


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. Learned counsel for appellant requested for adjournment. Adjournment granted. To come up for 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. Counsel for the appellant requested for adjournment. Adjourned. 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. Khursheed 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 Khursheed Khan, SO and Hamcedur Rahman, AD alongwith Addl. AG for the respondents present. 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 submitted which is placed on file. To come up for 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.

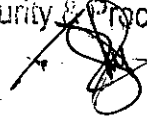
Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 26.11.2015. Notice of application for condonation of delay be also issued for the date fixed.

41-1221

71-1-11


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. 988/2015

	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. Sheraz Khan 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. 988 /2015

Sheraz KhanAppellant

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 27/5/2009 and 19/5/2009	"B" & BI	9	12
6.	Letter/Notification dated 13.11.2007.	"C"	13	14
7.	Copy of Certificate.	"D"	15	
8.	Copy of appointment order.	"E"	16	17
9.	Copy of order of BPS 17 — Personal.	"F"	18	
10.	Application for condonation of Delay with affidavit.	"F"	19	21
11.	Vakalat Nama		22	

Dated: 19/2015

Appellant _____

Through



(SYED YOUNUS JAN)

Advocate Peshawar High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal NO. *488* of 2015.

K.P.K.
Service Tribunal
Diary No. *1036*
Dated *7-9-15*

Sheraz Khan, Director Physical Education,
Government Higher Secondary School, Talash
District Lower Dir

Appellant

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/
and 19-05-09
notification dated 27-05-09/ may kindly be varied/modifide
to the extent that the same may kindly be made effective
from 22-10-1990 or 13.11.2007 and a such the department

...2...

may kindly be directed to consider the promotion of the appellant to BS 17 regular from 22-10-1990 or 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 27-05-09 is Annexure "B".
& 19-05-09
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 was declared passed in 1989 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 EPS 16 and then on the basis of Court decision EPS 17 Personnal was awarded to the appellant vide order dated 3-06-03 with full benefits attached EPS 17. from the date of appointment. (Appointment order and Order dated 22-10-1990 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 BPS 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 BPS 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 NO.1 which is still pending in after lapse 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 un-tenable but also is based on their malafide intention and is also against the well established Principle of Natural justice and is discriminately 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 EPS 17 at the time of and in light of the letter

dated 13.11.2007. So the impugned notification dated
and 19-05-09
27-05-2009 vide which the promotion of the appellant
to regular BPS 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 treated
as such.

It is therefore prayed that on acceptance of
this appeal the order /notification dated 27-05-09 & 19-05-09
may kindly be varied/modified to the extent that the
same may kindly be made effective from 22-10-90 or
13.11.2007 and as such the department may kindly be
directed to consider the promotion of the appellant
to BPS 17 regular from 22-10-90 or 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.

Dated 19/2015

Appellant 

Through: 

(SYED YOUNUS JAN)
Advocate Peshawar High Court
Peshawar.

(6)

BEFORE THE KHYBER PAKHTOONKHA SERVICE TRIBUNAL PESHAWAR.

Appeal NO. of 2015

Sheraz KhanAppellant/Applicant

VERSUS.

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

...Respondents.

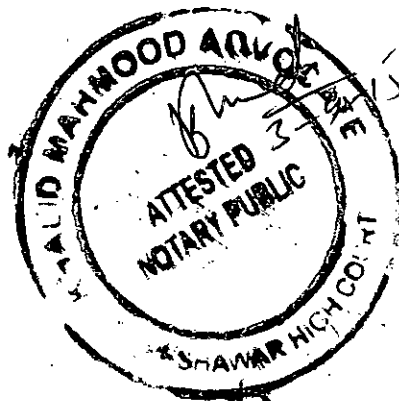

AFFIDAVIT.

I, Sheraz Khan, applicant/ (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



7

BEFORE THE KHYBER PAKHTOONKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal NO. of 2015.

Sheraz KhanAppellant

VERSUS

Govt: of Khyber Pakhtoonkhwa through its Chief Secretary
and others.

.... Respondents.

ADDRESSES OF THE PARTIES.

Appellant.

Sheraz Khan, Director Physical Education(D.P.E)
Government Higher Secondary School, Talash,
Lower Dir.


Respondents.

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

Dated: 19/2015

Appellant _____

Through:



(SYED YOUNUS JAN)
Advocate Peshawar High Cout
Peshawar.

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 & Physical Education whose ~~exam~~ was declared *passed in July 89* and on the recommendation of Public Service Commission, K.P.K. he was appointed as Director, Physical Education (EPS-16) vide order dated 22-10-90 and then in light of the Court/Tribunal decision EPS-17 (personal) was awarded to him vide order dated 3-6-2003 with all other service benefits attached to the same scale i.e. EPS-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 27-05-09 the appellant/applicant has been promoted to BS-17 on regular basis but with immediate effect instead of 22-10-90 or 13-11-2007
4. That the appellant is entitled for his promotion on regular basis to EPS-17 from 22-10-90 or 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 time and again but of no use, hence this appeal.

Your goodself is therefore, requested Sir, that the letter/Notification dated 19-05-09 ²⁷⁻⁰⁵⁻⁰⁹ may kindly be made effective from 22-10-90 or 13-11-2007 instead of immediate effect, and as such the regular promotion of the appellant to EPS-17 may kindly be considered from ²²⁻¹⁰⁻⁹⁰ or 13-11-07 instead of immediate effect with all other service benefits.

Appellant/Applicant

PESHAWAR

21-05-2015

Attested
[Signature]

BYED YOUSUF JAN
B.A.B.L.E. P.E.T. Graduate Chartered Law
Advocate High Court Peshawar
Federal Shariat Court.

[Signature]
Shiraz Khan DPE
GHS-2 Zisai Talab
Teh. Timergara
Dist. Dir Lower.



GOVERNMENT OF NWFP
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the 27-5-2009.

Annex "B"
9

NOTIFICATION.

NO. SO(PE)2-6/DPEs(BS-16 TO BS-17)09. In continuation to this Department Notification No. SO (PE)2-6/E&SE/DPC/LIB/DPE(BS-16 to BS-17)/09 dated 19-5-2009 and consequent upon the recommendation of the Departmental Promotion Committee the competent authority is pleased to promote the following DPEs from BS-16 to BS-17 with immediate effect and are hereby adjusted in the Schools noted against each name on the vacant post of DPE according to their seniority on regular basis. They will however retain their inter se seniority in BS-17 viz-a-viz their batch mates as in BS-16.

S.No.	Name & Designation	Place of posting	Remarks
1	Ms. Shaheen Ali DPE GGHSS Shewa Swabi.	GGHSS Shewa Swabi	Already occupied by her.
2	Mr. Sheraz Khan DPE ADO (Sports) O/O EDO E&SE Dir Lower.	GHSS Talash Dir Lower	Against vacant post.
3	Mr. Badshah Islam DPE O/O EDO E&SE Dir Upper.	GHSS Gandhigar Dir Upper	Against vacant post.

SECRETARY TO GOVT. OF NWFP
ELEMENTARY AND SECONDARY
EDUCATION DEPARTMENT.

Endst. No. & Date as above.
Copy forwarded to:-

- 1- Secretary to Govt. of NWFP Establishment & Admn. Department.
- 2- Special Secretary (Regulation) Establishment Department.
- 3- Secretary to Govt. of NWFP Finance Department.
- 4- Accountant General NWFP, Peshawar.
- 5- Director Elementary & Secondary Education NWFP.
- 6- Director Education (FATA) NWFP Peshawar.
- 7- Executive District Officer Elementary & Secondary Education concerned.
- 8- District Accounts Officer concerned.
- 9- DPE concerned.

(ARIF JAMIL)
SECTION OFFICER (PRIMARY)

Attested
[Signature]
B.A.B. B.Ed. Certificate
Advocate High Court Peshawar
Federal Shariat Court.



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

NOTIFICATION

Peshawar, Dated: 19-05-2009

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 No1 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 Mansehra	-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. Iftikhar Ahmad DPE	GHSS Wazir Bagh Peshawar	-do-
24.	Muhammad Ali DPE	GHSS Takht Bai	-do-
25.	Muhammad Naeem DPE	GHSS, Chamtar Mardan	Already occupied by him.
26.	Mr. Ali Badshah DPE	GHSS Gumbat Kohat	-do-

At: Tajal Muhammad/ Kabeem Khan Mahmood /Iftikhar Shamoza/ Final Notification/2009

(PTO)

SYED YOUSUF JAN
B.A.L.L.B. B.Ed. Certificate & Bar at Law
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: Intiaz Tabassum DPE	GGHSS Pirpai Nowshera	-do-
32.	Mst: Fakhar-F-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:

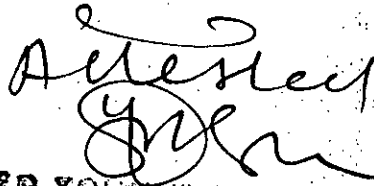
Copy is forwarded to:-

- 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 (E)*
- 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.

- 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) P.A to Deputy Secretary (Admn) Elementary & Secondary Edu: Department Govt of NWFP.
- 19) I.A to Chief Planning Officer Elementary & Secondary Education Department Govt of NWFP.
- 20) Officers concerned
- 21) Master file



(ARIF JAMIL)
SECTION OFFICER (PRIMARY)



SYED YOUNUS JAN
B.A.L.L.S. B.Ed. Advocate
Advocate High Court Peshawar
Federal Shariat Court.

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".

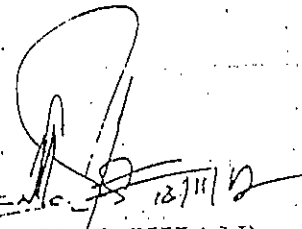
Sd/-

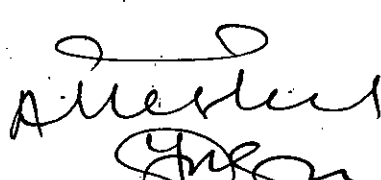
SECRETARY TO GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPARTMENT.

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.


SYED YOUNUS JAMI
B.A., B.S., B.Ed., Certificate in Law
Advocate High Court Peshawar
Federal Shariat Court.

(P.T.O.)

14

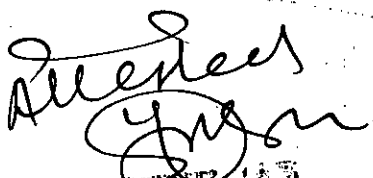
Endst:No. & Date Even.

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.



AYUB YOUNIS J.A.S
B.A.B.S. B Ed. Certificate Education
Advocate High Court Peshawar
Federal Shariat Court.

Serial No. GUO 1338

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Annex 'D'
15

GOMAL UNIVERSITY

DERA ISMAIL KHAN



VERIFIED

Controller of Examination
Gomal University
Dera Ismail Khan

27/7/08

(Session 1987-88)

SHERAZ KHAN SON OF ITBAR KHAN and
a student of the DEPARTMENT OF HEALTH & PHYSICAL EDUCATION, GOMAL UNIVERSITY
having passed the prescribed examination in JULY 1989,

is this day admitted by the Gomal University to the DEGREE of

MASTER OF SCIENCE

in the SECOND Class

The subject of examination being HEALTH & PHYSICAL EDUCATION

The Examination was taken as a whole/all parts.

Registered No. 161-PEDU-83

Roll No. 3553

31ST DECEMBER, 1989.

Countersigned:

Controller of Examinations

Vice-Chancellor

Shaqir Hussain Dir (L)

Attested

SYED YOUSUF JAR
B.A., B.L., Certificate of Merit
Advocate High Court Peshawar
Federal Shariat Court.

Annex "E"
16

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 Mohalla Said Khel Teh: & P.C. Lakki Marwat Distt: Bannu.	GHSS, Kakki (Bannu).	Against vacant post.
2-	2	Mr. Amir Nouchad S/O Ghulam Nabi Muh: Saheed- Abad C.T. Road Amankot Swat.	GHSS, Mingora.	-do-
3-	3	Mr. Tajamal Zaman S/O Mohammad Zaman Khattak Street DIKhan.	GHSS, No. 4, DIKhan.	-do-
4-	4	Mr. Mohammed Aslam Khan S/O Musam Khan Village Mashan Khel Teh: & P.C. Lakki Marwat Distt: Bannu.	GHSS, Domail Bannu.	-do-
5-	5	Mr. Mohammad Shah S/O Amir Ahmad Shah Safarabad Colony DIKhan.	GHSS, No. 3, DIKhan.	-do-
6-	6	Mr. Gulistan Khan S/O Jan Mohammad PET, GHS, No. 2, DIKhan.	GHSS, Gul Inam (DIKhan).	-do-
7-	7	Mr. Anwar Zaid Khan S/O Bakht Ali Village Kotka Shahzad FC Bazar Mand Khan Bannu.	GHSS, Lachi (Kohat)	-do-
8-	8	Mr. Mohammad Nasrullah Khan S/O Mazi Khan Vill: Shirdi Banda F.C. Bakhti Nasrati Distt: Karak.	GHSS, Takhti Nasrati Distt: Karak.	-do-
9-	9	Mr. Khalid Tanveer S/O Bashir Ahmad PET, GHS, No. 1, DIKhan.	GHSS, No. 3, Peshawar City.	-do-
10	10	Mr. Misal Khan S/O Taus Khan PET, GHS, No. 1, Pesh: City.	GHSS, No. 2, Peshawar City.	-do-
11	12	Mr. Hazrat Ali S/O Gul Nawaz A.P. Sup: at A.E.O. Hangu.	GHSS, Bilitang (Kohat).	-do-
12-	13	Mr. Anwar Khan S/O Ali Gohar Village and F.C. Bajno (Mansehra).	GHSS, No. 1, Mansehra.	-do-
13-	15	Mr. Sarwar Shah S/O Haji Iran Shah PET, GHS, No. 1, Bickot Gunj Mardan.	GHSS, No. 4, Mardan.	-do-
14	16	Mr. Abdul Jamil Khan S/O H. Abdul Aziz Khan PET GHS, Ghazi Marjan FR Bannu.	GHSS, No. 1, Peshawar Cantt.	-do-

Attest
[Signature]

Next Page. 2.

17

15-	19	Mr. Sher Kamal S/C Said /oghar Village Lund Khawar (Ghat Dhand) Distt: Mardan.	GSS, Kathian Distt: Mardan.	Against vacant post.
16-	21	Mr. Lal Hussain S/C Mohammad Jan PET, GHS, Parachinar.	GSS, Charkani Distt: Peshawar.	-do-
17-	24	Mr. Gul Said Khan S/C Khalo Khan Village and P.O. Gaurud C/O Khyber Mercantile Service Gaurud.	GSS, Tohtal Bala Distt: Peshawar.	-do-
18-	28	Mr. Hussain Wali S/C Mahibullah Village Jang Bazar Distt: Chitral.	G.E.C. (M) Darosh (Chitral).	-do-
19-✓	29	Mr. Sheraz Khan S/O Iqbal Khan PET, GHS, Shinkhari (Dir).	GSS, Ziarat Talash (Distt: Dir).	-do-
20-	31	Mr. Jansh Khan S/C Bacha Khan Village, Kuza Darushkela Distt: Swat.	GSS, Khawaza Khela (Distt: Swat).	-do-
21-	35	Mr. Istamrosh S/O Khurasan Khan Rustan Mardan.	GSS, Katlang (Mardan)	-do-
22	36	Mr. Sardar Ali S/C Said Ali Khan Vill: Zarefi Shaniyat Teh: Takhtbhai Distt: Mardan.	GSS, Manga Bargai (Distt: Charsadda).	-do-
23	37	Mr. Mohammad Bachir S/O Ghulam Khan Vill: Soker (Guli Bagh) Distt: Mansehra, PET, GHS, Barband (Mansehra).	GSS, 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 TL/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. BILKHI)
DIRECTOR OF EDUCATION (SCHOOLS),
NWFP, PESHAWAR.

Encl: No. 8271-8311

dated Peshawar, the 22/10/1990.

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 (Khalo) 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.

DEPUTY DIRECTOR (SCHOOLS),

BYED
Advocate High Court Peshawar
Federal Shariat Court.

①

Annex "F"
18

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 Zaid DPE GHSS S.K. Bala Bahnu.	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 indication have been made
of SO (B&A) S.O.D.

Handwritten notes and signatures on the left side of the page, including a large signature and some illegible text.

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Appeal NO. /2015

Sheraz KhanAppellant/Applicant.

VERSUS

Govt: of Khyber Pakhtoonkhwa 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, unconstititutional 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 dondonation of delay if any on the following amongst other grounds:-


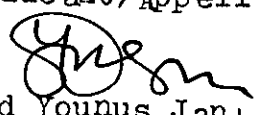
GROUND:

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 continous 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 KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal NO /2015

Sheraz KhanAppellant

VERSUS

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

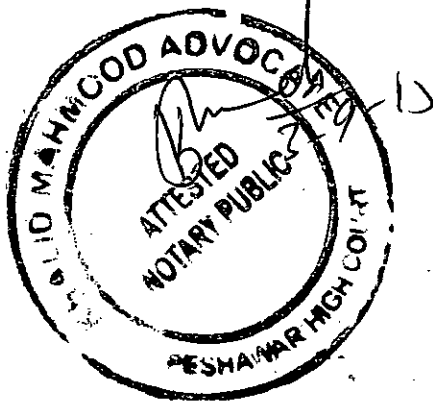
...Respondents.

AFFIDAVIT.

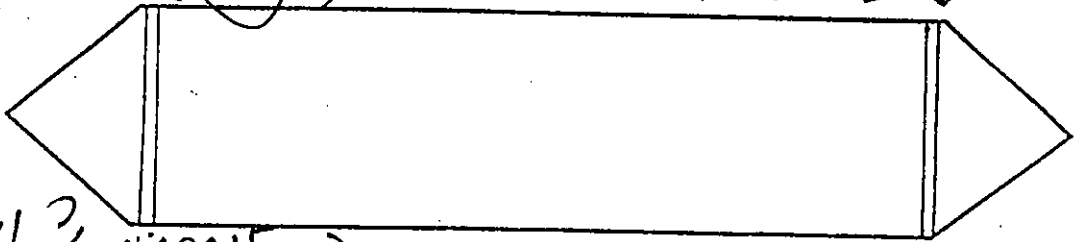
I, Sheraz Khan, (appellant) to hereby solemnly affirm and declare on Oath that the contents of the attach application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal

Dated 19/2015

Deponent 



بعدالت KPK سروس لٹریچر



03 ماہ ستمبر 2015ء پنجاب شہر ایزٹ اریڈیو
بنام حکومت KPK وٹیر
ریسپانڈنٹ

موزخہ 53/912015
مقدمہ
دعویٰ
جزم
شمارہ 2015

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام کیلئے سید علی احمد
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
دکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک دروپیہ 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 برآمدگی 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 بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ درہر جائتہ التوائے مقدمہ کے سبب سے وہوگا۔
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 لکھدیا کہ سندر ہے۔

ایڈووکیٹ
ایڈووکیٹ

ایڈووکیٹ
ایڈووکیٹ

المرقوم 03 ماہ ستمبر 2015ء

بمقام KPK سروس لٹریچر
Attested & Accepted
BYED YOUSUF JANI
Advocate High Court Peshawar
Federal Shariat Court.

41

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 988/2015

Sheraz Khan DPE GHSS Talash, Dire (Lower)

.....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.


IN 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-16 to 17 (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 22/10/1990 or 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 & 27/5/2009 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 & 27/5/2009 by promoting them in BPS-17 with immediate effect in the interest of justice.
- D Incorrect & denied. The statement of the appellant is baseless and 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 & 27/5/2009, by the Respondents.
- G Incorrect & misleading. The appellant has been treated as per law, rules & criteria vide the impugned Notification dated 19/5/2009 & 27/5/2009, issued by the Respondents. However, the Respondent seek leave of this Honorable Tribunal to submit additional case law & record at the time of arguments.

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.

21/6/2016
 Secretary

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 988 / 2015

Sheraz KhanAppellant

Versus

The Chief Secretary, Govt. of K.P.K.
and others Respondents.

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

Respectfully submitted:

Replication to the preliminary objections

1-12)

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 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 been arrayed by him in his appeal, no misjoinder 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 the present circumstances and there could be no other form but in which it has been submitted and the same is not barred by any law but has been submitted strictly in accordance with laws/Rules. Moreover, being a matter of terms and conditions of service this Hon'ble Tribunal has got a valid jurisdiction.

Replication to the facts.

1) Needs no replication.

3&4) In these paras the contents of the appeal have been admitted as correct, therefore, need no replication.

2&5) The contents of these paras of the reply are incorrect, false and misconceived, hence denied while the contents of these paras of the appeal are correct, true and clear crystal. Moreover, it is submitted that as the matter of non-filing of a departmental appeal is concerned in this regard, it is submitted that firstly this Hon'ble Tribunal may kindly see that whether in light of the law laid down by the august Supreme Court in cases of Hameed Akhtar Niazi Versus The Secretary Establishment Division, Govt. of Pakistan and others reported in 1996 SCMR page 1185 and Tara Chand and others Versus Karachi Water & Sewerage Board Karachi & others in light of the law laid down in these judgments the respondents were legally bound/required to grant the relief to the appellant being a similarly placed person but by not doing so the respondents have not only committed the contempt of court but have also disregard the judgments passed by this Hon'ble Tribunal and therefore have rendered themselves to bear its consequences, secondly as compelled by the Department, the appellant has properly filed a departmental appeal and then this appeal., and even the fact of filing departmental appeal has been stated by the appellant on affidavit and the strong legal presumption would be that the copy of the departmental appeal attached to the instant appeal is sent to the respondents (competent authority) very before and after lapse of a considerable period what action has been taken on the same.

Replication to the grounds

A-G) The contents of these paras of the reply are incorrect, false, misconceived and without proof, hence denied. moreover, it is submitted that as the appellant was highly qualified, fit and thus was fully eligible for EPS-17 regular at the _____

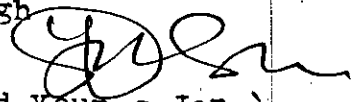
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time and in light of para-1 of the letter/Notification dated 13-11-2007, so the impugned act and omissions of the department/respondents is not only factually incorrect and legally untenable but also is based on the malafide intention of the respondents and is against the principles of natural justice and is neither in accordance with law nor is based on facts or law. The stand of the appellant is neither baseless nor is against the factual position but the act and omission of the respondents is 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, 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.


Appellant

through



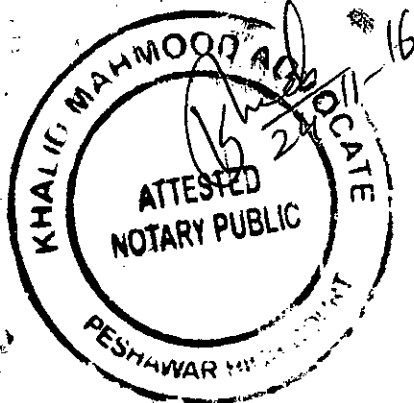
(Syed Younas Jan)
Advocate, Peshawar

PESHAWAR

23-11-2016

AFFIDAVIT/COUNTER AFFIDAVIT

I, Sheraz Khan, D.P.E. (the appellant) do hereby solemnly affirm and declare on oath that the contents of this replication are true, correct and clear crystal 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 respondents are incorrect, false and misconceived.




Respondent