

12/9/2017

Counsel for the appellant and Muhammad Adeel Butt, AAG alongwith Hameed-ur-Rehman, AD for the respondents present. The learned counsel for the appellant argued the case at some length, but when this Tribunal referred to a recent judgment of the august Supreme of Pakistan 2017 SCMR 890 the learned counsel sought some time. Granted. To come up for further arguments before this DB on 11/10/2017.


MEMBER

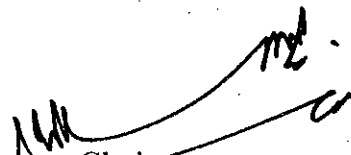

CHAIRMAN

11.10.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Addl. Advocate General for the respondents present. Arguments heard and record perused.

This appeal is dismissed as per our detailed judgment of today in connected service appeal No. 984/2015 entitled "Badshah Islam Vs. The Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar and others". Parties are left to bear their own costs. File be consigned to the record room.


Member


Chairman

ANNOUNCED
11.10.2017

01.03.2017

Counsel for appellant and Mr. Hameed-ur-Rehman, AD (litigation) alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Rejoinder not submitted. Learned counsel for appellant requested for time for further time for submission of rejoinder. Request accepted. To come up for rejoinder and arguments on 18.05.2017 before D.B.




(AHMAD HASSAN)
MEMBER




(ASHFAQUE TAJ)
MEMBER

18.05.2017

Counsel for the appellant and Mr. Muhammad Adeel Butt Additional AG for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file. To come up for arguments on 12.09.2017 before D.B.



(Gul Zeb Khan)
Member



(Muhammad Amin Khan Kundi)
Member


24.05.2016

Agent of counsel for the appellant. M/S. Khurshed Khan, SO and Hamcedur Rahman. AD alongwith Addl. AG for the respondents present. Requested for adjournment. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 26.07.2016 before S.B.


Chairman

26.7.2016

Counsel for the appellant and M/S Khurshed Khan, SO and Hamcedur Rahman. AD alongwith Addl. AG for the respondents resent. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 24.11.2016.


Chairman

24.11.2016

Counsel for the appellant and Assistant AG for respondents present. Rejoinder not submitted. Counsel for the appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 01.03.2017.


(MUHAMMAD AAMIR NAZIR)
MEMBER


(ABDUL LATIF)
MEMBER

11.09.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as DPE in BPS-17. That being M.Sc in Health and Physical Education appellant was entitled to BPS-17 with effect from 13.11.2007 on the basis of notification of the Provincial Government of the even date i.e 13.11.2007 but appellant promoted later on with immediate effect regarding which he preferred departmental appeal which was not responded and hence the instant service appeal on 7.9.2015.

That the appellant is entitled to up-gradation and financial benefits thereof with effect from 13.11.2007.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 26.11.2015. Notice of application for condonation of delay be also issued for the date fixed.

71 - P - 45
Chairman

26.11.2015

Appellant Deposited
Security / Process Fee

Counsel for the appellant present. Security and process fee not deposited. The same be deposited within a week, where-after notices be issued to the respondents for written reply/comments for 24.3.2016 before S.B.

Chairman

24.03.2016



Counsel for the appellant, M/S Khurshid Khan, SO and Hameed-ur-Rehman, AD (lit.) alongwith Assistant AG for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 24.5.2016 before S.B.

Chairman

FORM-A
FORM OF ORDER SHEET

Court _____

Case No. 989/2015

	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	07.09.2015 11-9-15	<p>The appeal of Mr. Muhammad Bashir presented to-day by Syed Younis Jan, Advocate may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR -</p> <p>This case be put up before the S.Bench for preliminary hearing on <u>11-9-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal NO 989 /2015

Muhammad BashirAppellant

VERSUS

The Govt:of KPK through its Chief Secretary and others.

.....Respondents.

I N D E X.

Sr NO.	Description of documents.	Annex:	Page.	
			From	TO
1.	Grounds of appeal.		01	05
2.	Affidavit.		06	
3.	Addresses of Parties.		07	
4.	Copy of Departmental appeal	"A"	8	
5.	Copy of Order/notification dated 19.5.2009.	"B"	9-11	
6.	Letter/Notification dated 13.11.2007.	"C"	12-13	
7.	Copy of Certificate.	"D"	14	
8.	Copy of appointment order.	"E"	15-16	
9.	Copy of order of EPS 17 Personal.	"F"	17	
10.	Application for condonation of Delay with affidavit.		18-20	
11	Wakalat Nama		21	

Dated: 19/2015

Appellant _____

Through


(SYED YONUS JAN)

Advocate Peshawar High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal NO. 989 of 2015.

K.P.K. SERVICE TRIBUNAL
Service Tribunal
Diary No. 1043
Dated 7-9-15

Muhammad Bashir, Director Physical Education,
Government Higher Secondary School, Dodhyal,
District MansehraAppellant

VERSUS.

1. The Govt: of K.P.K. through its Chief Secretary
2. The Secretary elementary and Secondary Education
Khyber Pakhtoonkhwa Peshawar.
3. The Director Elementary and Secondary Education.
Khyber Pakhtoon Khawa Peshawar.
4. The Secretary Establishment Department Khyber
Pakhtoonkhwa Peshawar.
5. The Secretary Finance Department Khyber Pakhtoonkhwa
Peshawar.

APPEAL U/S 4 OF KHYBER PAKHTOONKHWA SERVICE TRIBUNAL ACT
1974 ACCORDING TO THE DEPARTMENTAL APPEAL OF THE APPELLANT
WHICH IS STILL PENDING BEFORE THE RESPONDENT NO. 1 AND AFTER
LAPSE OF THE STATUTRY PERIOD NO ORDER BE COMMUNITION HAS
BEEN MADE ON THE SAME SO FAR.

(COPY OF THE DEPARTMENTAL APPEAL ANNEXURE "A").

PRAYER IN APPEAL.

That on acceptance of this appeal the order/
notification dated 19-05-09 may kindly be varied/modifide
to the extent that the same may kindly be made effective
from 3-06-2003 or 13.11.2007 and a such the department

(12/1994) *QW*

...?...

may kindly be directed to consider the promotion of the appellant to BS 17 regular from 3-06-2009 or (12/1994) *DM* 13.11.2007 instead of immediate effect with all other Service benefit. Any other remedy/ relief available in the circumstances of the case may also kindly be granted to the appellant.

(Order/notification dated 19-05-09 is Annexure "B".
and dated 13.11.2007 is Annexure "C".

Respectfully submitted:-

BRIEF FACTS GIVING RISE TO THIS APPEAL ARE:-

1. That the qualification of the appellant is M.A/MS.c. in health and Physical Education whose ~~result~~ ^{is} was declared passed 1994 exam.
(Copy of Certificate is Annexure "D").
2. That on the recommendation of the KPK Public Service Commission the appellant was appointed as Director Physical Education in BPS 16 and then on the basis of Court decision BPS 17 Personnal was awarded to the appellant vide order dated 03-06-03 with full benefits attached (12/1994) *DM* BPS 17.

(Appointment order and Order dated 22-10-1990 & 3-06-03 are Annexure "E" & "F".

...3...

3. That the Govt: of KPK on 13.11.2007 issued a letter/notification vide which the posts of DPEs and Librarians were upgraded to regular EPS 17 for the existing incumbents who hold Master degrees in relevant subjects i.e. MA/MS.c in health and Physical Education in case of the appellant .(The said notification is Annexure "C" above).

4. That as the appellant is /was highly qualified, fit and thus was fully eligible for award of regular EPS 17 in light of the above referred notification/letter so he agitated the matter with the authority but of no use, so he filed departmental appeal/representation before the respondent NC.1 which is still pending in after lapses of statutory period no order/communication has been made on the same so far, hence this appeal on the following amongst other grounds.

G R O U N D S:-

A. That the act and omission of the respondents is illegal, unconstitutional against facts and material on the record, therefore is not tenable and need the interference of this Honourable Tribunal

- A. That act and omission of the respondents is not only factually incorrect and legally untenable but also is based on their malafide intention and is also against the well established Principle of Natural justice and is discriminatory in nature.
- C. That the act and omission of the respondents is also against the laws /rules /policies/notification of the Provincial Govt: especially against the notification dated 13.11.2007.
- D. That the case of the appellant is very much similar and identical with those numerous cases in which the higher/superior Courts and Tribunal as well as this Honourable Tribunal has given a similar relief to other colleagues of the appellant and the appellant is also intitled to the same relief /treatment .
- E. That the department has also given a similar relief to other colleagues of the appellant including his Junior so on this score also the appellant is also entitled to the same relief.
- F. That the appellant was well qualifide ,fit and thus was quite eligible for the award of regular BPS 17 at the time of and in light of the letter

dated 13.11.2007. So the impugned notification dated 19-05-2009 vide which the promotion of the appellant to regular FPS 17 has been made with immediate effect is neither legal, nor justifiable.

G. That the appellant is/was a Govt./Civil Servant and legal and constitutional guarantee is/was available to him to be treated equally and in accordance with law. He however has not been treated as such.

It is therefore prayed that on acceptance of this appeal the order /notification dated 19-05-09 may kindly be varied/modified to the extent that the same may kindly be made effective from 3-06-03 or (12/1994) or 13.11.2007 and as such the department may kindly be directed to consider the promotion of the appellant to FPS 17 regular from 3-06-2003 or (12/1994) or 13.11.2007 instead of immediate effect with all other service benefits. Any other remedy/relief available in the circumstances of the case may also kindly be granted to the appellant.

Dated 19/2015

Appellant Bashir
Through: Yunus Jan
(SYED YOUNUS JAN)
Advocate Peshawar High Court
Peshawar.

(6)

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal NO. of 2015

Muhammad Bashir Appellant

VERSUS.

The Govt: of KPK through its Chief Secretary and others.

...Respondents.

AFFIDAVIT.

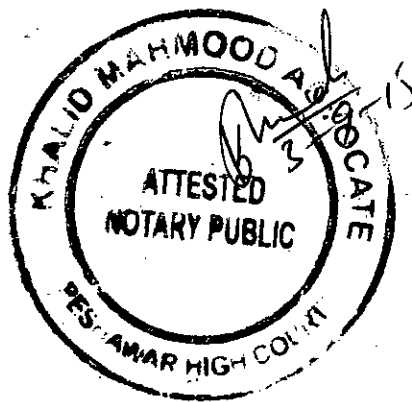
I, Muhammad Bashir (appellant) do hereby solemnly
on oath
affirm and declare that the contents of the appeal are
true and correct to the best of my knowledge and belief
and nothing has been concealed from this Honourable
Tribunal.

Dated

19/2015

Deponent

Bashir



7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ / 2015

Muhammad BashirAppellant

Versus

The Government of K.P.K. through its
Chief Secretary and othersRespondents.

ADDRESSES OF THE PARTIES.

Appellant.

Muhammad Bashir, Director Physical Education,
Government Higher Secondary School, Dhodial
District Mansehra.

Respondents.

1. The Govt:of Khyber Pakhtoonkhwa through its Chief Secretary Civil Seretriate Peshawar.
2. Secretary Elementary and Secondary^{Education} Khyber Pakhtoonkhwa Civil Secretriate Peshawar.
3. The Director Elementary and Scondary Education Khyber Pakhtoonkhwa near Govt: Higher Secondary School Peshawar City GT Road Peshawar.
4. The Secretary Establishment Department Khyber Pakhtoonkhwa Civil Secretriate Peshawar.
5. The Secretary Finance Department Khyber Pakhtoonkhwa Civil Secretriate Peshawar.

Dated: 19/2015

Appellant _____

Through:



(SYED YONUS JAN)
Advocate Peshawar High Court
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In Service Appeal No. 989/2015

Muhammad BashirAppellant

Versus

The Government of K.P.K. and others.....Respondents.

REPLICATION ON BEHALF OF THE APPELLANT TO THE JOINT
PARA-WISE COMMENTS OF RESPONDENTS NO.1 to 5

Respectfully submitted:

REPLICATION TO THE PRELIMINARY OBJECTIONS

1-15) The preliminary objections raised by the respondents in these paras are incorrect, false, misconceived and are based on no evidence, hence denied. Moreover it is submitted that the appellant has got a valid cause of action/locus standi to challenge the illegal acts and omissions of the respondents. The appeal is well within time, no facts have been concealed by the appellant from this Hon'ble Tribunal and no dirty hands have been shown or proved, each and every fact has been narrated by the appellant in his appeal and all the necessary parties have properly been arrayed by him in his appeal, no mis-joinder or non-joinder has been shown or proved by the respondents. No malafide on the part of the appellant has been shown or proved while the same is proved on the part of the respondents. The appeal is maintainable in its present form and in present circumstances and there could be no other form but in which it has been submitted under the laws/Rules and the same is not barred by any law but has been

submitted strictly in accordance with laws/Rules. Moreover, a matter of terms and conditions of service of the appellant is involved in the case, therefore, this Hon'ble Tribunal has got a valid jurisdiction in the matter in hand.

REPLICATION TO THE FACTS

- 1&2) These paras need no replication.
- 3) In this para the contents of para-3 of the appeal have been admitted as correct, therefore, needs no replication however, it is clarified that vide the Notification dated 13-11-2007 the posts of D.P.Es. and Librarians were upgraded from BPS-16 to BPS-17 on regular basis and not on personal basis.
- 4) The contents of this para of the reply are incorrect, false, misconceived and are without proof, hence denied. Moreover, it is submitted that the appellant being highly qualified and thus is/was highly eligible for BPS-17 (regular) from 13-11-07 i.e. the date of the above referred Notification but he has illegally un-constitutionally and malafidely been ignored.

REPLICATION TO THE GROUNDS


- A-G) The contents of these paras of the reply are incorrect, false, misconceived and are based on no evidence, hence denied. Moreover, it is submitted that as the appellant was highly qualified, fit and thus was fully eligible for award of BPS-17 (regular) at the time and in the light of the letter/Notification dated 13-11-2007 so, the impugned acts and omissions of the respondents/Department is not only a factually incorrect and legally untenable but also are based on malafide intentions of the respondents and are against the well-established principles of natural justice which have caused a gross miscarriage of

justice to the appellant and the same is neither in accordance with laws/Rules nor are based on facts, the stand of the appellant is neither baseless nor is against the factual position but the acts and omissions of the respondents are not in legal sphere and even the appellant has not been treated in accordance with laws/Rules and the appellant has got cogent proof/evidence in his favour which he will produce before the Hon'ble Tribunal at the time of arguments.

It is, therefore, humbly prayed that on acceptance of the above and facts narrated and grounds mentioned in the appeal, the appeal of the appellant may kindly be accepted and the relief claimed in the appeal may kindly be granted to the appellant. Any other remedy/relief available in the circumstances of the case may also kindly be granted to the appellant.

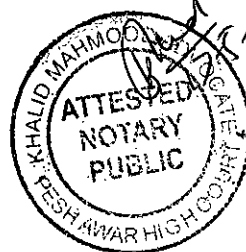
PESHAWAR

-05-2017

Appellant
through 
(Syed Younas Jan)
Advocate, Peshawar

AFFIDAVIT/COUNTER AFFIDAVIT

I, Muhammad Bashir, D.P.E. GHSS Dodhyal, District Mansehra (the appellant) do hereby solemnly affirm and declare on oath that the contents of this replication are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal while the contents of the reply of the respondents are incorrect, false, misconceived and are without proof.



Bashir
Deponent

To

The Worthy Chief Secretary,
Government of K.P.K. Peshawar.

Annex "A"
8

Subject:- DEPARTMENTAL APPEAL/REPRESENTATION

Through: PROPER CHANNEL

Sir,

1. That the appellant/applicant is M.A/M.Sc. in Health and Physical Education whose ~~name~~ was declared *passed in 1994* and on the recommendation of K.P.K. Public Service Commission he was appointed as Director, Physical Education (BPS-16) vide order dated 22-10-90 and then in light of the Court/Tribunal decision (BPS-17 (personal) was awarded to him vide order dated 3-6-2003 with all the benefits attached to the same scale i.e. BPS-17.
2. That on 13-11-07 the Government of K.P.K. issued a letter/Notification vide which the posts of D.P.Es. were upgraded from BS-16 to BS-17 (regular) for the existing incumbents who hold Master Degrees in relevant subject i.e. M.A/M.Sc in Health & Physical Education in case of the appellant.
3. That vide order dated ¹⁹⁻⁰⁵⁻⁰⁹ ~~27-05-09~~ the appellant has been promoted to BS-17 on regular basis but with immediate effect instead of ~~12-9-07~~ *13-11-2007*
4. That the appellant/applicant is entitled for his promotion/regularization to BS-17 regular from ~~12-9-07~~ *13-11-2007* instead of immediate effect but he has illegally and un-constitutionally been ignored for no good reasons.
5. That the appellant/applicant agitated the matter with the authority but of no use, hence this appeal/representation.

Your goodself is therefore, requested Sir, that the letter dated 19-05-09 may kindly be made effective from ~~12-9-07~~ *13-11-2007* instead of immediate effect and as such the regular promotion of the appellant to BS-17 may kindly be considered from ~~12-9-07~~ *13-11-2007* instead of immediate effect with all other service benefits.

PESHAWAR

22-05-2015

Appellant

Bashir

Attested
[Signature]

Mahid Bashir (DPE)
an H. ss. Dhadial
Mansehra.

DYED YOUNGUS JAN
Advocate High Court Peshawar
Federal Shariat Court.



GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

NOTIFICATION

Peshawar, Dated: 19-05-2009

Annex "B"
9

NO:SO(PE)2-6/E&SE/DPC/LIB/DPEs(BS-16 TO BS-17)/09: Consequent upon the recommendations of the Departmental Promotion Committee, the competent authority is pleased to promote the following One hundred & Fifteen (115 Male) & Thirty Eight (38 Female) DPEs from BS-16 to BS-17 according to their seniority on regular basis with immediate effect:-

S.No	Name & Designation of Officers	Place of Posting	Remarks
MALE DPEs			
1.	Mr. Bahadar Sher DPE	GHSS Bannu	Already occupied by him
2.	Mr. Asmatullah DPE	GHSS Sheikhan Peshawar	-do-
3.	Mr. Talat Mahmood DPE	GHSS No. 4. Peshawar City	-do-
4.	Mr. Hazrat Ali DPE	GCPE Karak	-do-
5.	Mr. Shamsul Islam DPE	GHSS Mosazai Peshawar	-do-
6.	Mr. Tajamul Zaman DPE	GHSS No. 4 D.I. Khan	-do-
7.	Muhammad Shan DPE	GHSS No. 3 D.I. Khan	-do-
8.	Mr. Gulistan DPE working as ADO (Sports) EDO E&SE D.I. Khan	GHSS Kalkot Dir Upper	Against vacant post.
9.	Mr. Anwar Zad Khan DPE	GHSS Nurar Bannu	Already occupied by him.
10.	Mr. Khalid Tanveer DPE	GHSS Hassan Zai Charsadda	-do-
11.	Mr. Misal Khan DPE working as ADO (Sports) EDO E&SE Peshawar	GHSS No 1 Peshawar City.	Vice S.No. 40 who has been adjusted at GHSS Ziarat Kaka Sahib Nowshera
12.	Mr. Sarwar Shah DPE	GHSS No. 1 Mardan	Already occupied by him.
13.	Mr. Abdul Jamil DPE	GHSS Domal FR Bannu	-do-
14.	Mr. Sher Kamal DPE	GHSS Hatian Mardan	-do-
15.	Mr. Hussain Wali DPE working as ADO Sports in o/o EDO (E&SE) Chitral	GHSS Darosh Chitral	Against Vacant Post
16.	Mr. Istam Rosh DPE	GHSS Mardan	Already occupied by him.
17.	Muhammad Bashir DPE	GHSS Dhodial Manshra	-do-
18.	Gul Aslam Khan DPE	GHSS Aba Khel Lakki	-do-
19.	Mr. Said Nawaz DPE	GHSS Jahangiri Karak	-do-
20.	Mr. Abdul Sarwar DPE working as ADO (Sports) EDO E&SE Bannu	GHSS Towda China, Dir Lower	Against vacant post.
21.	Mr. Sami Ullah DPE	GHSS Nawansher, Abbottabad	Already occupied by him.
22.	Mr. Fazli Baqi DPE	GHSS Warai Dir Upper	-do-
23.	Mr. Ifikhar Ahmad DPE	GHSS Wazir Bagh Peshawar	-do-
24.	Muhammad Ali DPE	GHSS Takht Bai	-do-
25.	Muhammad Nacem DPE	GHSS, Chamtar Mardan	Already occupied by him.
26.	Mr. Ali Badshah DPE	GHSS Gumbat Kohat	-do-

M. Tufail Muhammad / Kaleem Khan Mubsood / Afikhar Shamoza / Final Notification / 2009

(PTO)

SYED YOUSUF JAZ
B Ed. Certificate holder
Advocate High Court Peshawar
Federal Shariat Court.

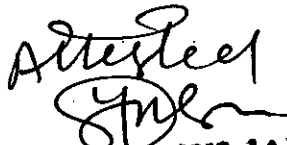
S.No	Name & Designation of Officers	Place of Posting	Remarks
12.	Mst. Shahnaz Begum DPE	GGHSS Shah Said Munawar D.I.Khan	Already occupied by her.
13.	Mst. Rafia Khattak DPE	GGHSS Shabqadar Fort Charsadda	-do-
14.	Mst. Hamida Bagem DPE	GGHSS Kulachi D.I.Khan	-do-
15.	Mst. Nabila Tabasum DPE working as Librarian GGHSS Chamkani Pesh.	GGHSS Rashakai, Nowshera.	Against vacant post.
16.	Mst. Saceda Begum DPE	GGHSS Chamkani Peshawar.	Already occupied by her.
17.	Mst. Danish Begum DPE	GGHSS Shah Dhand Mardan.	-do-
18.	Mst: Shabnam Raza DPE	GGHSS Shakardara Kohat	-do-
19.	Mst: Nigar Akhtar DPE	GGHSS Shabazghari Mardan	-do-
20.	Mst: Rehana Khatoon DPE	GGHSS Chokara Karak	-do-
21.	Mst Naheed Gohar DPE	GGHSS Babri Banda Kohat	-do-
22.	Mst: Asma Quarshi DPE	GGHSS Belitang Kohat	-do-
23.	Mst: Munaza Jabeen DPE	GGHSS Sherpao Charsadda	-do-
24.	Mst: Azra Naz DPE	GGHSS Toru Mardan	-do-
25.	Mst: Adeeba Naheed DPE	GEC (F) Jamrud Khyber Agency	-do-
26.	Mst: Sajida Sofi DPE,	GGHSS Com:Peshawar	-do-
27.	Mst: Rahila Gul DPE	GGHSS Gumbat Kohat	-do-
28.	Mst: Shahana DPE	GGHSS Kaki Bannu	-do-
29.	Mst: Maryam Mustafa DPE	GGHSS Havelian A.Abad	-do-
30.	Mst: Saima Andaleeb DPE	GGHSS Pannian Haripur.	-do-
31.	Mst: Imtiaz Tabassum DPE	GGHSS Pirpai Nowshera	-do-
32.	Mst: Fakhar-E-Angum DPE	GGHSS Hatian Mardan	-do-
33.	Mst: Nighat Seema DPE GGHSS Sherwan A/Abad	AD (PE & S) Director Curri & Teacher Edu: NWFP at A/Abad	-do-
34.	Mst. Sheraz Taj DPE	GGHSS Sawal Dher Mardan	-do-
35.	Mst. Afsheen Mumtaz DPE	GGHSS Kalabat Swabi	-do-
36.	Mst. Rehana Yasmeen	GGHSS Kabal Swat	-do-
37.	Mst. Hassan Basri DPE	GGHSS Topi Swabi	-do-
38.	Mst. Sajida Nousheen DPE	GGHSS Lady Griffith Peshawar	-do-

**SECRETARY TO GOVT OF NORTH-WEST FRONTIER PROVINCE
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

Endst; of even no. & date:

Copy is forwarded to:-

- 1) Secretary to Govt of NWFP, Establishment Department, Peshawar.
- 2) Special Secretary (Regulation), Establishment Department, Govt of NWFP Peshawar.
- 3) Secretary to Govt. of NWFP, Finance Department, Peshawar.
- 4) Secretary to Chief Minister NWFP.
- 5) PS to Chief Secretary NWFP.
- 6) All Directors in Elementary & Secondary Education Department NWFP.
- 7) All District Coordination Officers in NWFP.
- ✓ 8) All Executive District Officers Elementary & Secondary Education in NWFP. Dir (C)
- 9) All Executive District Officers (Finance & Planning) in NWFP.
- 10) The Accountant General NWFP.
- 11) All District / Agency Accounts Officers in NWFP.
- 12) Director Information NWFP Peshawar with the request to give wide publicity through media.
- 13) Secretary, NWFP Public Service Commission Peshawar.


SYED YOUNUS JAFAR
 B.A., B.L.S., B.Ed., Certificate Khairat
 Advocate High Court Peshawar
 Federal Shariat Court.

11

- 14) All Section Officer/ Planning Officers / Statistical Officers, E&S Edu: Deptt: Govt of NWFP.
- 15) Deputy Database Administrator (EMIS) Elementary & Secondary Education Peshawar.
- 16) PS to Minister for Education (Elementary & Secondary) NWFP.
- 17) PS to Secretary / Special Secretary / Additional Secretary E&S Edu: Deptt Govt of NWFP.
- 18) PA to Deputy Secretary (Admn) Elementary & Secondary Edu: Department Govt of NWFP.
- 19) PA to Chief Planning Officer Elementary & Secondary Education Department Govt of NWFP.
- 20) Officers concerned
- 21) Master file

(ARIF JAMIL)
SECTION OFFICER (PRIMARY)

Muhammad

SYED YOUSOF JAFAR
B.A.B.B. B.Ed. Certificate Daska, Loh
Advocate High Court Peshawar
Federal Shariat Court.

Annex "C" 12

GOVERNMENT OF N.W.F.P.
SCHOOLS & LITERACY DEPARTMENT
Dated, Peshawar the 13/11/2007.

NOTIFICATION.

No. SOG/S&L/1-69/06/Vol-1/DPE/LIB: Sanction of the competent authority is hereby accorded to the upgradation of the posts of Librarians and Directors Physical Education (D.P.Es) from BS-16 to BS-17 (Regular) for the existing incumbents who hold Master Degree in the relevant subject in the Schools & Literacy Department NWFP with immediate effect as per following details:-

- 1) Promotion against the upgraded posts (from BS-16 to BS-17) shall be made in the prescribed manner and in accordance with the service rules to be framed as per relevant provisions of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules 1989 read with the NWFP Civil Servants Act, 1973.
- 2) The Librarians and D.P.Es who hold the diploma in the relevant subject will stay in BS-16 till such time, they acquire Master degree in the respective subject. On acquiring Master Degree in the relevant subject, their posts will be upgraded on case to case basis from BS-16 to BS-17 (Regular) and promotion (from BS-16 to BS-17) would be given as per laid down procedure and in accordance with the service rules to be framed. However their existing seniority will remain intact.
- 3) All the vacant posts of Librarians and D.P.Es in Schools & literacy department in BS-16 are hereby upgraded to BS-17, appointments against which would be made from amongst the persons who hold Master degree in the relevant subject, in the prescribed manner.
- 4) In future Librarians and D.P.Es will initially be recruited on the basis of Master degree in the relevant subject in BS-17 (Regular).
- 5) Henceforth no appointment of Librarians and D.P.Es in BS-16 shall be made on the basis of diploma, being declared as "Dying Cadre".

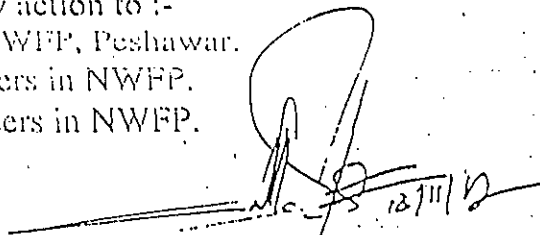
Sd/-

SECRETARY TO GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPARTMENT.

Endst:No. FD (SOSR-II) 10-7/03 / VOL - III Dated, Peshawar the, 13/11/2007

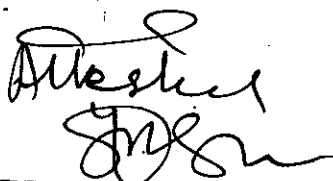
Copy is forwarded for information and necessary action to :-

- 1) The Accountant General, NWFP, Peshawar.
- 2) All District Accounts Officers in NWFP.
- 3) All Agency Accounts Officers in NWFP.



(MUNAWAR KHAN)
SECTION OFFICER (SR-11)
FINANCE DEPARTMENT
GOVERNMENT OF NWFP.

(P.T.O.)



SYED YOUNUS JAN
B.A., B.L., B.Ed., Certificate Exam. Leg.
Advocate High Court Peshawar
Federal District Court.

13

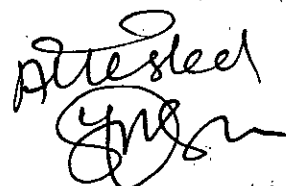
Endst:No. & Date Even.

Copy is forwarded to:-

- 1) Secretary to Government of NWFP, Establishment Department.
- 2) Secretary to Government of NWFP, Finance Department.
- 3) P.S to Chief Minister NWFP, Peshawar.
- 4) P.S to Chief Secretary NWFP, Peshawar.
- 5) Director Schools & Literacy, NWFP, Peshawar.
- 6) Director, Curr; & Teachers Edu; NWFP, Mandian Abbottabad.
- 7) Director of Education FATA NWFP, Peshawar.
- 8) P.S to Minister of Education, NWFP, Peshawar.
- 9) P.S to Secretary Schools & Literacy NWFP, Peshawar.
- 10) Office File.

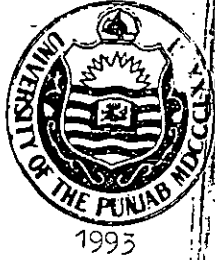


(FARID AHMAD KHATTAK)
SECTION OFFICER (GENERAL)
SCHOOLS & LITERACY DEPARTMENT
GOVERNMENT OF NWFP.



SYED YUNUS JAN
B.A.B.S. B.Ed. Certificate Bar-at-Law
Advocate High Court Peshawar
Federal Shariat Court.

UNIVERSITY OF THE PUNJAB



This is to Certify

that
son/daughter of
of the Government College of Physical Education for Men, Lahore
has obtained the Degree of

Master of Arts
Physical Education

in this University at the Examination held
in December, 1994 and was placed in
the Second Class.

The Examination was taken as a whole/in parts.
Marks obtained. 231/500

پنجاب یونیورسٹی



1994

تصدیق کی جاتی ہے

محمد بشیر

غلام خان

کہ

ن /

از
گورنمنٹ کالج آف فزیکل ایجوکیشن فار مین - لاہور
نے اس یونیورسٹی کے امتحان منعقدہ دسمبر 1994ء کی بنا پر

ایم - اے

فزیکل ایجوکیشن

میں حاصل کی

دیم

کی ڈگری درجہ

الہوں نے کلی / بالاجوہ امتحان میں شرکت کی

نمبر حاصل کردہ 231/500

CHANCELLOR

چانسلر

Muhammad
CONTROLLER
OF EXAMINATIONS
کنٹرولر امتحانات

LAHORE: 20 APR 1999

Syed Younus Jan

SYED YOUNUS JAN

B.A.L.L.S. B.Ed. Certificate No. 100

Advocate High Court Peshawar

لاہور:

Federal Shariat Court.

Annex E²¹
15

NOTIFICATION.

Consequent upon the recommendation of the N.W.F.P, Public Service Commission Peshawar, the Director of Education (Schools) NWFP, Peshawar is pleased to appoint the following (Male) candidates as a D.P.E. in basic pay scale 16 at the schools mentioned against each from the date of their taking over charge subject to the condition mentioned below:-

<u>Sr.No.</u>	<u>Merit No.</u>	<u>Name & Address.</u>	<u>Posted at</u>	<u>Remarks.</u>
1-	1	Mr. Mohammad Aslam Khan S/O Mir Azam Khan Kohalla Said Khel Teh: & P.O. Lalki Marwat Distt: Bannu.	GESS, Kakki (Bannu).	Against vacant post.
2-	2	Mr. Amir Houshad S/O Ghulam Nabi Muh: Saheed- Abad C.T. Road Amankot Swat.	GESS, Mingora.	-do-
3-	3	Mr. Tajjamaal Zaman S/O Mohammad Eman Khan Street DIKhan.	GESS, No. 4, DIKhan.	-do-
4-	4	Mr. Mohammad Aslam Khan S/O Musam Khan Village Mashan Khel Teh: & P.O. Lalki Marwat Distt: Bannu.	GESS, Domail Bannu.	-do-
5-	5	Mr. Mohammad Shah S/O Amir Ahmad Shah Zafarabad Colony DIKhan.	GESS, No. 3, DIKhan.	-do-
6-	6	Mr. Gulistan Khan S/O Jan Mohammad PET, GMS, No. 2, DIKhan.	GESS, Gul Imam (DIKhan).	-do-
7-	7	Mr. Anwar Ead Khan S/O Bakht Ali Village Kotka Shahzad FC Bazar Mand Khan Bannu.	GESS, Lachi (Kohat)	-do-
8-	8	Mr. Mohammad Nasrullah Khan S/O Mazi Khan Vill: Shinki Banda F.O. Takhti Nasrati Distt: Karak.	GESS, Takhti Nasrati Distt: Karak.	-do-
9-	9	Mr. Khalid Tanveer S/O Bashir Ahmad PET, GMS, No. 1, DIKhan.	GESS, No. 3, Peshawar City.	-do-
10	10	Mr. Misal Khan S/O Taus Khan PET, GMS, No. 1, Pesh: City.	GESS, No. 1, Peshawar City.	-do-
11	12	Mr. Hazrat Ali S/O Gul Nawaz A.P. Sup: at A.E.O. Nangu.	GESS, Bilitang (Kohat).	-do-
12-	13	Mr. Anwar Khan S/O Ali Gohar Village and F.O. Bajno (Manshra).	GESS, No. 1, Manshra.	-do-
13-	15	Mr. Sarwar Shah S/O Haji Iran Shah PET, GMS, No. 1, Bictot Gunj Mardan.	GESS, No. 4, Mardan.	-do-
14	16	Mr. Abdul Jamil Khan S/O H. Abdul Aziz Khan PET GMS, Giasi Marjan PR Bannu.	GESS, No. 1, Peshawar Cantt.	-do-

Attest
[Signature]

Next Page.2.

SYED YOUSUF JAN
B.A.L.L. B Ed. Certificate Sharda 1979
Advocate High Court Peshawar
Federal Shariat Court.

16

15-	19	Mr. Sher Kamal S/C Said Laghar Village Lund Khawar (Shah Dhand) Distt: Mardan.	GSSS, Kathian Distt: Mardan.	Against vacant post.
16-	21	Mr. Lal Hussain S/C Mohammed Jan FET, GSS, Parachinar.	GSSS, Chankani Distt: Peshawar.	-do-
17-	24	Mr. Gul Said Khan S/C Khalo Khar Village and P.C. Jitrud C/O Kyber Foreigm Service Jitrud.	GSSS, Tohtal Bala Distt: Peshawar.	-do-
18-	28	Mr. Hussain Wali S/C Habibi ullah Village Jang Basar Distt: Chitral.	G.E.C. (M) Darosh (Chitral).	-do-
19- ✓	29	Mr. Sheraz Khan S/C Iqbal Khan FET, GSS, Shinkiani (Dir).	GSSS, Ziarat Talash (Distt: Dir).	-do-
20-	31	Mr. Janoush Khan S/C Bacha Khan Village, Kuza Darushihola Distt: Swat.	GSSS, Khawasa Khola (Distt: Swat).	-do-
21-	35	Mr. Istamrosh S/C Khurasan Khan Rustan Mardan.	GSSS, Katlang (Mardan)	-do-
22	36	Mr. Gardar Ali S/C Said Ali Khan Vill: Zarefi Shamilat Teh: Rakhtbhai Distt: Mardan.	GSSS, Manga Bargai (Distt: Charsadda).	-do-
23	37	Mr. Mohammad Bashir S/C Ghulam Khan Vill: Schar (Gali Bagh) Distt: Mansehra, FET, GSS, Darband (Mansehra).	GSSS, Baffa (Distt: Mansehra).	-do-

TERMS AND CONDITIONS.

- 1- The Seniority of the Candidates recommended by the Commission will be determined by the NWFP, Public Service Commission in accordance with the order of Merit.
- 2- Their service will be liable to termination on one months notice from either side. In case of resignation without notice their one months pay and allowances if any will be forfeited to Government.
- 3- Charge reports should be submitted to all concerned.
- 4- They will get no TA/DA and Transfer grant on account of their appointment.
- 5- The Principal, concerned should check the original Certificates Degrees of the candidates before handing over charge.
- 6- Their appointments is also subject to the condition that they are domicile of NWFP
- 7- They will be governed by such rules and Regulations issued by the Govt. for the category of Govt. servants to which they belong from time to time.

(MISS. R.A. BHATTI)
DIRECTOR OF EDUCATION (SCHOOLS),
NWFP, PESHAWAR.

Encl: No. 8271-8311 dated Peshawar, the 22/10/1980.

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

- 1- Director Bureau of Curriculum Development and Edu: Extension Services, Abbottabad.
- 2- Divl: Directors of Edu: (Schools), Peshawar, Hazara, Malakand, Mardan, Kohat, D.I. Khan.
- 3- Principal, Govt. Elementary college (Kilo) Daroch (Chitral).
- 4- Principals, Govt. Higher Secondary Schools concerned.
- 5- Secretary NWFP, Public Service Commission, Peshawar.
- 6- Section Officer (Schools) Govt. of NWFP Edu: Department, Peshawar.
- 7- Manager, Govt. Printing Press, Peshawar.
- 8- Candidates concerned.
9. P.A. to Director of Education (Schools) NWFP, Peshawar.
10. Accountant General NWFP, Peshawar/ Distt: Accounts Officer concerned.

Attested
GPR

BYED YOUSUF JAF
B.A.L.S. 8 Ed, Certificate
Advocate High Court Peshawar
Federal Shariat Court.

DEPUTY DIRECTOR (SCHOOLS)

D

Annex "E" *of the...*
17

TO BE SUBSTITUTED BEARING THE SAME NO. & DATE

GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPTT:
No. SO (B& A)/2-1/2003/DPEs.
Dated Peshawar, the 03.06.2003.

NOTIFICATION.

An order to implement the judgement of Supreme Court of Pakistan vide dated 12.03.2003 the Government of NWFP is pleased to award BPS-17 as personal to the following officers of Schools & Literacy Department from the date of regular appointment or acquiring Master Degrees which ever is relevant.

Sr.No.	Name & Designation	Date of Acquiring Master Degrees.	Date of appointment.
1.	Gul Aslam DPE GHSS Khairabad Nowshera.	21.10.1986.	10.02.1991.
2.	Gul Said khan DPE GHSS Tckhal Peshawar.	02.12.1993.	22.10.1990.
3.	Misal Khan A.D.O. (Physical) O/O EDO (S&L) Peshawar.	30.05.1988.	-do-
4.	Anwar Zād DPE GHSS S.K. Bala Bannu.	31.12.1989.	-do-
5.	Sheraz khan ADO (Physical) O/O EDO (S/L) Timergara (Dir Lower)	31.12.1989.	-do-
6.	Janoosh Khan DPE GHSS Bidar Swat.	13.12.1992.	-do-
7.	Muhammad Bashir DPE GHSS Dhodial Mansehra).	17.09.1995.	-do-

SECRETARY TO GOVT:OF NWFP
SCHOOLS & LITERACY DEPTT:

Endst: No. FD (PRC) /8-81/2003, Dated Peshawar, the 3/6/2003.
Copy of the above is forwarded for information & necessary action to:-

- 1) The Accountant General NWFP, Peshawar.
- 2) The District Account Officer Nowshera.
- 3) The District Accounts Officer Bannu.
- 4) The District Accounts Officer (Dir Lower).
- 5) The District Accounts Officer (Mansehra).
- 6) The District Accounts Officer (swat).

(SYED BAQAR SHAH)
SECTION OFFICER (SR-1)

Endst. Of even Number & date.

Copy of the above is forwarded to:-

- 1) The Director of Schools & Literacy NWFP, Peshawar.
- 2) The Section officer (SR-1) Finance Deptt: w/r to his letter No. FD (PRC)/8-81/2003, dated 21.05.2003.
- 3) The Executive District Officer (School & Literacy) Bannu.
- 4) The Executive District Officer (School & Literacy) Nowshera.
- 5) The Executive District Officer (School & Literacy) Dir Lower.
- 6) The Executive District Officer (School & Literacy) Swat.
- 7) The Executive District Officer (School & Literacy) Mansehra.
- 8) The Executive District Officer (School & Literacy) Peshawar.

(MANZOOR HUSSAIN)
SECTION OFFICER (B&A)

*The old date as 13-12-94
have been replaced as 17-9-95
The correction have been made
in the indication of SO (B&A) S d D.*

Handwritten notes and stamps on the left margin, including a vertical stamp that reads "SECRETARY TO GOVT OF NWFP SCHOOLS & LITERACY DEPTT PESHAWAR".

Handwritten initials and marks at the bottom right corner.

18

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. _____/ 2015

Muhammad Bashir Applicant/Appellant

Versus

Government of K.P.K. through its Chief Secretary
and others Respondents.

APPLICATION FOR CONDONATION OF DELAY (IF ANY).

Respectfully submitted:

The applicant/appellant submits as under:-

That firstly the act and omission of the respondents /department is illegal, unconstitutional and void and secondly as financial matter is involved in the matter and the cause of action is the running cause of action, therefore, no limitation runs against the appellant/applicant, but even if this Honourable Tribunal considers the departmental appeal time barred then this application for condonation of delay if any on the following amongst other grounds:-



GROUNDS:

1. That in the matter in hand the cause of action is continuous cause of action and the impugned act and omission of the respondents come in the purview of the definition of continuous wrong, therefore, in the matter the cause of action starts on first date and ends on the last date of every months/every year, therefore, no question of delay arises in the matter.
2. That the law requires that the matters should/must be decided on merits rather than on technical grounds including the limitation.

3. That the appellant/applicant has got a very good case in his favour therefore, technicalities including the point of limitation(The delay if any) are ignorable.
4. That the appeal of the appellant before this Honourable Tribunal is well within time and strictly in accordance with law contained in Section 4 of the NWFP now Khyber Pakhtunkhwa Service Tribunal Act 1974,
5. That if the delay if any is not condoned the applicant/appellant will suffer an irreparable loss to his seniority, promotion and all other service benefits.
6. That the delay if any has been caused by the delaying tactics of respondents/department and the appellant cannot be held responsible for the same.
7. That in so many similar and identical cases this Honourable Tribunal has ignored the point of limitation and in so many cases has condoned the delay, therefore, in this case also the same point is ignorable/condonable.

It is, therefore, respectfully prayed that on acceptance of this application in the best interest of justice the delay if any in filing departmental appeal may kindly be condoned/ignored and the appeal of the appellant/applicant may kindly be decided on merits. Any other remedy/relief available in the circumstances of the case may also kindly be granted to the applicant/appellant.

Dated 19/2015

Applicant/Appellant 
 Through 
 (Syed Younus Jan)
 Advocate Peshawar High Court
 Peshawar.

BEFORE THE SERVICE TRIBUNAL, K.P.K. PESHAWAR.

Appeal No. _____/ 2015

Muhammad BashirApplicant/Appellant

Versus

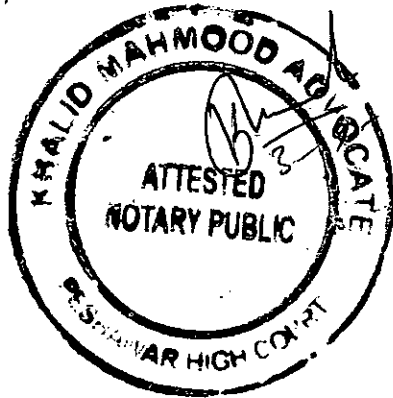
Government of K.P.K. through its
Chief Secretary and othersRespondents.

AFFIDAVIT.

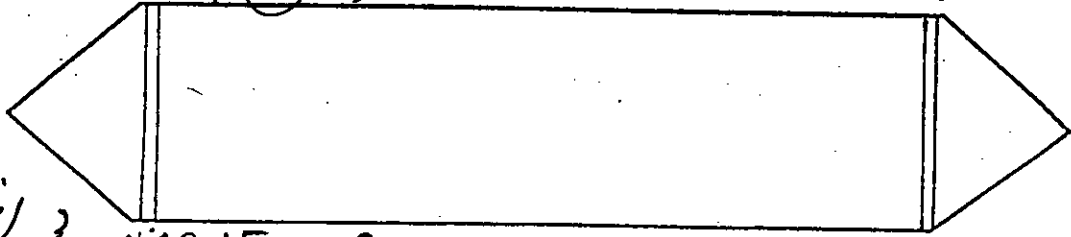
I, Muhammad Bashir (appellant) to hereby solemnly affirm and declare on Oath that the contents of the attach application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal

Dated 19/2015

Deponent Bashir



بعدالت KPK سرویس کنٹریبیوٹرز



2015ء پنجاب محمد شہید ایبلینٹ
بنام حکومت KPK وٹن
رہنما درگاہ

03 ماہ ستمبر
محمد شہید
ایبلینٹ

موزنہ 03-9-2015

مقدمہ
دعویٰ

جرم
خال 2015

باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالتہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی براندگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو کبھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 03 ماہ ستمبر 2015

العبد العبد

بمقام KPK سرویس کنٹریبیوٹرز کے لئے منظور ہے۔
Attorney & Accepter
JMR

BYED YOUSUF JAW
B. Ed. Certificate Sharni Law
Advocate High Court Peshawar
Federal Shariat Court.

محمد شہید ایبلینٹ

BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 989/2015

Muhammad Bashir DPE GHSS Dodhyal District Mansehra.Appellant.

VERSUS

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

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No: 1-5.

Respectfully Sheweth:-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action / locus standi.
- 2 That the instant Service Appeal is badly time barred.
- 3 That the Appellant has concealed material facts from this Honorable Tribunal, hence liable to be dismissed on this score.
- 4 That the Appellant has filed the instant appeal on mala -fide motives.
- 5 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 6 That the Appellant is not entitled for the relief he has sought from this Honorable Tribunal.
- 7 That the instant Service Appeal is against the prevailing law & rules.
- 8 That the instant Appeal is based on mala-fide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
- 9 That this Honorable Tribunal has got no jurisdiction to adjudicate upon the present service appeal.
- 10 That the appeal is not maintainable in its present form & circumstances of the case.
- 11 That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 12 That the instant Appeal is barred by law.
- 13 That the Notifications dated 19/5/2009 & 27/5/2009 are legally competent.
- 14 That the instant Service Appeal is barred by law.
- 15 That the Appellant is not entitled for the grant of promotion wef 13/11/2007.

ON FACTS

- 1 That Para-I, needs no comments being pertains to the academic & professional qualification of the appellant.
- 2 That Para-2, also needs no comments, being pertains to the service record of the appellant.
- 3 That Para-3 is correct to the extent that the Govt: of Khyber Pakhtunkhwa, vide Notification dated 13/11/2007 has upgraded the DPEs & Librarians from BPS-16to17 (Personal) with the conditions of MA/M. Sc in Health & Physical Education from the recognized University at least in 2nd Division with the additional conditions that in future all DPEs will be recruited in BPS-17 regular on the basis above said qualification by declaring the DPRE post in BPS-16 as a dying cadre post in the Respondent Department (Copy of the said Notification is attached as Annexure-A).
- 4 That Para-4 is incorrect & misleading on the grounds that the case of the appellant for the grant of promotion from BPS-16 to 17 vide the impugned Notification dated 13/11/2007 with reference to S/No: 3 of the said Notification is the result of the Notification No: SO (PE)/2-6/E&SED/ DPC/LIV/DPE(BPS-16 to 17) 09 dated 19/5/2009, vide which the appellant has been promoted against the BPS-17 (Regular) post by the Respondent Department in the interest of public service & immediate effect with the conditions that the appellant will retain his inter- se-seniority in BPS-17 alongwith his batch mates as in BPS-16 in the Respondent Department, hence the plea of the appellant regarding making the impugned Notification dated 19/5/2009 effective from 13/11/2007 is illegal & without any merits. Hence the instant appeal is liable to be dismissed in favour of the Respondents in the interest of justice on the following grounds inter alia (Copies of the said Notifications are Annex: B&C) :-

Grounds

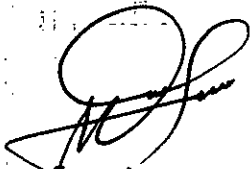
- A Incorrect & denied, the act of the Respondents vide Notification dated 19/5/2009 in favour of the appellant is within legal parameter & is legally competent & is liable to be maintained in favour of the Respondents in the interest of justice.
- B Incorrect & denied. Detailed reply has already been given in the foregoing paras.
- C Incorrect & denied. The appellant has been treated as per law & upgradation policy by the Respondents vide Notification dated 19/5/2009 by promoting them in BPS-17 with immediate effect in the interest of justice.
- D Incorrect & denied. The statement of the appellant is baseless ad without any merit & is liable to be struck down in favour of the Respondents.
- E Incorrect & denied. Detailed reply of this ground has already been given in Para-4 of the instant reply, hence needs no further comments.
- F Incorrect & denied. The appellant has been treated as per law, rules & criteria vide the impugned Notification dated 19/5/2009, by the Respondents.
- G Incorrect & misleading. The appellant has been treated as per law, rules & criteria vide the impugned Notification dated 19/5/2009, issued by the Respondents. However, the Respondent seek leave of this Honorable Tribunal to submit additional case law & record at the time of arguments.

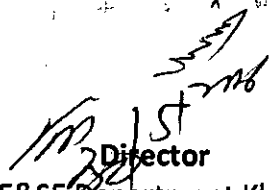
46

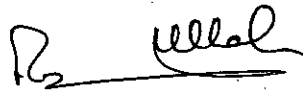
Prayer

In view of the above made submissions, it is humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant appeal with cost in favour of the respondent Department.

4.1.12
Secretary 21/6/2016.
E&SE Department Khyber
Pakhtunkhwa, Peshawar
(Respondents No: 1&2)


Secretary
(Etab:) Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 4)


Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 3).


Secretary
(Finance) Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 5).

AFFIDAVIT

I, Khaista Rehman Asstt: Director (Lit: II) E&SE Department Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Parawise Comments in the titled Service appeal are true & correct to the best of my knowledge & belief & that nothing has been concealed from the ambit of this Honorable Tribunal.


Deponent