent department has not acted against the laws, rules and policy.
- v. That Para No. v is incorrect and denied. Respondent department cannot even think to act against the Constitution of Pakistan and have not violated any article of the constitution of the Pakistan.
- vi. That Para No. vi is incorrect and denied. The detail reply has already been given in the foregoing paras.
- vii. That Para No. vii is incorrect and denied. The detail reply has already been given in the foregoing paras.
- viii. That Para No. viii is incorrect and denied. The respondent department has not acted against the norms of services (E & D Rules 2011), laws and rules.
- ix. That Para No. ix is incorrect and denied. The respondent department has not acted against the policy, laws and rules.
- x. That the respondent department also seek permission of this Honorable tribunal to further the grounds at the time of arguments

It is, therefore, very humbly prayed that the instant Service Appeal of the Appellant may be dismissed with cost in favor of the respondents.

**DISTRICT EDUCATION OFFICER (M)  
SWAT AT GULKADA**

**DIRECTOR,  
ELEMENTARY AND SECONDARY  
EDUCATION KHYBER PAKHTUNKHWA**

**SECRETARY,  
ELEMENTARY AND SECONDARY  
EDUCATION PESHAWAR**

**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1504/2022

Hazrat Said S/O Khurshid Room Cheel Shagai, Saidu Sharif, Tehsil Babuzai,  
District Swat.

.....Appellant

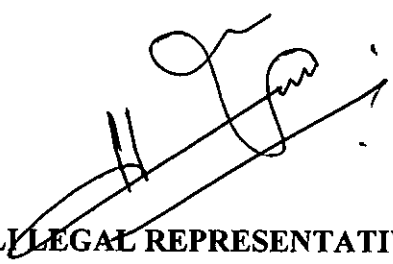
**Versus**

Provincial Govt. of Khyber Pakhtunkhwa & others

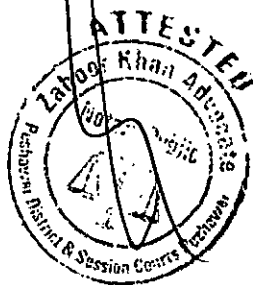
..... Respondents

**AFFIDAVIT**

I, Hussain Ali Legal Representative, do hereby solemnly affirm and declare on oath on the directions and on the behalf of the Respondents that the contents of the comments are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honorable Tribunal.



**HUSSAIN ALI LEGAL REPRESENTATIVE  
O/O DEO (M) SWAT**



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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

**AUTHORITY LETTER**

It is certified that Hussain Ali, Legal Representative Office of District Education Officer (Male) Swat, Elementary & Secondary Education Department is hereby authorized to submit para-wise comments and attend the Service Tribunal, Camp Court Swat on behalf of Respondent Nos. 01, 02 & 03 in Service Appeal No. 1504/2022 Title Hazrat Said Vs Government of Khyber Pakhtunkhwa & Others on the eve of each hearing till the disposal of the instant case and shall also be responsible to obtain certified copy of the final judgment/order and submit the same to the department within limitation period.

Secretary

Elementary & Secondary Education,  
Department.

ATTESTED  
EXAMINER  
Peshawar High Court

WP145-2023 MUHAMMAD NOSHAD ALI VS GOVT OF PESHAWAR

FILED  
D-11

1. Govt of P.K., through Secretary, Elementary & Secondary Education, Civil Secretariat Peshawar  
2. Director, Elementary & Secondary Education, K.P.K. Dabgori Garden Peshawar.

Versus

- 1. Muhammad Noshad Ali S/o Muhammad Sharif R/o Peshawar, P.O. Office Tarnab Fort District Peshawar.
- 2. Aman Hameed S/o Gul Bahadur R/o Mughalla Peshawar.
- 3. Fakirullah Khan S/o Ashraf Khan R/o Warwazan, Faisal District Hangu.
- 4. Muhammad Saeed S/o Habeebullah R/o Mughalla Peshawar.
- 5. Sadeq Muhammad Aul Barki S/o Lal Hasanat Barki R/o outside Camp House No 172 Mughalla huda Peshawar.
- 6. Raza (M) Shah S/o Hameed Ullah Khan R/o Flat no MCH 1097A-7, Mughalla Bahadar ghar Hangu.
- 7. Adnan Hussain S/o Gulab Hussain R/o Mughalla Muroza P.O. Hangu District Charsadda.
- 8. Waqar ul Shah S/o Talib Shah R/o Gonda Tehsil Mughalla District Charsadda.
- 9. Muzaffar Din S/o Yousaf Muhammad R/o Shah kaur Wari P.O. Tehsil Wari District upper Dir.
- 10. Latif Ahmad S/o Sher Ahmad R/o P.O. Wari Gogyal Tehsil Wari District upper Dir.
- 11. Sultan Akbar S/o Khair-ur-Rehman R/o Wari Gogyal Tehsil Wari District upper Dir.
- 12. Muhammad Azeem S/o Muhammad Akram R/o Forti Mughalla District District Charsadda.
- 13. Nadim Ullah S/o Muhammad Hakim S/o Bar Khwar P.O. Sahib Abad Wari Bala Tehsil Wari District upper Dir.
- 14. Jabir-ud-Din S/o Muhammad Saeed Bacha R/o Katal Gandi P.O. Jambal, Attock, Tehsil Dir District Upper Dir.
- 15. Syed Shah Hussain S/o Faiz Ibrahim R/o Thog Mastoon District Charsadda.
- 16. Imroz ud Din S/o Noor Habib R/o P.O. Shah Gham Astekh Tehsil Mastoon District Charsadda.
- 17. Zameer Khud S/o Muhammad Zameer R/o Mughalla Peshawar District District Mastoon.
- 18. Saleem Malik, FST, Teacher District Peshawar.
- 19. Alim Ullah Peshawar.

Amir Khan "A"

WP No. 145

PESHAWAR.

BEFORE PESHAWAR HIGH COURT



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- (7)
3. Higher Education Commission, through its Chairman Higher Education Commission, Sector 11-9, East Service Road Islamabad
  4. Vice Chancellor, University of Lakki Marwat
  5. Aslam Khan S. O Feroz Khan R. O PST, Charsadda
  6. Akram Shah S. O Nazim Ali Shah P. O PST, Charsadda.
  7. Muhammad Iqbal S/O Ziaul Gul, Primary School Teacher, Peshawar
  8. Amraz Ali S. O Rehman ud Din, Primary School Teacher, Peshawar
  9. Anwar Sadiq S/O Muhammad Irfan, Primary School Teacher, Manshera
  10. Hafiz Tanweer Ahmad S.O Meer Alam, Primary School Teacher, Manshera
  11. District Education Officer, Peshawar.
  12. District Education Officer, Charsadda.
  13. District Education Officer, Hangu
  14. District Education Officer, Mardan
  15. District Education Officer, Chitral
  16. District Education Officer, Malakand
  17. District Education Officer, Dir Upper
  18. District Education Officer, Dir Lower
- Respondents

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

**Respectfully Sheweth**

The Petitioner humbly submits as under.

**Brief facts:**

1. That the petitioners are permanent and bonafide resident of different districts of Khyber Pakhtunkhwa and holding computerized national identity cards and domiciles. (CNICs are attached as annexure-A)

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FILED TODAY

ATTESTED  
EXAMINER  
Peshawar High Court



2 That all the petitioners and respondents No 5 to 10 are serving the education department in the District concerned since their appointment till date and having multiple qualifications BA/B.Sc or equivalent qualification from recognized Universities of the province Khyber Pakhtunkhwa

3 That the Government of KPK through Respondent No.1 issued a Notification No. SO(PE) 5/SSRC/Meeting/ 2012/Teaching Cadre dated 13/11/2012 wherein the policy for appointment, promotion and transfer has been framed in light of Civil Servants (Appointment, Promotion and Transfer) Rules 1989

.Copy of Notification dated. 13.11 2012 is attached as annexure-B)

4 That the petitioners are most senior in the SPSTs / PST having qualification of B.Sc (Maths / Physics) & (Chemistry Botany Or Zoology) and entitled for promotion to the post of SST (Maths / Physics) (Chemistry, Botany Or Zoology) according to policy / rules

That the respondent No 2 issued intimation regarding holding of DFC meeting for promotion eligible employees having qualification for SST General and in other fields i.e SST (Maths / Physics) & (Chemistry, Botany Or Zoology) and the employees were asked to submit their academics. The private respondents and some other employees submitted those documents, with the collusion of official respondents who had additional subjects DMCs & fresh Degrees of B.Sc from the University of Respondent No.4. (Copies of some of the respondents are attached as annexure-C)

5 That the private respondents have submitted the fake degrees / certificates and Respondent No 2 has promised for promotion to the posts of SST (Maths / Physics) & (Chemistry, Botany Or Zoology) besides the facts that the Respondent no 5 to 10 and others lacks required qualification

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**ATTESTED**  
**EXAMINER**  
Peshawar High Court

**ATTESTED**  
EXAMINER  
CASHMERE HIGH COURT

FILED TODAY  
WP 145-2023 MURAD NOSHAD ALI VS GOVT OF PDS 18 USB  
Dated: 12/11/2023

Petitioner do invoke the extra ordinary constitutional and having no other adequate and efficacious remedy, the

That, aggrieved by the actions/conducts of the respondents of fundamental rights of the petitioners. even then their qualifications are considered which violate respondents requirements and not recognized by HEC but qualification of private respondents are not meeting the same. The petitioners were orally informed that the person have got B. Ed degree prior BA degree but in respondents, and submitted that how is it possible that a that the petitioners time and again approached the

with in the names of the petitioner. after that the impugned actions / letter of respondent No.1 petitioners are suffering mentally and monetary and if the examine the petitioners. By this conduct, of respondent No.2, processed the case of private respondents for promotion and with University. But even then the Respondent No.2 have private respondents have concealed his earlier registration that their documents would never verify the same because the documents of respondent No.5 in (A) which was responded with non recognition of the degree and relevant That the petitioner approached the respondent No.3 for the

unqualified people. respondent No.2 is about to issue the promotion orders of No.1 which were processed but not decided till date and the Respondents preferred departmental appeals to Respondent that the petitioners were aggrieved from these acts of the

but they obtained the Additional subjects and have attempted respondent No. 1, 2 & 3 but they did not response positively petitioners being eligible and entitled for post contacted the holder on fraudulent manner. On the other hand the to change the nomenclature of BA degree to BSc degree

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ATTESTED  
EXAMINER  
D. HAWAL High Court

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FILED  
JUL 11 2023  
HAWAL HIGH COURT

at the time of hearing this petition.

That the Petitioner reserves rights to advance other points

by the actions and inactions of the respondents. The material benefits and the petitioners would be suffered has been done by the respondents for promotion to get same would reach the senior subjects, all these are institution now teachers who did not know the basic of that the innocent students have studied for years in the

of law and equity, hence, the actions of the respondents is nullity as of the respondents is against the basic principles, then degree of B.Sc on the basis of only two subjects, then institution, and whether the respondent No.1 can issue subjects to those peoples who are not graduate from the in that how the respondent No.1 offering the additional

petitioner is maintained by the constitution of 1973 by HER thereby offering the fundamental rights of the requirement and which has not been verified and attested additional subject qualification without fulfilling the law year law a BA degree holder is allowed to get just and sound evaluation be case after passing of 1973

That the Petitioners have been discriminated without any against the norms of justice and has owed proper to others for promotion which is ignored of faced the promotion process of the Petitioners the respondents by an arbitrary discriminatory act respondents which is the basic duty of the department to the verification / ascertainment of the respondents of the service period and go through whole process but without That the Petitioners satisfactorily completed the requisite promotion, which needs to be judiciously handled

ed degree which is clear violation of rules / points of

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(11)

IT IS, THEREFORE, PRAYED THAT IN VIEW OF THE ABOVE SUBMISSIONS THE INSTANT WRIT PETITION MAY GRACIOUSLY BE ACCEPTED AND DIRECTIONS MAY KINDLY BE ISSUED TO RESPONDENTS No. 1 to 3:

- i. TO DECLARE THE DEGREES / ADDITIONAL SUBJECTS CERTIFICATES / DMCS IS FAKE, FORGED, VOID, ILLEGAL, UNCONSTITUTIONAL AND INOPERATIVE UPON THE RIGHTS OF THE PETITIONERS.
- ii. TO CONSIDER AND INCLUDES THE NAMES OF THE PETITIONERS IN THE ON GOING DEPARTMENTAL PROMOTION PROCESS;
- iii. TO DECLARE THE DEGREES / CERTIFICATES OBTAINED AFTER THE B.ED DEGREE IS AGAINST THE LAW AND RULES AND CANNOT BE CONSIDERED AS PER LAW FOR DEPARTMENTAL PROMOTION AND THE RESPONDENTS HAVE OBTAINED WITHOUT OBSERVING ALL CODAL FORMALITIES, AND IS ILLEGAL AND UNLAWFUL.
- iv. NOT TO ATTEST / VERIFY THE DEGREES OF THE RESPONDENTS AND OTHER SIMILAR PLACED PERSONS WHO GOT / CHANGED THE NOMENCLATURE OF DEGREES FROM BA TO BSC;
- v. THE RESPONDENT NO.4 AND OTHER UNIVERSITIES MAY KINDLY BANNED FROM ISSUING OF SUCH LIKE DEGREES / CERTIFICATES TO THOSE WHO HAVE ANY REQUISITE / BASIC QUALIFICATION FOR THAT DEGREE;
- vi. DIRECTIONS MAY KINDLY BE ISSUED TO RESPONDENTS TO FOLLOW THE RULES / POLICY IN IT TRUE LETTER AND SPIRIT; AND
- vii. GRANT ANY OTHER RELIEF DEEMED FIT AND APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE.

**INTERIM RELIEF:**

IT IS, FURTHER, PRAYED THAT THE PROMOTION PROCESS OF INCOMPETENT / INELIGIBLE PERSONS ON BASIS OF FAKED AND MANEUVERED DEGREES MAY KINDLY BE SUSPENDED TILL FINAL DISPOSAL OF THIS PETITION.

PETITIONERS  
Through

Asif Ali Shah

&

Haseen Ullah Gamaryani  
Advocate High Court,  
Peshawar

I certify that the Writ Petition has earlier been filed by the PETITIONER on the above subject before this Honourable Court

**List of Books**

- 1. Constitution of Islamic Republic of Pakistan, 1973
- 2. Any other law books as per needs

Advocate

Advocate

WP 145-2023 MUHAMMAD NOSHAD ALI VS GOVT CFP GS 115 USB

ATTESTED  
EXAMINER  
Ullah Court

(12)

**BEFORE THE PESHAWAR HIGH COURT,  
PESHAWAR.**

CM No. \_\_\_\_\_/2023

In  
WP No. 17/2023

Fazal Rabi & Others. .... Petitioners

Vs

Government of KPK etc..... Respondents

**AFFIDAVIT**

I, Naushad Ali S/O Muhammad Sharif R/O Jogyar Tarnab Form, Tehsil & District Peshawar, do hereby solemnly affirm and declare upon oath that the contents of accompanied comments are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Hon'ble court.

Identified by:

Asif Ali Shah  
Advocate Supreme Court

Deponent

N.C. - 17301-8613 319  
Mobil. - 0313-9770106

Dated: 02 01 2023

FILED 7/00

CERTIFIED TO BE TRUE COPY

Examined  
Peshawar High Court Peshawar  
Authorized Under Article 97, 98  
of the Constitution and Order 108

28 JAN 2023

57420

File  
1/12/23

2  
Naushad Ali  
Peshawar  
Dist. Peshawar

02/01/2023