

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, SWAT

Service Appeal No. 1501/2019

Date of Institution ... 07.11.2019
Date of Decision ... 08.12.2021

Amin Muhammad S/O Ghulam Muhammad R/O Kota, Tehsil
Barikot, District Swat.

... (Appellant)

VERSUS

Secretary Elementary & Secondary Education, Peshawar and two
others.

... (Respondents)

Hafiz Bakht Amin,
Advocate

... For appellant.

Muhammad Rasheed,
Deputy District Attorney

... For respondents.

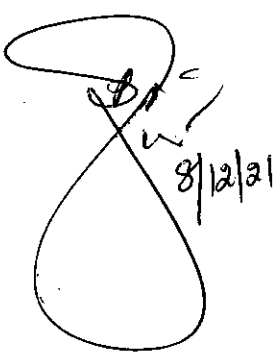
Rozina Rehman
Atiq ur Rehman Wazir

... Member (J)

... MEMBER (E)

JUDGMENT

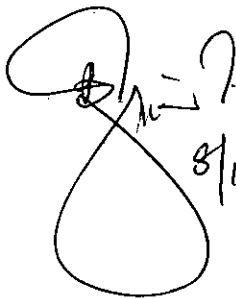
ROZINA REHMAN, MEMBER (J): The factual background of the appeal requires disclosure in some detail. The appellant was appointed as PTC on 20.04.1995 and was terminated from service on 13.02.1997. The appellant submitted his application for reinstatement within the stipulated time according to Sacked Employees Act but his application was not entertained. He, therefore, filed writ petition before Peshawar High Court, Mingora Bench Darul Qaza Swat which was converted into representation[&] sent to the respondents to decide the same in accordance with law but the respondents ignored reinstatement of the appellant. He, therefore, filed second writ


8/12/21

petition which was allowed on 18.04.2018 and appellant was reinstated in the light of judgment of august Peshawar High Court, Mingora Bench Darul Qaza Swat vide order dated 24.11.2018. He filed departmental appeal before the respondent Department to grant him seniority w.e.f his initial date of appointment i.e. 1995 with all back benefits but to no avail, hence, the present service appeal.

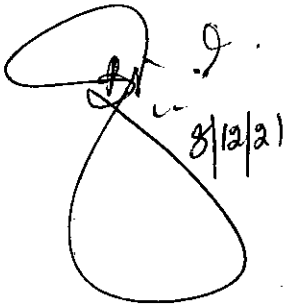
2. We have heard Hafiz Bakht Amin Advocate for appellant and Muhammad Rasheed, learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Hafiz Bakht Amin Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that the respondent was supposed to appoint appellant under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 when the said Act was promulgated in the year 2012 but his appointment order was issued on 24.11.2018 which is against law and discriminatory. Learned counsel further argued that some of the employees who were juniors to appellant were appointed, whereas, appellant was reinstated later on, which act is against the principle of equality and natural justice. He submitted that appellant is to be treated at par with other employees in the said Department and lastly, he submitted that similar employees were given benefit by the Apex Court by counting of their service for the protected period for payment of pensionary benefits, therefore, request was made for the stated relief.


8/12/21

4. As against that, learned D.D.A submitted that appellant was appointed as P.T.C under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 as well as upon the direction of august High Court Mingora Bench. He submitted that as per Section-5 of the Sacked Employees (Appointment) Act, 2012, sacked employees shall not be entitled to seniority and other back benefits and that such nature cases were dismissed by the Service Tribunal. He further argued that the appointment of the Sacked employees will be considered as fresh appointment and the appellant shall not be entitled to claim any seniority, promotion or other back benefits. He, therefore, requested for dismissal of the instant service appeal.

5. From the record, it is evident that appellant was appointed on 20.04.1995 and was terminated on 13.02.1997. Sacked Employees (Appointment) Act, 2012 was specifically promulgated to extend relief to such sacked employees. Appellant was not considered for the reasons best known to the respondents. The respondents however, considered other similar cases just after promulgation of the Act ibid which was discriminatory on the part of respondents. It was upon the intervention of the Hon'ble Peshawar High Court that appellant was reinstated at a belated stage in 2018 but with immediate effect. The main concern of the appellant is that such employees would reach the age of superannuation before earning qualifying service for pensionary benefits. We have observed that appellant had possessed all the qualifications as prescribed in the Act like others. It is also on record that co-employees tried their level best for back benefits and their cases were dismissed by this Tribunal as their earlier stance was to get all service benefits. Feeling aggrieved from the judgment of

 8/12/21

this Tribunal CPLAs were filed in the Apex Court and relief of back benefits to co-employees was refused by the Apex Court too. However, Apex Court allowed counting of their service for the protected period for payment of pensionary benefits. The present appellant has a strong case as he had every right to be reinstated just after promulgation of the Act *ibid* as he has requisite qualification as prescribed in the Act. His claim was accepted by the august High Court and reinstatement was ordered.

6. The present appellant has also prayed for seniority and all service back benefits, however in view of Section-5 of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, sacked employees shall not be entitled to seniority. In view of the entire record available on file and in the light of judgments passed by this Tribunal in Service Appeals No.912/2018, 572/2019, 573/2019, 574/2019 and 575/2019, learned counsel made a request for counting of the service of appellant for the protected period. From the record it is crystal clear that despite promulgation of an Act in the year 2012, appointment order of the appellant was issued in the year 2018 and that too, on the directions of august High Court. No doubt, similar appeals of the sacked employees were dismissed regarding the back benefits but the Apex Court allowed the co-employees counting of their service for the protected period for payment of pensionary benefits only. Case of the present appellant is at par with those Sacked employees who were granted this benefit by the Apex Court as well as with those employees in Service Appeals No.572/2019 572/2019, 573/2019, 574/2019 and 575/2019.

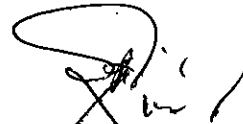
8/12/21

7. It merits a mention here that a number of group of cases had been filed in the Apex Court in which the appointment/promotion under the Sacked Employees (Reinstatement) Act, 2010, was impugned and which was decided by the Apex Court through common judgment dated 16.12.2019. As per Para-12 of the aforementioned judgment of the Apex Court, certain cases relating to the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 were de-clubbed and have been fixed separately, therefore, appeal in hand is accepted to the extent that appellant is allowed counting of his service from the date of Promulgation of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 only for payment of pensionary benefits subject to the decision of the Apex Court in relation to Civil Appeals pertaining to Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 as discussed hereinabove in this judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
08.12.2021



(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat


Order
08.12.2021

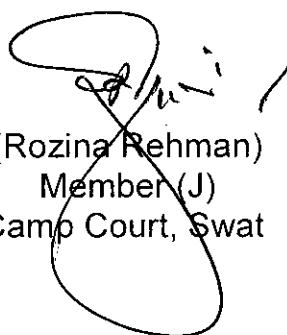
Appellant present through counsel.

Muhammad Rasheed learned Deputy District Attorney for respondents present.

Vide our judgment of today of this Tribunal placed on file, appeal in hand is accepted to the extent that appellant is allowed counting of his service from the date of Promulgation of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 only for payment of pensionary benefits subject to the decision of the Apex Court in relation to Civil Appeals pertaining to Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 as discussed in the judgment. Parties are left to bear their own costs. File be consigned to the record room.

Announced.
08.12.2021

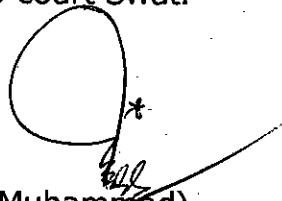

(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat.


(Rozina Rehman)
Member (J)
Camp Court, Swat

01.03.2021

Appellant present in person. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Hussain Ali, Assistant (Litigation) for respondents is present.

Representative of the respondents submitted written reply which is placed on file. To come up for rejoinder and arguments on 04.05.2021 before D.B at camp court Swat.


(Mian Muhammad)
Member(E)
Camp Court Swat

*Due to COVID, 19 therefore to
come up for the same on 5/10/21*



Reader

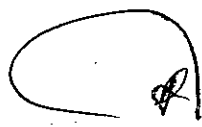
05.10.2021

Nemo for appellant.

Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

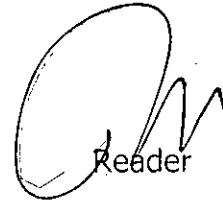
Preceding date was adjourned on a Reader's note, therefore, appellant/counsel be put on notice for 08.12.2021 for arguments, before D.B at Camp Court, Swat.


(Atiq ur Rehman Wazir)
Member(E)
Camp Court, Swat


(Rozina Rehman)
Member(J)
Camp Court, Swat

07.12.2020

Due to COVID-19, case is adjourned to 01.02.2021 for the same as before.



Reader

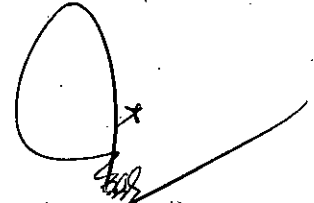
01.02.2021

Nemo for the parties.

Muhammad Riaz Khan Paindakhel, Assistant Advocate General for respondents is present.

As the case was adjourned previously on the Reader note, therefore, notices be issued to the parties.

Adjourned to 01.03.2021 before S.B at camp court Swat.



(Mian Muhammad)
Member(E)
Camp Court Swat

09.07.2020 Bench is incomplete. Therefore, the case is adjourned.
To come up for the same on 10.09.2020, at camp court
Swat.



Reader

10.09.2020 Counsel for appellant present. Preliminary arguments heard.
File perused.

Points raised need consideration. Admitted to regular hearing
subject to all legal objections. The appellant is directed to deposit
security and process fee within 10 days. Thereafter notices be
issued to respondents for written reply/comments. To come up for
written reply/comments on 02.11.2020 before S.B


Appellant Deposited
Security & Process Fee

11/9/20


Member (J)
Camp Court, Swat

02.11.2020 Nemo for appellant. Mr. Riaz Paindkahel learned Assistant
AG alongwith Bakht Rehman Litigation Officer for
respondents present.

Representatives of respondent seeks time to submit
~~written reply~~ Time was sought. To come up for
written reply/comments on 07.12.2020 before S.B at Camp
Court, Swat.


Member (E)
Camp Court, Swat

05.03.2020

Learned counsel for the appellant present.

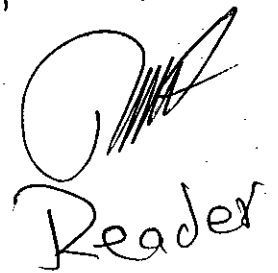
Learned counsel for the appellant was confronted with Section-05 of the KHYBER PAKHTUNKHWA SACKED EMPLOYEES (APPOINTMENT) ACT, 2012 which enunciates that a sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment. Learned counsel for the appellant seeks adjournment to further prepare the brief. Adjourn. To come up for preliminary hearing on 08.04.2020 before S.B at Camp Court, Swat.

2505-13-111



Member
Camp Court, Swat.

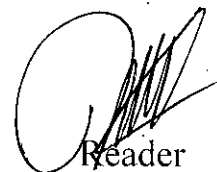
Due to corona virus tour
to camp court Swat has been
Cancelled. To come up for the
same on - 03/06/20



Reader

03.06.2020

Due to Covid-19, the case is adjourned. To come up for the same on 09.07.2020, at camp court Swat.



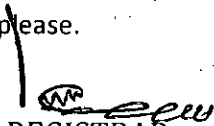
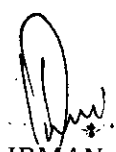

Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1501/2019 _____


S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	07/11/2019	<p>The appeal of Mr. Amin Muhammad resubmitted today by Hafiz Bakht Amin 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 7/11/19</p> <p>2-</p>	09.01.2020	<p>This case is entrusted to touring S. Bench Swat for preliminary hearing to be put up there on <u>09-01-2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Appellant in person present and requested for adjournment on the ground that his counsel is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 05.03.2020 for preliminary hearing before S.B at Camp Court Swat.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court Swat</p>

The joint appeal of M/S Dir Nawab, Amin Muhammad, Abdur Rehman, Zebul Haq and Gulzada received today i.e. on 24.09.2019 is in complete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellants.
- 2- Addresses of appellants are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Annexure-E of the appeal is missing.
- 4- Copy of impugned seniority list and departmental appeal against it are not attached with the appeal which may be placed on it.
- 5- Sub-rule- 2 of rule-3 of the appeal rules 1986 requires that every affected civil servant shall prefer the appeal separately. Therefore, the appeal of the above appellants may be filed separately/individually.
- 6- Three copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent in each appeal may also be submitted.

No. 1645 /S.T

Dt. 26-9- /2019


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Advs.
Hafiz Bakht ~~Adv.~~ Amin High Court.
Bilal Plaza room no. 210 Airport Road
Mingora Swat.

Sir Resubmitted after compliance

Attd

Attd

7.11.2019

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

Service Appeal No. 1501 of 2019

Amin Muhammad S/o Ghulam Muhammad, R/o Kota,
Tehsil Barikot, District Swat.

..... (Appellant)

Versus

Secretary Elementary & Secondary Education, Khyber
Pakhtunkhwa, Peshawar & 02 Others.

..... (Respondents)

INDEX SERVICE APPEAL

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Appellant



Amin Muhammad

Hafiz Bakht Amin
Advocate, High Court.
Cell #:03409095609

Office Address:

Bilal Plaza, Room No.210 Airport Road,

Mingora Swat.

Dated: 31 -10-2019.

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

Service Appeal No. 1501 of 2019

Amin Muhammad S/o Ghulam Muhammad, R/o
Kota, Tehsil Barikot, District Swat.

..... (Appellant)

Versus

1. Secretary Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (M), District Swat at
Gul Kadda Saidu Sharif, Swat.

..... (Respondents)

**APPEAL UNDER SECTION 4 OF SERVICE
TRIBUNAL ACT, 1974, THAT SENIORITY
OF THE APPELLANT BE RECKONED
FROM DATE OF INITIAL APPOINTMENT
I.E 1995 WITH ALL BACK BENEFITS AND
FURTHER PRAYED THAT APPELLANT BE
TREATED LIKE OTHER COLLEAGUES AS
PER RULES OF CONSISTENCY AND MAY
NOT BE DISCRIMINATED.**

PRAYER:

**ON ACCEPTANCE OF THE INSTANT
APPEAL, SENIORITY OF THE
APPELLANT BE RECKONED FROM DATE
OF INITIAL APPOINTMENT i.e 1995
WITH ALL BACK BENEFITS AND
FURTHER PRAYED THAT APPELLANT BE
TREATED LIKE OTHER COLLEAGUES AS**

Re-submitted to -day
and filed.


Registrar

02/11/19

PER RULES OF CONSISTENCY AND MAY NOT BE DISCRIMINATED. ANY OTHER RELIEF WHICH THIS HON'ABLE TRIBUNAL DEEMS PROPER IN THE CIRCUMSTANCES OF THE CASE BE GRANTED.

Respectfully Shewith:

Brief facts of the case give rise for filing the instant services appeal are as under:

1. That the appellant is permanent resident of District Swat and was appointed on post of PTC in the year 1995. Copy of the appointment order is annexed herewith as **"Annexures-A"**.
2. That the appellant is performing his duties to the satisfaction of his competent authorities without any complaints, whatsoever.
3. That in the year 1997 the service of the appellant was terminated with one stroke in contravention of law and rules. Copy of termination order is hereby annexed as **"Annexures-B"**.
4. That according to Sacked Employees (Appointment) Act, 2012 under which all those employees whose services were sacked to be reappointed against 30% quota for them in all fresh recruitments in their respective cadre. Copy

of Sacked Employees (Appointment) Act is annexed herewith as "**Annexure-C**".

5. That the appellant has submitted his application within the stipulated time according to Sacked Employees (Appointment) Act, 2012 but his application was not entertained at all. Copy of reply of respondent No.3 is annexed herewith as "**Annexure-D.**"
6. That the august Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat, sent first writ petition No.306-M of 2014 of the appellant and others to respondent No.3 to decide the same in accordance with law. Copy is annexed herewith as "**Annexure-E.**"
7. That respondent No.3 ignored reinstatement of appellant on the pretext that appointment of the appellant was irregular, ab-initio, void and against prescribed rules. Copy of departmental order is annexed herewith as "**Annexure-F.**"
8. That the appellant and others filed second writ petition No.778-M of 2017 on 24th October, 2017 before the august Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat which was allowed by the Hon'ble Bench through judgment dated

18.04.2018. Copy of the writ petition and judgment is annexed herewith as "**Annexure-G.**"

9. That respondent No.3 reinstated the appellant and others in the light of the judgment of august Peshawar High Court, Mingora Bench/Dar-ul-Qaza, Swat. Copy of appointment order is annexed herewith as "**Annexures-H.**"

10. That the appellant and others preferred departmental appeal to respondent No.3 to grant them seniority giving effect from date of initial appointment i.e 1995 with all back benefit. Copy of departmental appeal is annexed herewith as "**Annexures-I.**"

11. That the appeal of the appellant and others have not been considered by respondent No.3 and neither heed has been given to the appeal of the appellant and others, hence, the inter appeal on the following grounds.

Grounds:

- i) That after regularization the appellant entitled for benefit of pay protection and seniority from the date of initial appointment alongwith all back benefits but respondent No.3 in this

regard not treating the appellant according to law.

- ii) That after regularization the period already served by the appellant entitled him to benefit of pay protection in the form of increment and salary etc as normally available to civil servant.
- iii) That the appellant has a legitimate right of seniority, increment from his initial appointment but contrary to his legitimate expectation the appellant has been deprived.
- iv) That there is no efficacious remedy available to the appellant except to file the instant appeal.
- v) That any other ground not specifically raised shall be argued at the time of arguments with the request of this Hon'ble Court

PRAYER:

It is, therefore, very humbly prayed that on acceptance of the instant appeal, seniority of the appellant be reckoned from date of initial appointment i.e 1995 with all back benefits and further prayed that appellant be treated like other colleagues as

per rules of consistency and may not be discriminated.

Any other relief which has not prayed for, may also be awarded if this honourable Tribunal deems fit.

Appellant

Amin
Amin Muhammad

Dated: 31 -10-2019.

Through
Hafiz Baloch Amin Ado
High Court
Bilal Plaza Room no. 210
Airport Road
Minjora Swat

Jen-
07-11-2019

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

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Amin Muhammad S/o Ghulam Muhammad, R/o Kota,
Tehsil Barikot, District Swat.

..... (***Appellant***)

Versus

Secretary Elementary & Secondary Education, Khyber
Pakhtunkhwa, Peshawar & 02 Others.

..... (***Respondents***)

AFFIDAVIT

I, Amin Muhammad do hereby solemnly affirm
and declare on oath that the contents of this service
appeal are true and correct and nothing has been
kept concealed from this Hon'ble Court.

It is further affirmed that no such like appeal
has been filed in any other Court.

Deponent

Tariq Aziz Advocate
OATH COMMISSIONER
District Courts Swat.
Licence No-2455
30/10/19

Amin
Amin Muhammad

CNIC #: 15602-056712-9

Dated: 31-10-2019.

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

Service Appeal No. _____ of 2019

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Tehsil Barikot, District Swat.

..... **(Appellant)**

Versus

Secretary Elementary & Secondary Education, Khyber
Pakhtunkhwa, Peshawar & 02 Others.

..... **(Respondents)**

CORRECT ADDRESSES OF THE PARTIES

Correct address of the appellant is as under:

Amin Muhammad S/o Ghulam Muhammad, R/o Kota,
Tehsil Barikot, District Swat.

Cell # of attorney for appellant:

***Correct addresses of the respondents are as
under:***

1. Secretary Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

3. District Education Officer (M), District Swat at
Gul Kadda Saidu Sharif, Swat.

Appellant



Amin Muhammad

Dated: 3/ -10-2018

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

Service Appeal No. _____ of 2019

Amin Muhammad S/o Ghulam Muhammad, R/o Kota,
Tehsil Barikot, District Swat.

..... (*Appellant*)

Versus

Secretary Elementary & Secondary Education, Khyber
Pakhtunkhwa, Peshawar & 02 Others.

..... (*Respondents*)

**APPLICATION FOR GRANTING SENIORITY
LIST IN RESPECT OF THE APPELLANT
SINCE HIS APPOINTMENT IN THE YEAR
1995 TILL NOW.**

Respectfully Shewith:

1. That the above titled service appeal has been filed before this august Tribunal alongwith this C.M application in which no date of hearing has been fixed so far.
2. That the subject seniority list is necessary for just and fair disposal of the instant appeal.

It is, therefore, humbly prayed that on acceptance of this application, respondent No.3

may kindly be directed to furnish the subject seniority list.

Ahmed

Appellant

Amir Muhammad

AFFIDAVIT:

It is stated on oath that the contents of this application are true and correct and nothing has been kept concealed from this Hon'ble Tribunal.

Deponent,

Ahmed
Amir Muhammad

Tariq Aziz Advocate
OATH COMMISSIONER
District Courts Swat.
Licence No-2455
30/10/14

CNIC #: 15602-0526712-9

Annexure A

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) PRIMARY SWAT DISTRICT SWAT
OFFICE ORDER

APPOINTMENT:
Consequent upon the appointment of regular trained PTC on the merit list, the appointment in R/O Amin Mohammad Natri S/O Ghulam Mohammad R/O Kota Swat is hereby ordered at GPS Nadar Banda Swat against Newly created Post in BPS-7 BRS-1480-31-2695 per month fixed plus usual allowance with immediate effect in the interest of public service as per terms and conditions given below:-

TERMS & CONDITION:

1. His appointment is temporary and is liable to termination/reversion at any time without any reason being assigned.
2. In case of resignation he will have to submit one month prior notice to the Deptt: or forfeit one month pay in lieu thereof to the Govt:
3. He should not be allowed to take over charge if his age is less than 18 years or above 30 years.
4. He is required to produce Health & Age certificate from the Medical Supdt: Saidu Group of Hospitals Saidu Sharif.
5. Charge report should be submitted to all concerned.
6. If he failed to take over charge of the post within 15 days after the issue of this order has apptt: shall stand as cancelled.
7. Certificates should be checked before handing over charge.
8. The SDEO. is directed to make transfers of the senior teachers on the basis of tenure against the above fresh appointee in the General transfer according to Govt: policy.
9. The academic certificates/Degrees of all the candidates should be got verified through the respective Examination Board and University within 15 days.

(FAZLI NAEEM KHAN)
DISTRICT EDUCATION OFFICER (M)
PRIMARY SWAT DISTRICT SWAT.

ENDST: NO 1538-39 / E-2/TA. Dated 20-4-95

Copy of the above is forwarded for information and necessary action to the:-

1. The Director Primary Education NWFP, Havatabad Peshawar.
2. The District Accounts Officer Swat.
3. The Sub-Divl: Education Officer (M) Saidu Sharif/Alburai.
4. Candidate concerned.

DISTRICT EDUCATION OFFICER (M)
PRIMARY SWAT DISTRICT SWAT

ATTESTED
[Signature]
Advocate

[Handwritten initials]
CTY
[Handwritten initials]

OFFICE OF THE DISTT: EDUCATION OFFICER (MALE) PRIMARY DISTRICT SWAT.

OFFICE ORDER

APPOINTMENT:

Consequent upon the appointment of regular trained PTC on the merit list. The appointment in R/O the Amin Muhammad S/o Ghulam Muhammad r/o Kota Swat is hereby ordered at GPS Madar Banda Swat against Newly created post in BS-7 Rs. 1480-81-2695 per month fixed plus usual allowance with immediate effect in the interest of public service as per terms and conditions given below:-

Terms & Conditions.

1. The apptt: is temporary and is liable to termination/reversion at any time without any reason being assigned.
2. In case of resignation he will have to submit one month prior notice to the deptt: or forfeit one month pay in the lieu thereof to the Govt:.
3. He should not be allowed to take over charge if their age are less than 18 years or above 33 years.
4. He is required to produce Health & age certificate from the medical Suptt: concerned (Saidu Hospital Saidu Sharif).
5. Charge report should be submitted to all concerned.
6. If he fails to take over the charge of the post within 15 days after the issue of this order their apptt: shall stand cancelled.
7. Other fitness should be checked before handing over the charge.
8. Office is directed to make transfers of the senior teachers on the basis of tenure against the above fresh appointee in the general transfer according to Govt: policy.
9. The academic certificate/Degrees of all the candidates shall be got verified by the respective examination board/University within 15 days.

--sd--

(FAZAL NAEEM KHAN)
DISTRICT EDUCATION
OFFICER(M)
PRIMARY SWAT
DISTRICT SWAT

Endst: No. 1538-39//E-2/T&A

Dated 30/5/1995.

Copy forwarded for information & n/action to:-


1. The Director Primary Education, NWFP, Peshawar.
2. The District Accounts Officer Swat at Saidu Sharif.
3. The SDEO (M) Saidu Sharif Swat.
4. The Candidates concerned.

--sd--

DISTRICT EDUCATION OFFICER (M)
PRIMARY SWAT
DISTRICT SWAT.

ATTESTED


Advocate

C. T. C.


On perusal of the relevant report, the appointment of the following persons for the posts mentioned above is hereby dispensed with, immediate effect.

Sl. No.	Name of Candidate	Designation	Name of School Where Appointed
1	Khelid	Haji Mohd Hanif	GMPS Bushay
2	Akter Shah	Tajoon Mian	GMPS Kandary
3	Bakhtmand	Chatay	GPS Karin
4	Sher Ali	Akhter Ali	Gabral
5	Khyal Mohd	Abdul Hakeem	GMPS Chural
6	Abdul Baiz	Abdul Waheed	Kalam
7	Abdul Rehman	Saranzab	GPS Shaladar
8	Ali Lehman	Mohd Sharif	GPS Shaladar
9	Afreza Khan	Sheer Dil Khan	GPS Jaikoo
10	Rehmat Ali	Shahdwaran	GPS Khanjowga
11	Inayat Hussain	Sanobar	GAT
12	Sardar Ali	Aofandyr Mian	GPS Bysun
13	KHUG Bacha	Khukwaly Mian	GPS Jaiga
14	Salauddin	Khalil ur Rehman	GPS Dushay
15	Mohd Riaz	Mohd Iqbal	GMPS Bargul
16	Akhtar Ali	Said Ali	GMPS Halesato
17	Sher Alam Khan	Mohd Zamin	GPS Namcha
18	Mohd Khurshed	Fazal Ghani	GPS Araq
19	Sardar Ali Shah	Sayyid Aslam Khani	GPS Nawagai
20	Iyaz Ahmed Khan	Muhammad Bakht Lalond	GMPS Seri Badin
21	Mohd Younus	Muhammad Gul	GPS Archali
22	Gul Haider	Muhammad	GPS Fazil Banta
23	Rehmatallah	Muhammad	GPS Kula
24	Amin Ullah	Muhammad	GPS Belgabral
25	Javed Ali	Muhammad	GPS GarraiKenda
26	Aeghar Khan	Muhammad	GPS Garai-do
27	Rehman Ali	Muhammad	NPS Gambat
28	Zubair Khan	Muhammad	GPS Kotkai
29	Akhtar Ali	Muhammad	GPS Dara Seri
30	Anwar Zeb	Muhammad	GMPS Gul Bani
31	Gohar Ali	Muhammad	GPS Almani
32	Mohd Rehman	Muhammad	GPS Malam
33	Amin Mohammad	Muhammad	GPS Alauddin
34	Hidayatus Rehman	Muhammad	GPS Belejan
35	Gul Zada	Muhammad	GMPS Gorkin
36	Mohd Roshan	Muhammad	GPS Madar Banta
37	Mian Saia Ali	Muhammad	GPS Jawaz
38	Fazal Hac	Muhammad	GMPS Logar Kur
39	Mutnsar Khan	Muhammad	GMPS Nawairandi
40	Mohd Karim	Muhammad	GMPS BAR-Bangai
41	Shujallah	Muhammad	GPS Dudal
		Muhammad	GPS Sarkhata
		Muhammad	GPS Qalaguk
		Muhammad	GPS Sarqog

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Ali Rehman	Aziz Rehman	do	GPS Loibarr
Attaullah	Muammar Khan	do	GPS Zowra
Jehan Badshah	Amir Sahib	do	GPS Kuzalar
Zakir Hussain	Amir M Jan	do	GPS Serai Banda
Amjad Ali	Zar Gul	do	GPS Liobar
Badshah Khalid	Sarzamin Mian	do	GPS Tungi
Ubaidullah	Kahlilur Rahman	do	GPS Shingartan
Zubir Shah	Mohd Jalal	do	GPS Samir Banr
Aslam Pervez	Abdul Qayum	do	GPS Sangar
Ayub Khan	Asadullah	do	GPS Jishar
Sharifuddin	Howshor Khan	do	GPS Qurtorwl
Sultanat Khan	Hakoom	do	GPS Chalamramat
Fida Mohd	Sadar Kailan	do	GPS Nagwaigari
Rehmat Ali	Qubad Khan	do	GPS Qaw
Khurshad Iqbal	Mohd Hanif	do	GPS Baidnr
Swab Gul	Mohd Gul	do	GPS Sangar
Kangoor Elahi	Sauanzeb Mian	do	GPS Jaga
Mohd Sajood	Momin Khan	do	GPS Fasilbaig
Mohd Akbar Hussain	Mohd Khan	do	GPS New Colony
			Matta
81 Abdul Karim	Abdul Sattar	do	GPS Samarbana
82 Fzal Rehman	Murda Sher	do	GPS Qandar
83 Mohd Shah Hussain	Mohd Khan	do	GPS Kwaray
84 Rehman Ali	Ahmed Gul	do	GPS Sangar
85 Fazal Ghafoor	Abdul Qawm	do	GPS Bangari
86 Naseer Ali	Rahmad Ali	do	GPS Baraky
87 Fazali Rehman	Labib ur Rehman	do	GPS Zowra
88 Shaukat Hayat	Abdul Ghafor	do	GPS Shingartan
89 Mohd Nisar	Kaki Khan	do	GPS Fasilbaig Sori
90 Alim Mohd	Abdul Kabir Khan	do	GPS New C. Matt
91 Abdul Ghafor	Mohd Khan	do	GPS Loye Banda
92 Shahrayar Khan	Mohd Shalyar	do	GPS Bahader Banda
93 DirNawa	Enza Khan	do	GPS Qandogai
94 Bakht Biland	Sahadad Khan	do	GPS Dolgai
95 Shrab	Zangir	do	GPS Sardan
96 Shujat Hussain	Sultan Akbar Mian	do	GPS Whirahmat
97 Zebul Haq	Almad Khan	do	GPS Suri Sah
98 Gohar Ali	B. Kh. Ghulam	do	GPS Sur Dar
99 Mohd Sidiq	Mohd Farid	do	GPS Puz Qali
			Dandi
100 Sher Nawab	Furhat Khna	do	GPS Kai Kot
			Daurai
101 Zia ullah Khan	Jani Room	do	GPS Manwan
102 Bakht Muir	Mukam	do	GPS Manwah
103 Abdul Sattar	Mohd Afreen	do	GPS Korshai
104 Noor Moh	Shah Jehan	do	GPS Korora Anesi
105 Obaid Ullah	Shah Zaman Khan	do	GPS Korwang
			Ganorai
106 Kishwar Ali	Zafarcoosh	do	GPS Godari
107 Azadai	Bakht Zamin Khan	do	GPS Sardan
108 Mehboob Ali	Mian Gul Siraj	do	GPS Spalabandi
109 Akber Hussain	Jani Alam	do	GPS Chaha
110 Sher Shah	Shahi Room	do	GPS Mirata
111 Abubidullah	Fazal Haq	do	GPS Shankay
112 Rehman Ghani	Umar Shurif	do	GPS Spani Oba
113 Neik Zade	Sher Zada	do	GPS Baroght
114 Nisar Ahmad	Mohd Rashid	do	GPS Jawaz
115 Ihsanulla	Mahar Bahay	do	GPS Bilagat
116 Megboob Sabhani	Suci Ahmed Gul	do	GPS Bargai
117 Mohd Amin A	Abdul Sattar	do	GPS Kuzalar

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98	Shekher Ali	Fateh Mohd Khan	do	GPS Jaligat
99	Hayat Mohammad Khan	Mohabul Khan	do	GPS Kvrata
100	Anwar Jamal	Muztan	do	GPS Goda
101	Munaz Ali	Shah Ismail	do	GPS Shapla
102	Amir Zaman	Mohd Jan	do	GPS Dohat

(SAID ALI SHAH)
 DISTRICT EDUCATION OFFICER (M)
 PRIMARY DISTT: SWAT

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) PRIMARY SWAT DISTRICT SWAT

Enclt No. 581-607

Dated Mingora the 13.2.1997

Copy of the above is forwarded for information and necessary action to:-

1. The Secretary Education NWFP Peshawar.
2. The Director Primary Education NWFP Peshawar.
3. The District Accounts Officer Swat.
4. The SDEO (M) Saidu Sharif Swat.
5. The SDEO (M) Alpuri.
6. The Teachers concerned.

DISTRICT EDUCATION OFFICER (M)
 PRIMARY DISTT: SWAT.

Attested
 [Signature]

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**THE KHYBER PAKHTUNKHWA
SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.**

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

*[first published after having received the assent of the Governor of
the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa
(Extraordinary), dated the 20th September, 2012].*

**AN
ACT**

*to provide relief to those sacked employees in
the Government service, who were dismissed,
removed or terminated from service, by
appointing them into the Government service.*

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998 on various grounds;

WHEREAS the Federal Government has also given relief to the sacked employees by enactment;

AND WHEREAS the Government of the Khyber Pakhtunkhwa has also decided to appoint these sacked employees on regular basis in the public interest;

It is hereby enacted as follows:

1. **Short title, extent and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.

(2) It shall apply to all those sacked employees, who were holding various civil posts during the period from 1st day of November, 1993 to 30th day of November, 1996 (both days inclusive).

(3) It shall come into force at once.

2. **Definitions.**--- In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,-

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- (a) "civil post" means a post created by the Finance Department of Government for the members of civil service of the Province;
- (b) "Department" means the Department and the Attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, including the Divisional and District Offices working thereunder;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "Prescribed" means prescribed by rules;
- (e) "Province" means the Province of the Khyber Pakhtunkhwa;
- (f) "rules" means the rules made under this Act; and
- (g) "Sacked employee" means a person who was appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1st day of November 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998 on the ground of irregular appointments;

3. **Appointment of sacked employees.**--- Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

Provided further that the appointment of sacked employees shall be subject to the medical fitness and verification of their character antecedents to the satisfaction of the concerned competent authority.

4. **Age relaxation.**--- The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.

5. **Sacked employees shall not be entitled to claim seniority and other back benefits.**--- A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

6. **Preference on the basis of age.**--- On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.

7. **Procedure for appointment.**---(1) A sacked employee, may file an application, to the concerned Department within a period of six months from the date of commencement of this Act, for his appointment in the said Department:

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted in the prescribed manner, for appointment:

Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(4) The Concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. **Removal of difficulties.**--- If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act as may appear to him to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.

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9. Act to override other laws.---Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.

10. Power to make rules.--- Government may make rules for carrying out the purposes of this Act.

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OFFICE OF THE DISTRICT EDUCATION OFFICER

(M) SWAT AT GULKADA
No. 6366/Amin Muhammad

Dated 26-4 /2014

To

Mr. Amin Muhammad S/o Ghulam Muhammad
Village Kota & PO Ghalegay Swat

Subject: APPOINTMENT AGAINST SACKED EMPLOYEES QUOTA

Memo:

Reference your application for appointment as PST against the quota reserved for sacked Government employees.

It is to inform you that:

- 1 You have been appointed as untrained PST in 1995.
- 2 Your appointment was purely temporary and liable to termination/ reversion at any time without any reason being assigned.
- 3 Your appointment found irregular, ab initio void and against the prescribed rules and therefore dispensed with, with immediate effect.

AND WHEREAS in pursuance of Government of Khyber Pakhtunkhwa sacked Employees Act, 2012 allowed the appointment of those candidates who was appointed on regular basis to a civil post in the province and who possessed the prescribed qualification and experience for the said post at that time.

Handwritten signature of Abdullah
ABBULLAH
DISTRICT EDUCATION OFFICER
SWAT AT GULKADA

Handwritten notes and signatures: "C.T.C", "checked", and "Adi" with a signature.

Additional Registrar

08.11.2014

Respectfully Sheweth:

BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH, DAR-UL-QAZA SWAT

Writ Petition No. 306 -M of 2014

1. Muhammad Afzal S/o khwast Faqir R/o Titabat,
District Swat.
2. Abdur Rahman S/o Saran Zeb R/o Manglawar,
District Swat.
3. Dir nawab Khan S/o Dawa Khan R/o Baidara,
District Swat.
4. Zeb-ul-Haq S/o Ahmad Khan R/o Gogdara, District
Swat.
5. Amin Muhammad S/o Ghulam Muhammad R/o
Kota, Tehsil Barikot, District Swat.
6. Gul Zada S/o Jan Faqir R/o Gabral, Kalam, District
Swat.

...Petitioners

VERSUS

1. The Government of Khyber Pakhtunkhwa through
Secretary Elementary and Secondary Education,
Peshawar.
2. The Director Elementary and Secondary
Education, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Male), District
Swat at Gulkada.

...Respondents

Writ petition under Article 199 of
the constitution of Islamic Republic
of Pakistan, 1973.

Respectfully Sheweth:

FILED TODAY

Additional Registrar

03 JUN 2014

Facts:

- i. That the petitioners are the bona fide residents of district Swat and were appointed on posts of PTC in the year 1994 and 1995. Copies of the appointment orders are enclosed as Annexure "A", "A1", "A2", "A3", "A4" and "A5" respectively.
- ii. That the petitioners were performing their duties to the satisfaction of the competent authorities, without any complaints whatsoever.
- iii. That in the year 1997 all of a sudden the services of the petitioners along with others were sacked with one stroke in contravention of the law and rules.
- iv. That now the Government of Khyber Pakhtunkhwa has passed an Act called as The Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012. (Khyber Pakhtunkhwa Act No. XVII of 2012) under which all those employees whose services were sacked were to be reappointed against 30% quota for them in all fresh recruitments in their respective cadre.
- v. That the petitioners have submitted applications within the stipulated time after the commencement of the Act No. XVII of 2012, but these applications are not entertained at all. Copies of the reply by the respondent No. 3 are Enclosed as Annexure "B".

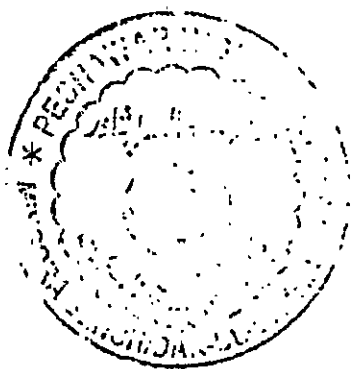


FILED TODAY

Additional Registrar

03 JUN 2014

vi. That now the respondents are ignoring the appointment of the petitioners on one pretext or another in clear violation of the Act No. XVII of 2012, whereas, the respondent No. 3 has issued appointment order in which the petitioners are being ignored, inspite the fact that the petitioners are qualified and trained as well, hence this petition on the following grounds. Copies of the PTC certificates are enclosed as Annexure "C".



Grounds:

- a. That the respondents are not treating the petitioners at par with other similarly placed persons hence are discriminating the petitioners, as in various other departments, moreover in the education department in other districts as well, the Act of 2012 is being implemented in letter and spirit, but in case of the petitioners the respondents are not doing the required, without any reasons, whatsoever. Copies of the orders are enclosed as annexure "D".
- b. That if there was any irregularity in the appointment of the petitioners it was owing to the fault and lapse of the department/appointing authority and the law does not allow the authority to take the benefit of their own lapse.
- c. That the respondents are not treating the petitioners in accordance with the law.

File:
Additional Registrar
7/11/16

- 25
- d. That the respondents are resorting to high handedness and misuse of the authority and using the same in a colorful manner. Moreover the respondents are using the authority not vested in them.
- e. That the respondents are depriving the petitioners of their established rights, which accrued to the petitioners in the shape of the Act No. XVII of 2012, which the law never approves of.
- f. That the petitioners being qualified and also after the Act No. XVII of 2012 have got legitimate expectancy. Copy of the Act is enclosed as Annexure "E".

It is, therefore, very respectfully prayed that on acceptance of this writ petition the respondents may very kindly be directed to implement and abide by the Act No. XVII of 2012 in letter and spirit and consider the petitioners in the provided 30% quota in the Act.

Any other relief deemed appropriate may also very kindly be granted.

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Petitioners

Through Counsels,

[Handwritten signature]
Aziz-ur-Rahman

[Handwritten signature]
Imdad Ullah

Advocates Swat

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Additional Registrar

03 JUN 2014



Certificate:

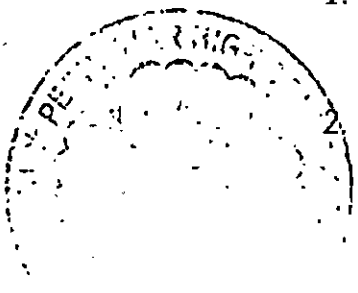
It is certified that no other such like petition is either pending or decided by this August Court.

[Signature]
Aziz-ur-Rahman
Advocate Swat

List of books:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. Case law according to need.

[Signature]
Aziz-ur-Rahman
Advocate Swat



CT. ✓
[Signature]

FILED TODAY

[Signature]
Additional Registrar

03 JUN 2014

BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH, DAR-UL-QAZA SWAT

Writ Petition No. 306 -M of 2014

Muhammad Afzal S/o khwast Faqir and Others.

...Petitioners

VERSUS

The Government of Khyber Pakhtunkhwa through
Secretary Elementary and Secondary Education,
Peshawar and Others.

...Respondents

AFFIDAVIT

It is stated on Oath that all the contents of this writ
petition are true and correct to the best of my knowledge
and belief and nothing has either been misstated or
concealed before this August Court.

Deponent

Abdur Rahman
Abdur Rahman

Identified By:

Aziz-ur-Rahman
Aziz-ur-Rahman
Advocate Swat

C.T.C
for

S.No. 1303
Certified that the
affirmation before me
of 3rd July 2014 by Abdur Rahman
S/o Khawast who
was identified by Abdur Rahman
who is personally known to me.

Abdur Rahman
Abdur Rahman
Additional Registrar
Peshawar High Court
Mingora Bench Dar-ul-Qaza, Swat.

FILED TODAY

ms
Additional Registrar
03 JULY 2014

BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH, DAR-UL-QAZA SWAT

Writ Petition No. 306-M of 2014

Muhammad Afzal S/o khwast Faqir and Others.

...Petitioners

VERSUS

The Government of Khyber Pakhtunkhwa through
Secretary Elementary and Secondary Education, and
Others.

...Respondents

ADDRESSES OF THE PARTIES

Petitioners: cell # 0346-9476901
CNL # 15602-1321965-5

1. Muhammad Afzal S/o khwast Faqir R/o Titabat,
District Swat.
2. Abdur Rahman S/o Saran Zeb R/o Manglawar,
District Swat.
3. Dir nawab Khan S/o Dawa Khan R/o Baidara,
District Swat.
4. Zeb-ul-Haq S/o Ahmad Khan R/o Gogdara, District
Swat.
5. Amin Muhammad S/o Ghulam Muhammad R/o
Kota, Tehsil Barikot, District Swat.
6. Gul Zada S/o Jan Faqir R/o Gabral, Kalam, District
Swat.

Respondents:

1. The Government of Khyber Pakhtunkhwa through
Secretary Elementary and Secondary Education,
Peshawar.

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2. The Director Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Male), District Swat at Gulkadn.

Petitioners
Through Counsel,
CR
Aziz-ur-Rahman
Advocate Swat



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03 JUN 2014

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PESHAWAR HIGH COURT, MINGORA BENCH
(DAR-UL-QAZA), SWAT

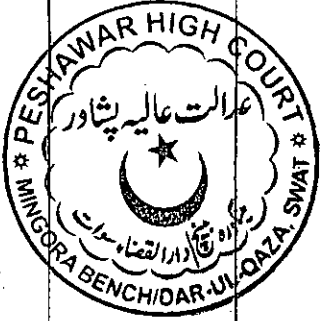
FORM OF ORDER SHEET

Court of

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

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
<p style="text-align: center;">ATTESTED</p> <p style="text-align: center;">Examiner Peshawar High Court Bench Mingora Dar-ul-Qaza, Swat.</p>	<p style="text-align: center;">29.05.2017</p>	<p style="text-align: center;"><u>W.P 306-M/2014</u></p> <p>Present: Mr. Aziz-ur-Réhman, Advocate for petitioners. Mr. Sabir Shah, A.A.G for official respondents.</p> <p style="text-align: center;">***</p> <p><u>MUSARRATHILALI, I.</u>- This petition has been filed by the petitioners with the prayer that the respondents may be directed to implement and abide by the Act No.XVII of 2012 in letter & spirit and consider the petitioners in the provided 30% quota.</p> <p>2. In essence, the petitioners were appointed as Primary School Teachers in the years 1994 and 1995, but in the year 1997 services of the petitioners alongwith others were sacked. Later on, the Government of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 was passed, under which all the sacked employees were to be reappointed against 30 % quota in all fresh recruitments in their respective cadre. The petitioners submitted applications after the promulgation of the Act No.XVII, 2012 but, as per the petitioners, the same were</p>

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not entertained at all. Hence, the instant writ petition.

3. Learned counsel for the petitioners stated at the bar that the petitioners would be satisfied if the instant petition is considered as representation and sent to the respondents for its disposal in accordance with law.

4. In view of the above, the instant writ petition is converted into representation and sent to the respondents with the direction to decide the same in accordance with law within a period of 30 days positively. Office is directed to retain a copy of the petition for record and send original to the respondent No.3 for further proceedings in accordance with law.

Announced
29.05.2017

Certified to be true copy

EXAMINER

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 87 of Qanoon-e-Shahadat Oder.1984

JUDGE

JUDGE

S No.....03.....

Name of Applicant.....H.A. Farid Bakht Amin

Date of Presentation of Applicant.....04-09-19

Date of Completion of Copies.....04-09-19

No of Copies.....02

Urgent Fee.....

Fee Charged.....04/-

Date of Delivery of Copies.....04-09-19

Office 31/5



OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
Swat (Cell # 0946 9240209-228)

No. 9987 Dated. 16/17

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F

To

Mr. Amin Muhammad S/O Ghulam Muhammad
Village Kota P.O Ghaligay Swat.

KOTA

Subject:-

APPOINTMENT AGAINST SACKED EMPLOYEES QUOTA

Memo:

Reference to the Honourable Peshawar High Court Mingora Bench / Darulqaza Swat Order dated 29.5.2017 passed in W.P No.306/2014 M. Afzal & others (converted into representation). You are not entitled to be appointed under the provisions of sacked employees Act, 2012, because;

1. You have been appointed as untrained PST in 1995.
2. Your appointment was temporary and was liable to termination/ reversion at any time without any reason being assigned.
3. Your appointment was found irregular, ab initio, void and against the prescribed rules and therefore dispensed with immediate effect.
4. You have not submitted application within one month of the promulgation of the sacked employees Act, 2012.

AND WHEREAS in pursuance of the Government of Khyber pakhtun khwa sacked Employees Act, 2012 allowed the appointment of those candidates who were appointed on regular basis to a civil post in the province and who possessed the prescribed qualification and experience for the said post at that time. More over the candidates have to submit applications within one month of the promulgation of the sacked employees Act, 2012.

DISTRICT EDUCATION OFFICER
(MALE) SWAT

Dated _____/2017.

Endst: No _____/C. Case phc

Copy forwarded to:-

1. The Honourable Registrar Peshawat High Court Mingora Bench/ Darul Qaza Swat.
2. P.A to the D.E.O local office.

DISTRICT EDUCATION OFFICER
(MALE) SWAT

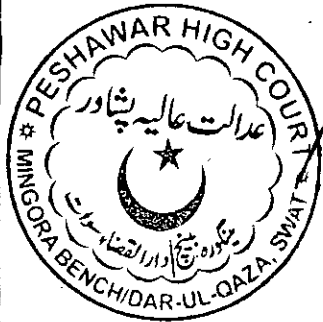
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C.T. ✓

BEFORE THE PESHAWAR HIGH COURT MINGORA

BENCH/DARUL QAZA SWAT

W.P.No. 778 - M 2017



- 1) Dir Nawab Khan S/o Dawu Khan R/o Baidara District Swat.
- 2) Amin Muhammad S/o Ghulam Muhammad R/o Kota Tehsil Barikot District Swat.
- 3) Zebul Haq S/o Ahmad Khan R/o Gogdara District Swat.
- 4) Abdur Rahman S/o Saranzeb R/o Manglor District Swat.
- 5) Gul Zada S/o Jan Faqir R/o Gabral Kalam District Swat.

..... (Petitioners)

VERSUS

1. Govt. of K.P.K through Secretary Elementary and Secondary Education Peshawar.
2. The Director Elementary and Secondary Education K.P.K Peshawar.
3. The District Education Officer District Swat.

.....(Respondents)

ATTESTED

Examiner

Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

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

Respectively Sheweth.

Facts,

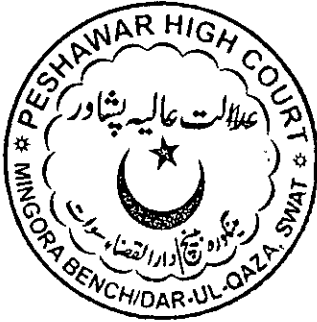
1. That the petitioners are permanent residents of District Swat, and were appointed on posts of PTC in the year of 1994 & 1995. (Copies of appointment orders are attached as annexure A, A1, A2, A3, A4 and A5 respectively).

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24 OCT 2017

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2. That the petitioners were performing their duties to the satisfaction of their competent authorities without any complaints what so ever.

3. That in the year 1997 the services of the petitioners were sacked with one stroke in contravention of the law and rules.



That according to K.P.K sacked employees appointment Act 2012 under which all those employees who's services were sacked to be re-appointed against 30% quota for them in all fresh recruitments in their respective cadre.

5. That the petitioners have submitted their application within the stipulated time according to sacked employees Act 2012, but their application are not entertained at all. (Copies of the reply by the respondent No. 3 are attached as annexure B).

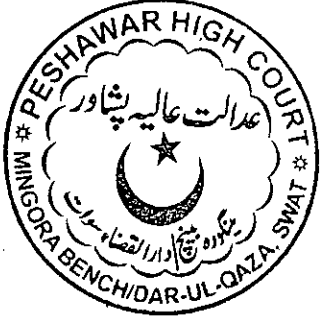
ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

That this august court sent early writ petition No. 306-M 2014 of petitioners to respondents No.3 to decide the some in accordance with law. (Copy of writ petition is attached as annexure C).

7. That respondents No. 3 unheard petitioners and ignored the reinstatements of petitioners on the pretext that appointments of petitioners were irregular, abinitio, void and against the prescribe rules but inspite the fact that the previous appointment of the petitioners were made after fulfilling all the codal and legal formalities and moreover, the petitioners were train and qualified, hence this petition on the following grounds. (Copy of relevant qualification and departmental order annexure D, E,F).

GROUNDS:



- i. That the respondents were not treating the petitioners at par with other similarly placed persons hence discriminating the petitioners as in various other departments and in the education departments in other Districts the sacked employees Act 2012 is being implemented. (Copy of re- appointment of sacked employees order is attached as annexure G).
- ii. The appointment of the petitioners made after fulfilling all the codal and legal formalities.
- iii. That if there is any irregularity in the appointment of the petitioners it was part of the department/ appointing authority and the law does not allow the authorities to take the benefits of their own lapse.
- iv. That respondents are not treating the petitioners in accordance with law.
- v. That the respondents are depriving the petitioner of their established rights which accrued to the petitioners in the shape of the Act No. XVII of 2012. (Copy of the Act is attached as annexure H).
- vi. That the petitioners being qualified and also after the Act No. XVII of 2012 have got expectancy.

ATTESTED

Examiner

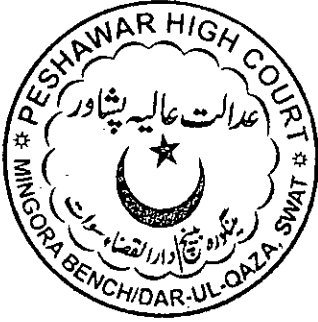
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

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24 OCT 2017

Attest
[Signature]

It is therefore, humbly prayed that on acceptance of the instant writ petition the respondent No. 3 be directed to re-instate the petitioners on their posts according to the sacked employees Act 2012 of KPK along with back benefits.



PETITIONERS

Through Counsel

HAFIZ BAKHT AMIN ADVOCATE

High Court,

Law books:

1. Constitution of the Islamic Republic of Pakistan.
2. Law books as per need.

ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

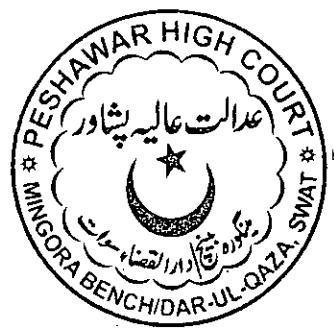
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BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH/DARUL QAZA SWAT

W.P No. 778-M 2017

Dir Nawab Khan and others **VERSUS** Govt. of K.P.K and others.



CERTIFICATE:

It is, hereby declare that the contents of this writ petition are true and correct to the best of our knowledge and belief as per information of clients and no such petition has been submitted excepting the present one.

PETITIONERS

Through Counsel *Zam*

HAFIZ BAKHT AMIN ADVOCATE
High Court,

ATTESTED
Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

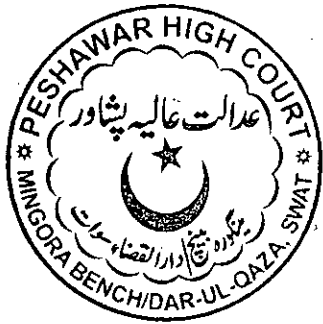
FILED TODAY
24 OCT 2017
Additional Registrar

BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH/DARUL QAZA SWAT

W.P No. 778-M 2017

Dir Nawab Khan and others **VERSUS** Govt. of K.P.K and others.

AFFIDAVIT



I, Abdur Rahman S/o Saranzeb R/o Manglor District Swat do hereby affirm and declare on oath that the contents of this writ petition are true and correct to the best of my knowledge and belief.

DEPONENT

Abdur Rahman

Petitioner No. 4 Abdur Rahman

Present and attorney for other petitioners.

ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

S.No. 3746
Certified that the above was verified on Solemn
affirmation before me on this 24th day
of 09 2017 by Abdur Rahman
S/o S. Saranzeb R/o Swat who
was identified by S. Saranzeb
Who is personally known to me.

Abdul Rehman
ADUL REHMAN
Peshawar High Court
Mingora Bench/Dar-ul-Qaza, Swat.

[Handwritten signature]

7/39

BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH / DARUL QAZA SWAT

W.P No. 778-M 2017

Dir Nawab Khan and others **VERSUS** *Govt. of K.P.K and others.*

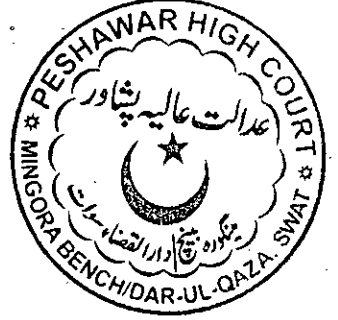
MEMO OF ADDRESSES

ADDRESS OF THE PETITIONER:

*Petitioner No. 4 Abdur Rahman S/o Saranzeb R/o Manglor District
Swat, present and attorney for other petitioners.*

CNIC No. 15602-1321965-5

Cell No. 0346-9476901



ADDRESSE OF THE RESPONDENT:

- 1. Govt. of K.P.K through Secretary Elementary and Secondary Education
Peshawar.*
- 2. The Director Elementary and Secondary Education K.P.K Peshawar.*
- 3. The District Education Officer District Swat.*

ATTESTED

Examiner
**Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.**

PETITIONERS

Through Counsel

am

HAFIZ BAKHT AMIN ADVOCATE

High Court,

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24 OCT 2017

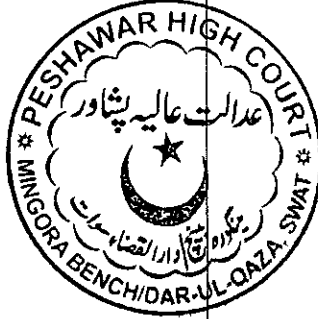
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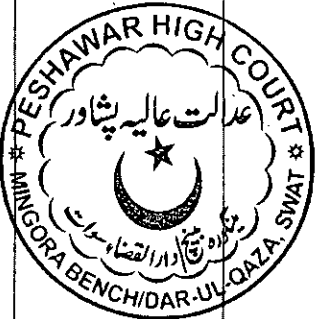
**PESHAWAR HIGH COURT, MINGORA BENCH/
DAR UL QAZA, SWAT**

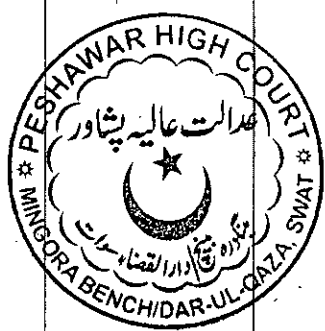
FORM OF ORDER SHEET

Court of

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

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
 <p>ATTESTED Examiner Peshawar High Court Bench Mingora Dar-ul-Qaza, Swat.</p>	<p>18.04.2018</p>	<p><u>W.P. No. 778-M/2017</u></p> <p>Present: Hafiz Bakht Amin, Advocate for the Petitioners.</p> <p style="text-align: center;">***</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.-</u> Dir Nawab Khan & 4 others the Petitioners herein, are imploring the constitutional jurisdiction of this Court for issuance of an appropriate writ by narrating the facts followed by the grounds being taken from Serial (i) to (vi), they have set up the following perspective prayer for redressal of their grievance:-</p> <p style="text-align: center;"><i>“ It is, therefore, humbly prayed that, on acceptance of the instant writ petition, the Respondent No. 3 be directed to reimburse the Petitioners on their posts according to the Sacked Employees Act 2012 KPK along with back benefits.</i></p> <p>2. In essence, the present Petitioners were appointed as PTC teachers in different schools of District Swat in the years 1994 & 1995.</p>

 <p>ATTESTED Examiner Peshawar High Court Bench Mingora Daf-ul-Qaza, Swat.</p>	<p>Subsequently, their services were dispensed with by the Respondents in the year 1997 being no more required as they have been appointed against the prescribed rules.</p> <p>3. In the meanwhile, the Government of Khyber Pakhtunkhwa passed the "<u>Sacked Employees Act, 2012</u>", wherein it has been decided that only those government employees will be given the benefit of reinstatement who have been terminated during the period from 1st day of November 1996 to 31st day of December 1998. After promulgation of the <i>ibid</i> Act, the Petitioners submitted their application within the prescribed period as highlighted in the <i>Supra</i> Act, however, the same was not even entertained by the Respondents. Consequently, the Petitioners approached this Court through W.P. No. 306-M of 2014 which was converted into representation on 29.05.2017 and sent to the concerned Respondents with the direction to decide the same in accordance with law within a period of 30 days positively. The Respondent No. 3 i.e. the District Education Officer</p>
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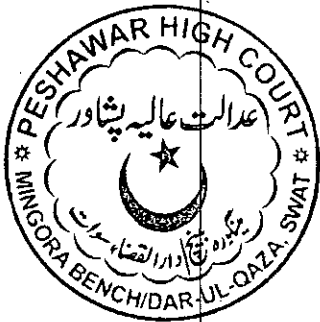
Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

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District Swat did not comply the directives of this Court on the pretext that the initial appointments of the Petitioners as PTC teachers were found illegal having been made against the prescribed rules. Besides, still the Petitioners are optimistic to be compensated on behalf of the Respondents-Department in the light of *ibid* Act, but the Respondents are not willing to render the benefit of reinstatement to the Petitioners despite of the fact that similarly placed persons like Petitioners have already been compensated by way of their reinstatement. In such circumstances, the Petitioners repeatedly approached the Respondents for redressal of their grievance, but of no avail, hence the present writ petition has been preferred *inter-alia* on the grounds enumerated therein.

4. Arguments of learned counsel for the Petitioners were heard in motion and the available record placed on file delved deep into with his valuable assistance.

5. Before delivering any findings in respect of grievance of the Petitioners, it would be in the



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Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

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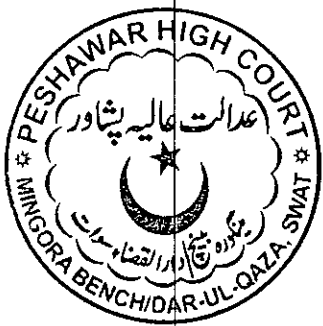
fitness of things to reproduce the relevant provisions of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012, which runs:-

Preamble:-

Whereas, it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November, 1993 to the 30th day of November 1996 (both days inclusive) and were dismissed, removed or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on various grounds.

S. 2 (g):- "sacked employee" means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1st day of November, 1993 to 30th day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on the ground of irregular appointments."

6. It is crystal clear from above quoted provisions of the Act *ibid* that only those persons/employees would be given the benefit of reinstatement, who were appointed on a regular basis to a civil post, possessed the requisite/prescribed qualification and experience for the subject post and above all terminated from



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 Peshawar High Court Bench
 Mingora Dar-ul-Qaza, Swat.

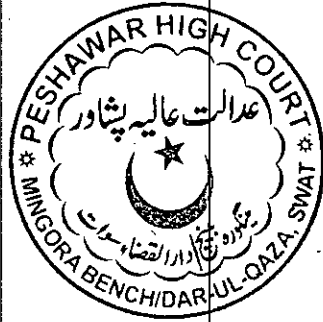
service during the period from 1st day of November, 1996 to 31st day of December, 1998. A bare perusal of the record would reveal that the services of the Petitioners were terminated in the year 1997, so by means they are falling within the cut-off date as referred to above.

7. Earlier, similarly placed persons, like Petitioners approached this Court through W.P. No. 1662-P of 2013 titled "Hazrat Hussain V/S The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar",

which was allowed in the following manner:-

"It is worth to note that persons similarly placed with the petitioners have been re-instated by the department while giving effect to the judgments given the Khyber Pakhtunkhwa Service Tribunal. More so, one Mst. Gul Rukh whose services were terminated by the respondents alongwith the petitioners, has been appointed under the Act vide order dated 09.05.2013. It is cardinal principle of law that similarly placed persons should be treated alike and no different yard stick should be used while redressing their grievances. It is hallmark and grundnorm of our constitution that every person is entitled to equal protection of law. Not only similarly placed colleagues of the Petitioners have been appointed by the respondents but the petitioners are also entitled to the relief given to the sacked employees under the Act.

For what has been discussed above, we admitted and accept both the writ petitions



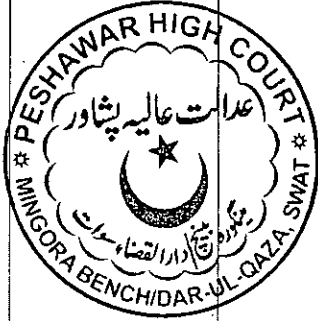
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 Examiner
 Peshawar High Court Bench
 Mingora Dar-ul-Qaza, Swat.

and direct the respondents to consider the petitioners for their appointment in accordance with the provisions of the Act."

The above-referred judgment of this Court was assailed before the Hon'ble Supreme Court of Pakistan in Civil Appeal No. 401-P of 2016 under the title "Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar V/S Iftikhar Khan etc" along with other identical matters. The Hon'ble apex Court vide its judgment dated 24.5.2017 upheld the verdict of this Court in the following manner:-

" We have been apprised by the learned counsel for the respondents that according to the advertisement and appointment letter issued to the respondents, two kinds of candidates could be appointed (i) those who have the requisite academic qualifications and training; (ii) those who have the requisite academic qualifications but do not possess the necessary training. As regard the second category, such persons would be provided with an opportunity to complete the training within a specific period. This is exactly what the learned High Court has allowed in the relief grating portion of the impugned judgment. Undoubtedly, this is in consonance with the Department's own advertisement and the terms and conditions of service, therefore, the learned High Court did not fall into any error by requiring the Department to allow the respondents to complete the training within a specific period of time and to take action against them in case of failure to do so. No



exception can be taken to the impugned judgment, which is upheld. Resultantly, Civil Petition No. 401-P/2016 is dismissed on merit. The connected petitions are also dismissed on the above score and being time-barred as no sufficient cause has been shown for condonation of delay.

8. Apart from above, learned counsel for the Petitioners placed on record copy of unreported judgment of this Court rendered in writ petition bearing No.516-A of 2013 at the Hon'ble Peshawar High Court Bench Abbottabad along with other identical writ petitions decided on 24.05.2016, wherein after elaborate discussion in respect of the issue in question the following view has been formed:-

" In view of the above, all these petitions are disposed of in the following terms:-

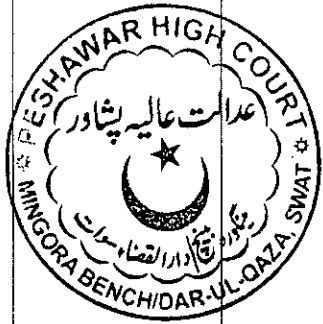
- i. That the petitioners though eligible for appointment but not equipped with training certificate, shall be considered for reinstatement against their respective posts under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act,2012 immediately;*
- ii. The concerned District Education Officer shall scrutinize the case of each individual petitioner independently;*
- iii. Thereafter, the department shall arrange and*

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Examiner

Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

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Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

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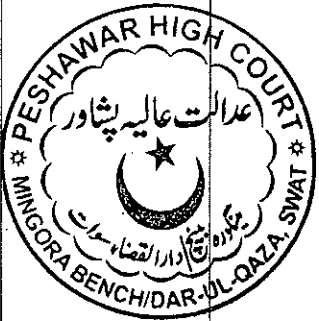
manage the requisite training course for them and the Petitioners shall be provided opportunity to acquire the requisite training certificate;

iv. In case the petitioner failed to acquire the requisite training certificate within the stipulated period, specified by the department, their services shall stand terminated automatically.

Needless to remark, that the respective EDOs of each district shall complete the process of reinstatement of the petitioners within one month positively."

In view of the rational set in the above-referred esteem verdict of the Hon'ble Peshawar High Court Abbottabad Bench, learned counsel for the Petitioners requested that the cases of present Petitioners be also given alike treatment and the writ petition in hand be disposed of in view of the *ibid* judgment.

9. In the above developed scenario, there is no denial of the fact that the services of the Petitioners were terminated within the cut-off date i.e. 1st day of November 1996 to 31st day of December 1998 coupled with the fact that similarly placed persons like Petitioners have been given the



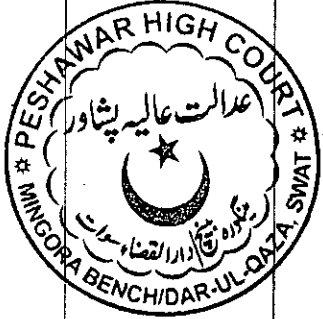
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Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

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benefit of reinstatement by this Court, which judgment has been upheld by the Hon'ble Supreme Court of Pakistan, so, on this score too, the Petitioners deserve to be given the same benefit of reinstatement being similarly placed persons.

10. In view of the above discussion, this writ petition is disposed of in terms that the Respondents/Department is directed to consider the cases of Petitioners for their reinstatement under the umbrella of "Sacked Employees Act 2012" coupled with the fact being similarly placed persons but subject to their eligibility for the requisite posts of PST teachers within a period of one month positively. Since the Petitioners are languishing for the ultimate outcome of their wheel of fortune since the year 1997, therefore, it is expected from the answering Respondents that this issue will be put to an end once for all within the target span i.e. one month for a decisive consideration in the light of above-referred



judgment of this Court delivered at the Hon'ble Peshawar High Court Abbottabad Bench as highlighted in Para 8 of this Judgment.

Announced
Dt.18.04.2018

ص
JUDGE

Certified to be true copy

P.A.
JUDGE

EXAMINER

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 87 of Qanoon-e-Shahadat Oder.1984

04-09-19

S.No.....*02*.....
Name of Applicant.....*Haji Bakht Amin*.....
Date of Presentation of Applicant.....*04-09-19*.....
Date of Completion of Copies.....*04-09-19*.....
No of Copies.....*18-P*.....
Urgent Fee.....
Fee Charged.....*30/-*.....
Date of Delivery of Copies.....*04-09-19*.....

Office
19/04/18

OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT

50



OFFICE ORDER.

In compliance with Peshawar High Court Mingora Bench/Darul Qaza Swat in writ petition No.778-M/2017 and its judgment Dated 18.4.2018 and in the light of recommendations of litigation branch local office & Committee, the appointment order of the following candidates is hereby ordered against the vacant post of PST in BPS-12 (Basic plus allowances) as admissible under the existing policy of Provincial Government in teaching cadre in Sacked employee quota on the terms and condition given below with effect from the date of their taking over charge:-

S.NO	NAME	FATHER NAME	D/O BIRTH	Residence	SCHOOL WHERE POSTED
1	Dir Nawab	Dawa Khan	20.02.1967	Baidara	GPS Bodigram
2	Abdur Rahman	Saran Zeb	16.02.1974	Manglawar	GPS Ghwarimasta
3	Gul Zada	Jan Faqeer	10.04.1973	Bari Gabral	GPS Sazgall
4	Amin Muhammad	Ghulam Muhammad	06.05.1972	Kota	GPS Balokalay

TERMS & CONDITIONS.

1. The appointment will be subject to the condition of decision of Honorable Supreme Court of Pakistan in the light of CPLA already pending. If the decision of the Honorable Supreme Court of Pakistan come against them, their appointment shall stand cancelled w.e.f the date of issue.
2. Charge report should be submitted to all concerned.
3. No TA/DA is allowed.
4. Their appointment is subject to the condition that their certificate/documents and domicile should be verified from the concerned Authority before release of their salary in the light of Section 3 of the said Act.
5. They will be governed by such rules and regulations as may be issued from time to time by the Government:
6. Their appointment has been made in pursuance of Khyber Pakhtunkhwa Sacked employees (Appointment) Act 2012, hence under section 5 of the said Act, he shall not be entitled to claim any kind of seniority, promotion and other back benefits.
7. They will produce Health & Age certificate from the M/S Swat.
8. Their appointment has been made in pursuance of Khyber Pakhtunkhwa Sacked employee Act 2012, hence under section 4 of the said act the period during which they remained dismissed, removed or terminated from service till the date of his appointment shall have been automatically relaxed.
9. They should join their post within 15 days of the issuance of this Notification, In case of failure to join the post with in 15 days of the issuance of this Notification, his appointment will be considered as cancelled automatically and no subsequent appeal etc shall be entertained.
10. Their pay will be released after the verification of their documents by the concerned institution.
11. In case their/his documents are found fake/bogus on verification from issuing authority, the service of the official will be terminated and legal action be taken against him under the law.
12. The SDEO concerned should furnish a certificate to the effect that the candidate has joined the post or otherwise after 15 days of the issue of his posting/appointment order.
13. Their services can be terminated at any time in case of his performance is found unsatisfactory. In case of misconduct he will be proceeded under the rules framed from time to time by the Government.
14. In case of resignation they/he will submit his one month prior notice to the Department, otherwise he will forfeit one month pay/allowances to Government Treasury.

15. In case of having no prescribed qualification, the same may be obtained within 03 years after issuing of this order otherwise appointment will be automatically stand cancelled.
16. The competent authority resumes the right to rectify the errors/omission of any noted/observed at any instant order issued erroneously.

(NAWAB ALI)
DISTRICT EDUCATION OFFICER
SWAT GUL KADA

5081-85

Endst No: _____/P.F/Zebul Haq/M/DEO

Dated: 24/11/2018

Copy of the above is forwarded:-

1. The Director E&SE Khyber Pakhtunkhwa Peshawar.
2. The District Comptroller of Accounts Swat.
3. The Sub Divisional Education Officer Babozai, Bahrain, Matta & Barikot Swat.
4. The ADEO litigation local office.
5. The candidates concerned.
6. PA to DEO Local Office.


DISTRICT EDUCATION OFFICER
(MALE) SWAT GULKADA

اپیل بنا (مڈل ڈسٹریکٹ ایجوکیشن آفیسر)
جناب عالی! گزارش کی جاتی ہے کہ فوری کو جی پی ایس

(Madas Banda (Kabal) میں بحیثیت (جی ایس ٹی) [ENDST: No 1538-39]
(20/4/1995) تعینات کیا گیا تھا (25/4/1995) کو چارج دیا گیا تھا باقاعدگی کے ساتھ
اپنے فرائض سرانجام دے رہا تھا لیکن یہ قسمنی سے سیاسی بنیاد
پر سروس سے ہر طرف کیا گیا حکومت تبدیل ہونے پر ملازمت
سے نکالا گیا 2012ء میں (Act Sacked employees) کیلئے پاس ہوا

(High Court Mingora Bench Dera Ismail Khan - Qaza Swat) تحت (2012ء ایکٹ کے تحت
2012ء میں فیصلہ کیا گیا فیصلہ نمبر (W.P. No: 778-M 2017)
بھارتی عدالت میں فیصلہ کیا گیا فیصلہ نمبر (D.E.O: Swat) کے بحیثیت
(Announced on 18-4-2018)

[ENDST: No 5881-85] (P.S.T. G.P.S Balokalay) تعینات کیا
(Date: 24-11-2018) لہذا آپ صاحبان میرا پیغام کے بھاری پرانا
سروس (20/4/1995) سے 13 فروری 1997ء تک اور (Act 2012)
سے بھاری سروس بحال کر دیں تو میں قیامت تک دعا گو رہوں گا

فقط
الصارفین

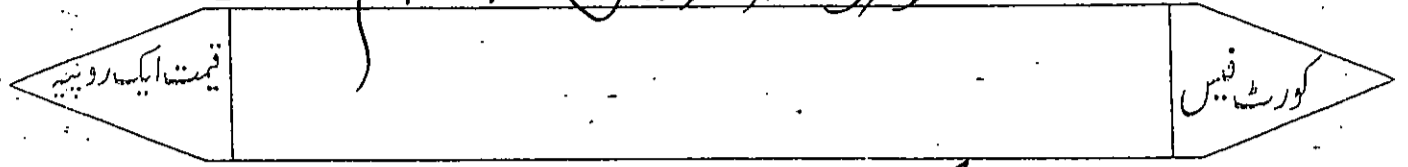
امین محمد ولد غلام محمد

(G.P.S. Balokalay)

CT
B

Date: 28/1/2019

بعد الت صندھ ہائرس کورٹ سٹریٹ کراچی کراچی کراچی کراچی



۲۰۱۸ منجانب اسد علی

31 اکتوبر

مورثہ

بنام سکتیہ بی بی اسد علی صاحبہ

اسم محمد

مقدمہ

دعویٰ اسد علی

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی و جواب ذہی و کل کاروائی متعلقہ آن مقام گج کہہ سورت کے لئے حلف و نعت میں اسد علی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل احتیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زراں پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہا گا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا ک سند ہے

Handwritten signature and notes in the bottom left corner.

۲۰۱۸

۳۱ اکتوبر

31

المرقوم

العبد گواہ نشاندہ العبد
بمقام سورت سٹریٹ کراچی

**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT.**

Service Appeal No. 1501/2019

Amin Muhammad S/O Ghulam Muhammad, R/O Kota, Tehsil Barikot, 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.

..... 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 Court 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/miss 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 badly time barred.
9. That the Appellant has been appointed conditionally in compliance with the Honorable Peshawar High Court Mingora Bench/Dar Ul Qaza Swat judgment and under the provision of Sacked Employees Appointment Act, 2012 wherein it is clearly mentioned that the appointment of Sacked employees will be considered as fresh appointment and they shall not be entitled to claim any seniority, promotion or other back benefits.
10. That the instant service appeal is not maintainable in the present form, and above in the present circumstances of the issue.
11. That the Appellant has estopped by his own conduct.
12. That the Appellant has concealed the material facts from this Honorable Tribunal.

FACTS:

1. That the Para No.1 is correct to the extent of his appointment, the rest of the para pertains to his personal information. Hence no comments.
2. That the para No. 2 is irrelevant to the present issue, hence, no comments.

3. That the Para No.3 is incorrect and denied. The Appellant was terminated from service in accordance with the terms and conditions of the appointment order wherein it is clearly mentioned that his appointment is temporary and is liable to termination/reversion at any time without any reason being assigned. Moreover, the appointment order of the Appellant was irregular, ab-initio, void and against the prescribed rules. Therefore, the appointment was liable to termination and the Appellant was terminated from the service.
4. That the Para No.4 is correct to the extent of promulgation of the Sacked Employees (appointment) Act, 2012. However, it is worth to mention here that according to the section 2 (g) of the said Act, the Appellant did not come in the definition of Sacked employee as the Appellant was appointed on purely temporary basis and was liable to termination.
5. That the Para No. 5 is irrelevant to the present issue. However, as stated in the fore going paras, the Appellant was appointed on temporary basis and his appointment was liable to termination at any time. Whereas, according to the provision of Sacked Employees Act, 2012 allows the appointment of those candidates who were appointed on regular basis and who possess the requisite qualification and experience at that time. Therefore, he was not appointed.
6. That the Para No. 6 is correct.
7. That the Para No.7 is correct.
8. That the Para No. 8 is correct.
9. That the Para No. 9 is correct to the extent that the Appellant has been appointed conditionally. However, it is worth to mention here that the Appellant is appointed into service on the terms and conditions that the appointment will be subject to the decision of Honorable Supreme Court of Pakistan in the light of CPLA already pending. If the decision of the Honorable Supreme Court of Pakistan come against them, their appointment shall stand cancelled w.e.f the date of issue.
(Appointment order is annexed with the instant Service Appeal)
10. That the para No.10 is incorrect and denied. The Appellant is conditionally appointed with immediate effect into services under Khyber Pakhtunkhwa Sacked Employees (appointment) Act, 2012 and in compliance with the Honorable PHC Mingora Bench/Dar Ul Qaza Swat. According to section 5 of the said Act, "A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment." Hence, the Appellant is not entitled for seniority and back benefits. If the Appellant felt aggrieved of the Honorable Court judgment, he should have filed appeal in the proper forum against the said judgment. The Appellant accepted the appointment as well as the judgment. **(Sacked Employees Act, 2012 is already Annexed with the instant Service Appeal)**

11. That the instant service appeal of the Appellant is bereft of any merit, hence liable to be dismissed inter alia following grounds.

GROUNDS

- i. That the Para No. i is incorrect and denied. As stated in the fore going paras, the Appellant is not entitled for seniority and back benefits.
- ii. That the Para No. ii is repetition of the above paras. Hence, no comments.
- iii. That the Para No. iii is repetition of above para, hence no comments.
- iv. That the Para No. iv is legal hence no comments. However, the instant Appeal of the Appellant is badly time bared.
- v. 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



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 198 /ST

Dated: 31/01 /2022

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

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

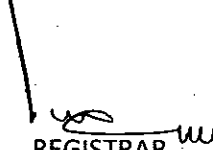
To

The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
Swat.

Subject: JUDGMENT IN APPEAL NO. 1501/2019 MR. AMIN MUHAMMAD.

I am directed to forward herewith a certified copy of Judgement dated
08.12.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR



OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
Swat (Cell # 0946 9240209-228)

No. _____ Dated. 25-01-2022

To

The Director Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.

SUBJECT: - LEGAL OPINION/PROPOSED CPLA IN THE SUPREME COURT OF PAKISTAN AGAINST THE JUDGEMENT PASSED BY THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR DATED 08.12.2021 IN THE SERVICE APPEAL NO. 1501/2019 TITLE MR. AMIN MUHAMMAD VERSUS SECRETARY E&SED KHYBER PAKHTUNKHWA

Memo:

It is requested that the subject noted above case was decided against the Department vide judgment dated 08.12.2021. **(Copy of the working paper, grounds Annexure and judgment attached in triplicate)**

It is, therefore, requested that the Government of Khyber Pakhtunkhwa Law Department may kindly be approached to file CPLA in the next above court against the judgment dated 08.12.2021 please.

DISTRICT EDUCATION OFFICER
(MALE) SWAT


Endst: No 2865-68

Dated _____

Copy forwarded to

1. The Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. The A.A.G Khyber Pakhtunkhwa Service Tribunal Peshawar
3. Section Officer litigation-II Elementary and secondary education department secretariat opposite MPAs Hostel Peshawar.
4. P.A to DEO (M) local office.

Placed as relevant file.


DISTRICT EDUCATION OFFICER
(MALE) SWAT

A/keeper.

ew
27/2/2022.