

22.06.2018

Learned counsel for the appellant present. Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents also present. Learned Assistant AG seeks adjournment. Adjourned. To come up for arguments on 13.08.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

13.08.2018

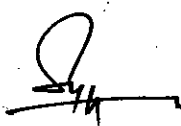
Appellant Tahir Shah in person alongwith his counsel Mr. Abdul Ghaffar Khan, Advocate present. Mr. Muhammad Riaz Paindakhel, Asst: AG for respondents present.

Arguments heard and record perused.

At the very outset of the arguments, learned counsel for the appellant was confronted with the judgment of august Supreme Court of Pakistan and in compliance of that very judgment, he did not pressed his appeal any more, hence the appeal is disposed off being not pressed. In the circumstances, parties are left to bear their own costs. File be consigned to the record room.

Announced:  
13.08.2018


  
Member

  
Chairman 13.8.2018

28.11.2017

Clerk to counsel for the appellant and Mr. Ziaullah, DDA for respondent present. Clerk to counsel for the appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 07.02.2018 before the D.B

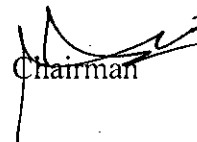
  
Member

  
Chairman

7.2.2018

Appellant in person and Mr. Kabeerullah Khattak, Addl. AG for the respondents present. Counsel for the appellant is not in attendance. Seeks adjournment. To come up for arguments on 10.04.2018 before the D.B.


  
Member

  
Chairman

10.04.2018

Appellant in person and Mr. Ziaullah, DDA for respondents present. Appellant seeks adjournment. Adjourned. To come up for arguments on 22.06.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Hamid Mughal)  
Member

19.09.2016

None for the appellant present. Mr. Javed Shah, Litigation Officer alongwith Addl: AG for respondents present. Written reply submitted. To come up for rejoinder and final hearing on 16.01.2017 before D.B.

  
Member

16.01.2017

Appellant in person and Mr. Ziaullah, GP for respondents present. Appellant submitted rejoinder which is placed on file. To come up for arguments on 07.06.2017 before D.B.

  
(AHMAD HASSAN)  
MEMBER

  
(ASHFAQUE TAJ)  
MEMBER

07.06.2017


Counsel for the appellant present. Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 06.10.2017 before D.B.

  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

06.10.2017

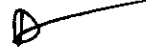
Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for respondents present. Counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 28.11.2017 before D.B.

  
Member  
(Executive)

  
Member  
(Judicial)

24.02.2016

Appellant in person, M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (lit.) and Javed Shah, Legal Advisor alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 28.4.2016 before S.B.



Member

28.4.2016

Appellant in person and Mr. Hameedur Rahman, A.D (Litigation) alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 21.07.2016 before S.B.



Chairman

21.07.2016

Agent of counsel for the appellant, M/S Khurshid Khan, SO and Hameed-ur-Rehman, AD (lit.) alongwith Additional AG for the respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity extended subject to payment of cost of Rs. 500/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 19.09.2016 before S.B.



MEMBER

4

27.07.2015

Counsel for the appellant present. Seeks adjournment. Adjournd to 31.7.2015 for preliminary hearing before S.B.

  
Chairman

5

31.07.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant and similarly placed employees qualified the test and interview on the same date and other employees appointed as PST with effect from 14.3.2012 while appellant not appointed as the seat was wrongly allocated to the deceased son's quota regarding which the appellant preferred writ petition followed by appeal before the august Supreme Court of Pakistan and that on the strength of judgment of the Supreme Court the appellant was appointed vide impugned order dated 17.2.2015 with effect from the date of taking over charge. That the appellant preferred departmental appeal on 17.3.2015 which was rejected on 23.5.2015 communicated to appellant in 29.5.2015 and hence the instant service appeal on 30.6.2015.

That the appellant is entitled to appointment and service benefits with effect from 14.3.2012.

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 29.10.2015 before S.B.

  
Chairman

29.10.2015

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 24.2.2016 before S.B.

  
Chairman





Appellant Deposited  
Security & Process Fee



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 732/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30.06.2015	<p>The appeal of Mr. Tahir Shah presented today by Mr. Abdul Ghaffar Khan Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	2 → - 15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>3 → - 15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	03.07.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 27.7.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p> <p style="text-align: right;"></p>

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

Service Appeal No. 732 /2015

Tahir Shah.....Appellant

Versus

Govt of KPK through

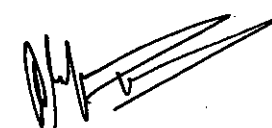
Secretary (E&S) Education KPK & others.....Respondents

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Appellant

Through

  
Abdul Ghaffar Khan  
Advocate, Peshawar

Dated: 30.06.2015

①

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWAR

Service Appeal No. 732 /2015

A.W.F. Province  
Service Tribunal  
Diary No. 755  
Dated 30/6/2015

Tahir Shah S/o Sultan Akbar GPS Qutab Garh

U/C Pir Saddi District Mardan.....Appellant

Versus

Govt of KPK through

- 1) Secretary (E&S) Education KPK at Civil Secretariat Peshawar.
- 2) Director Education KPK at Dabgari Garden Peshawar
- 3) District Education Officer Mardan near District Courts Mardan

..... Respondents

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APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER/ NOTIFICATION NO.1201/G DATED 17.02.2015 OF THE RESPONDENT NO.3 WHEREBY APPOINTMENT OF THE PETITIONER HAS BEEN MADE WITH EFFECT FROM THE DATE OF TAKING OVER CHARGE OF THE POST, INSTEAD OF 27.03.2012 I.E. FROM THE DATE ON WHICH HIS OTHER COLLEAGUES HAVE BEEN APPOINTED AND THE IMPUGNED ORDER DATED 23.05.2012 RECEIVED BY THE PETITIONER/ APPELLANT ON 29.05.2012 VIDE WHICH DEPARTMENTAL APPEAL OF APPELLANT IS DISMISSED.

Filed to the  
Registrar  
30/6/15

**PRAYER:**

On acceptance of the instant appeal, the impugned notification mentioned above may kindly be varied/ set aside to the extent of "with effect from the date of taking



over charge” and the respondents may kindly be directed to make appointment of petitioner w.e.f 27.03.2012 i.e. from the date on which his other colleagues have been appointed, with all back benefits.

Respectfully Sheweth;

- 1) That the petitioner/appellant is a law abiding and peaceful citizen of the country.
- 2) That the petitioner/appellant made an application to respondent No.3 for appointment against the post of PST in response to the advertisement dated 31.05.2011 of respondent No.3. (Copy of Advertisement is annexed)
- 3) That the petitioner/appellant after qualifying the ETEA test and interviews stood 1<sup>st</sup> in his u/c to be appointed on vacant post. (Copy of merit list annexed)
- 4) That instead of appointment of the appellant/ petitioner, one Shah Fahad was appointed on the vacant post from deceased son quota despite the fact that the seats were reserved for open merit and not for deceased son quota” and despite the fact that ~~the said Shah Fahad~~ had failed even the ETEA test. (Copy of appointment order and result is annexed)
- 5) That the petitioner/appellant approached the respondent, as well as the concerned courts of law i.e. Peshawar High Court and finally the Supreme Court of Pakistan, where in Supreme Court the issue between the parties was finally decided in favour of the petitioner/ appellant against the respondents vide its judgment dated 12.02.2015 in C.P.No.649/2014. (Copy of the judgment of Hon’ble Supreme Court is annexed)
- 6) That in consequence of the decision the Hon’ble Supreme Court appointment of the petitioner/ appellant was made by respondent No.3 vide the impugned notification No.1201/G dated 17.02.2015. (Copy of the impugned notification is annexed).

- 7) That the petitioner/ appellant was astonished to notice that his appointment has been made "with effect from the date of his taking over charge" instead of making his appointment w.e.f. 27.03.2012 i.e. from the date on which his other colleagues were appointed by respondents.
- 8) That feeling aggrieved of the order of the respondent No.3, the petitioner/ appellant approached to respondent No.2 through a departmental appeal but the same was turned down vide its order dated 23.05.2015 received to the respondents on 30.05.2015. (Copy of <sup>Appeal</sup> order of respondent No.2 is annexed).
- 9) That having no other efficacious remedy available, the petitioner/ appellant now approaches this hon'ble Tribunal for the redressal of his grievances on the following grounds inter alia;

**GROUND:**


- A. That the impugned orders/ notifications of respondents is against law, facts and material on record.
- B. That the petitioner/ appellant has been discriminated as against Article 25 of the Constitution.
- C. That according to Article 4 of the Constitution, Public Functionaries are bound to act in accordance with the law.
- D. That being on top of merit list of Union Council the petitioner/ appellant was having every right to be appointed against vacant post, reserved for open merit.
- E. That the seniority of the petitioner/ appellant will be badly affected without any fault on the part of the petitioner.
- F. That the petitioner/ appellant was stopped by the conduct of the respondents to work on the said post.
- G. That appellant also reserves the right to agitate further other grounds at the time of arguments.

It is therefore, most humbly prayed that on acceptance of this appeal, the impugned notifications mentioned above may kindly be varied/ set aside to the extent of "with effect from the date of taking over charge" and the respondents may kindly be directed to make appointment of petitioner/ appellant w.e.f 27.03.2012 i.e. from the date on which his other colleagues have been appointed, with all back benefits.

Any other relief which this hon'ble Tribunal deems appropriate in the circumstances of the case and not specifically asked for may kindly also be granted.

*Talwar*  
Appellant

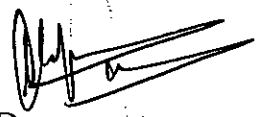
Through



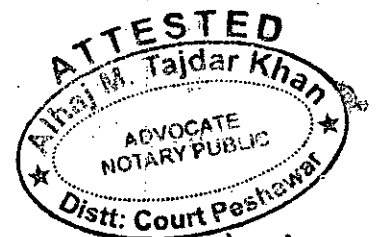
**Abdul Ghaffar Khan**  
Advocate, Peshawar

**AFFIDAVIT**

I, Abdul Ghaffar Khan Advocate, do hereby affirm and declare as per instructions of my client, 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 hon'ble Tribunal.



Deponent



*Talwar*  
30-6-2015

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

Service Appeal No. \_\_\_\_\_/2015

Tahir Shah.....Appellant

Versus

Govt of KPK through

Secretary (E&S) Education KPK & others.....Respondents

**APPLICATION FOR CONDONATION OF DELAY**

*Respectfully Sheweth;*

1. That the petitioner filed the instant appeal in which not date of hearing is yet fixed for adjudication.
2. That on 27 and 28<sup>th</sup> June, 2015 it was public holiday and this hon'ble Tribunal was off on the said dates.

It is therefore, most humbly prayed that on the acceptance of this application, the delay, if any, may kindly be condoned

*Tahir*  
Appellant

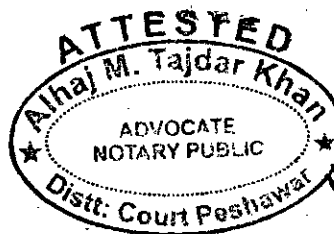
Through

**Abdul Ghaffar**  
Advocate, Peshawar

**AFFIDAVIT**

I, Abdul Ghaffar Khan Advocate, do hereby affirm and declare as per instructions of my client, that the contents of the **application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble Tribunal.

Deponent



*30/6/2015*



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Handwritten signature/initials

S.No.	R.No.	Name	Father Name	Name of Union Council	D.O.B	Professional Qualif.	Academic Qualification 60%												ETEA 40%				Total Score	Remarks			
							SSC			F.A/F.Sc			B.A/B.Sc			M.A/M.Sc			M.Phil:		ETEA						
							Total	Obtd	Score	Total	Obtd	Score	Total	Obtd	Score	Total	Obtd	Score	Total	Obtd	Score	Total			Obtd	Score	
17	841	Bilore Ahasan	Muhammad Saleem	Gujrat	19.11.1989	PST	1050	654	9.34	1100	553	15.08	550	352	3.2	0	0	0	0	0	0	0	300	140	18.67	46.29	
18	9574	Hasbun Allah Hadf	Fazle Hadf	Gujrat	30.03.1992	PST	900	634	10.57	1100	598	16.31	0	0	0	0	0	0	0	0	0	0	300	144	19.2	46.03	
19	7303	Tanveer Ahmed	Haji Fazal Mabood	Gujrat	3.1.1980	PST	850	503	8.68	1100	557	15.19	550	278	2.53	1100	563	2.56	0	0	0	0	300	124	16.53	45.69	
20	8882	Sher Shah	Abdur Rahman	Gujrat	10.3.1979	PST	850	531	9.37	1100	542	14.78	550	257	2.34	1100	660	3	0	0	0	0	300	120	16	45.43	
21	9585	Zia ur Rehman	Menhaj ud Din	Gujrat	12.04.1983	PST	850	541	10.25	1100	488	13.31	550	239	2.17	0	0	0	0	0	0	0	300	148	19.73	45.47	
22	9900	Qaiser Ali	Noor ud Din	Gujrat	18.3.1988	PST	850	560	9.88	1100	616	16.8	550	250	2.27	0	0	0	0	0	0	0	300	120	16	44.56	
23	9189	Sohail Badha	Irfan ud Din	Gujrat	4.2.1982	PST	850	485	8.56	1100	503	13.72	550	255	2.32	1100	609	2.77	0	0	0	0	300	128	17.07	44.43	
24	8701	Imran	Sall ur Rahman	Gujrat	12.3.1991	PST	850	561	9.9	1100	507	13.83	550	263	2.39	0	0	0	0	0	0	0	300	136	18.13	44.25	
25	9011	Rafiq Ahmed	Haji Taj Muhammad	Gujrat	15.4.1974	PST	850	564	9.95	1100	463	12.63	550	245	2.45	0	0	0	0	0	0	0	300	148	19.73	44.77	Overage
Gulf Bagh																											
1	9760	Muhammad Salman	Imran Ullah	Gulf Bagh	12.04.1989	PST	1050	758	10.83	1100	770	21	550	358	3.25	0	0	0	0	0	0	300	168	22.4	57.48		
2	8554	Mumtaz Khan	Murad Khan	Gulf Bagh	6.4.1987	PST	850	491	8.66	1100	674	18.38	550	295	2.68	1100	690	3.14	0	0	0	0	300	136	18.13	51	
3	8541	Hayat Muhammad	Gul Muhammad	Gulf Bagh	23.4.1984	PST	850	456	8.05	1100	575	15.68	550	294	2.67	1100	597	2.71	0	0	0	0	300	152	20.27	49.38	
4	7533	Rooh ul Amin	Haji Fazal Dad	Gulf Bagh	13.5.1987	PST	850	603	10.64	1100	676	18.44	550	292	2.65	0	0	0	0	0	0	0	300	132	17.6	49.33	
5	7872	Abdullah	Khan Sald	Gulf Bagh	1.3.1980	PST	850	460	8.12	1100	581	15.85	550	330	3	1100	622	2.83	0	0	0	0	300	132	17.6	47.39	
6	8647	Haizrat Muhammad Jamal	Khalifa Mir	Gulf Bagh	13.9.1989	PST	850	413	7.29	1100	617	16.83	550	247	2.25	0	0	0	0	0	0	0	300	148	19.73	45.09	
7	8004	Fawad Ali Durrani	Khushdil Khan Durrani	Gulf Bagh	21.2.1982	PST	850	447	7.8	1100	531	14.48	0	0	0	0	0	0	0	0	0	0	300	156	20.8	43.03	
8	7572	Muhammad Israr	Noor Muhammad	Gulf Bagh	6.1.1986	PST	850	523	9.23	1100	565	15.41	550	237	2.15	0	0	0	0	0	0	0	300	120	16	42.79	
Gumbat																											
1	7876	Muhammad Nasir	Fazl ur Rahman	Gumbat	25.12.1985	PST	850	540	9.53	1100	573	15.63	550	279	2.54	1100	644	2.93	0	0	0	0	300	172	22.93	53.55	
2	7877	Muhammad Yasar	Fazl ur Rahman	Gumbat	11.3.1987	PST	850	544	9.6	1100	524	14.29	1000	611	3.06	0	0	0	0	0	0	0	300	156	20.8	47.75	
3	7914	Noor ul Basar	Sardar Wali Shah	Gumbat	1.1.1981	PST	850	454	8.22	1100	601	16.39	0	0	0	0	0	0	0	0	0	0	300	164	21.87	46.48	
4	9047	Mohsin Ali	Nisar Muhammad	Gumbat	8.2.1985	PST	850	563	9.94	1100	571	15.57	550	247	2.25	0	0	0	0	0	0	0	300	136	18.13	45.89	
5	8669	Nalik Muhammad	Nisar Muhammad	Gumbat	1.4.1985	PST	850	549	9.69	1100	526	14.35	550	257	2.34	1100	601	2.73	0	0	0	0	300	120	16	45.1	
6	8111	Said Muhammad Khan	Alhtar Gul	Gumbat	12.2.1984	PST	850	458	8.08	1100	516	14.07	550	289	2.63	1100	574	2.61	0	0	0	0	300	128	17.07	44.46	
7	8637	Zahoor ul Haq	Nisar Ul Haq	Gumbat	26.1.1981	PST	850	449	8.63	1100	516	14.07	550	259	2.35	0	0	0	0	0	0	0	300	140	18.67	43.72	
8	8728	Muhammad Qasim	Muhammad Ishaq	Gumbat	13.1.1986	PST	850	519	9.16	1100	577	15.74	0	0	0	0	0	0	0	0	0	0	300	136	18.13	43.03	
9	7986	Muhammad Adeel	Sami Ur Rahman	Gumbat	10.04.1975	PST	850	449	7.92	1100	595	16.23	550	286	2.6	0	0	0	0	0	0	0	300	152	20.27	47.02	Overage
10	7878	Muhammad Aamir	Fair Ur Rahman	Gumbat	31.3.1975	PST	850	426	7.52	1100	456	12.44	550	258	2.35	1100	567	2.58	0	0	0	0	300	156	20.8	45.68	Overage
11	9251	Zahid Ali	Sher Ali	Gumbat	20.12.1975	PST	850	396	6.99	1100	515	14.05	550	240	2.19	0	0	0	0	0	0	0	300	120	16	39.22	Overage
Hathian																											
1	8374	Fahir Shah	Sultan Akbar	Hathian	10.6.1985	PST	850	614	10.84	1100	674	17.02	550	266	2.42	0	0	0	0	0	0	0	300	200	26.67	56.94	
2	8195	Ihsan Ullah	Johar Muhammad	Hathian	7.12.1985	PST	850	544	9.6	1100	622	16.96	550	271	2.46	0	0	0	0	0	0	0	300	180	24	53.03	
3	8087	Uaqat Ali	Khanzada	Hathian	10.3.1986	PST	850	542	9.56	1100	547	14.92	550	294	2.67	1100	795	3.61	0	0	0	0	300	164	21.87	52.64	
4	8975	Zahir Shah	Rasool Shah	Hathian	10.5.1978	PST	850	485	8.56	1100	532	14.51	550	266	2.42	1100	549	2.5	0	0	0	0	300	184	24.53	52.51	
5	8971	Fazle Khalig	Islam Gul	Hathian	27.4.1980	PST	850	529	9.18	1100	506	13.8	550	217	2.25	1100	614	2.79	0	0	0	0	300	180	24	52.01	
6	8481	Kaleem Ullah	Abdul Jabbar	Hathian	1.3.1986	PST	850	527	8.63	1100	642	17.51	550	281	2.55	1100	605	2.75	0	0	0	0	300	152	20.27	51.71	
7	9402	Anwar Ali	Umar Wahid	Hathian	15.10.1981	PST	850	528	10.16	1100	587	16.01	550	277	2.52	1100	683	3.1	0	0	0	0	300	144	19.2	51	
8	9738	Hamid Ali	Muslim Khan	Hathian	05.3.1987	PST	850	599	9.51	1100	595	16.23	550	273	2.48	0	0	0	0	0	0	0	300	168	22.4	50.62	
9	7739	Sadam Ullah	Shakir Ullah	Hathian	2.2.1986	PST	850	557	9.83	1100	435	17.32	550	317	2.88	1100	512	2.33	0	0	0	0	300	136	18.13	50.49	
10	8977	Bashir Muhammad	Khan Muhammad	Hathian	10.2.1983	PST	850	527	10.04	1100	501	13.66	550	248	2.25	1100	627	2.85	0	0	0	0	300	160	21.33	50.14	
11	7706	Fazle Ghani	Muhammad Ghani	Hathian	25.9.1979	PST	850	512	9.04	1100	516	14.07	550	271	2.46	1100	575	2.81	0	0	0	0	300	156	20.8	48.99	
12	7912	Muhammad Riz	Abdur Rahman	Hathian	2.6.1979	PST	850	489	10.04	1100	554	15.11	550	281	2.55	1100	592	2.69	0	0	0	0	300	136	18.13	48.53	
13	7786	Burhan ud Din	Feroz Khan	Hathian	18.3.1982	PST	850	522	9.21	1100	592	16.15	550	247	2.25	1100	692	3.15	0	0	0	0	300	128	17.07	47.81	
14	7426	Fazal Khan	Faqir Muhammad	Hathian	20.3.1986	PST	850	553	9.74	1100	640	17.45	550	264	2.4	0	0	0	0	0	0	0	300	136	18.13	47.73	
15	8670	Mushtaq Ahmad	Mohib Gul	Hathian	23.3.1988	PST	850	542	9.88	1100	649	17.7	550	285	2.59	0	0	0	0	0	0	0	300	124	16.53	45.71	
16	8974	Muhammad Faqir Khan	Abdulullah	Hathian	19.1.1990	PST	850	612	8.77	1100	645	17.59	550	292	2.65	0	0	0	0	0	0	0	300	132	17.6	48.7146.62	
17	1859	Wahed Gul	Rahmat Gul	Hathian	25.3.1978	PST	850	542	8.56	1100	506	13.5	550	275	2.5	1100	580	2.64	0	0	0	0	300	140	18.67	46.45	
18	8973	Abdul Jabbar	Abdul Malik	Hathian	6.3.1979	PST	850	451	7.96	1100	539	14.7	550	258	2.35	1100	503	2.29	0	0	0	0	300	136	18.13	45.42	
19	9102	Aziz ur Rehman	Amir Zada	Hathian	20.3.1986	PST	850	545	9.62	1100	576	15.71	550	261	2.37	0	0	0	0	0	0	0	300	132	17.6	45.3	

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**OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&SE) MARDAN****APPOINTMENT**

Consequent upon approval given by the District Departmental Selection Committee in the meeting held on 13.03.2012 the undersigned being competent authority is pleased to appoint the following candidates in the Deceased Sons Quota in the schools in BPS mentioned against each in the interest of public service with the terms and conditions below:

S.No.	Name/Father Name	Post and Scale	Address	Place of appointment
1.	Farhad Hussain s/o Late Abdus Salam Ex-PET	CT BPS-9 (6200-17600)	Vill: Charchoor Katlang Mdn:	GHS Kohi Basmol AV. PET post
2.	Hizar Hayat s/o Late Faqir Hayat Ex-PET	PET BPS-9 (6200-380-17600)	Madey Baba Faqir Colony VPO T.Bhai	GHS Bikat Gung No.1 AV PET Post
3.	Shah Fahad s/o late Gul Nabi	PST BPS-7 (5800-320-15400)	Vill: Dargival Takht Bhai Mardan	GPS Hathian AV PST Post
4.	Abbas Ahmad s/o Late Ali Haider Ex-PST	PST BPS-7 (5800-320-15400)	Vill Qazi Gaddar Mardan	GPS Qazi Abad AV PST Post
5.	Shahid Ali s/o late Gul Muhammad Ex-IV	PST BPS-7 (5800-320-15400)	Dagai Lund Khwar Mardan	GPS Malashah AV PST Post

**TERMS AND CONDITIONS**

1. Their appointment are purely made on the temporary basis in the light of contract policy 2005, however they are entitled for annual increment/CPF and other allowances as admissible to them under the rules.
2. They are not entitled for GPF/Pension Gratuity under the rules.
3. They are required to produced their age and health certificate from the MS, DHQ Hospital Mardan before taking over charge and their age is not less than 18 and above 35-years.
4. Their Education/Professional Certificate should be verified from the concerned Board/University before the release of pay by the concerned DDO and their pay should not be release before the arrival the verification.
5. NO TA/DA is allowed.
6. Charge reports should be submitted to all concerned and they are required to take over charge of their posts with in 15 days.

(BAHADAR KHAN MARWAT)  
Executive District Officer  
(E&SE) Mardan.

Endst: No.3222/G/Deceased Sons quota appointment file/Dated 14/3/2012

Copy forwarded to the:-

1. District Coordination Officer, Mardan.
2. District Comptroller of Accounts Mardan.
3. Principal/Headmasters concerned.
4. Dy: D.O.(M)Mardan & Takht Bhai.
5. Official concerned.

Sd/-  
Executive District Officer  
(E&SE) Mardan.

9

4



Khyber Pakhtunkhwa Educational Testing & Evaluation Agency

NO. ETEA/FAT/2011/ 525

Dated: 28/11/2012

# CERTIFICATE

19

*This is to Certify that*

Roll Number:

- - 0 8 0 5 2

Mr. / Miss.

SHAH FAHAD

S/O D/O

GUL NABI

District

MARDAN

Attended  
BY

has obtained

92 / 300 (Ninety Two only)

) marks in

TAT-I

TAT-II

920

The Test for Recruitment of School Teachers in T&SE Department was held on 03-07-2011 at Gen. Insan ul Haq Sports Complex Mardan.

The results have been notified to the respective Departments.

THESE RESULTS ARE VALID FOR THREE YEARS ONLY.

Signature  
For ETEA

Chairman, Board of Governors: Chief Minister Khyber Pakhtunkhwa

46, Street No. 5, Defence Officers Colony, Khyber Road, Peshawar. Phone: (091) 9212321-2 Fax: 091-9212681

Web Site: [www.etea.edu.pk](http://www.etea.edu.pk) email: [info@etea.edu.pk](mailto:info@etea.edu.pk)



3/2

Osmany

10

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

MR. JUSTICE SARMAD JALAL OSMANY  
MR. JUSTICE QAZI FAEZ ISA

**CIVIL PETITION NO.649 OF 2014**

(Against the judgment dated 19.02.2014 of the  
Peshawar High Court, Peshawar passed in  
Review Petition No.82-P/12 In  
W.P.No.1086/12)

Tahir Shah.

... Petitioner

**Versus**

Govt. of KPK through Secretary Education  
(Elementary & Secondary) and others.

... Respondents

For the Petitioner:

Mr. Ghulam Nabi Khan, ASC

For Respondents No.1-3 & 5:

Mr. Mujahid Khan, Addl.AG., KPK  
Shah Fasih-ud-Din, Litigation Officer,  
Education Mardan.

Respondent No.4:

In-person.

Date of Hearing:

12.02.2015

**ORDER**

Sarmad Jalal Osmany, J.:- After having argued the case at some length Learned Additional Advocate General, KPK, says that the petitioner would be accommodated as a teacher in District Mardan. With such statement Learned ASC for the petitioner is satisfied and prays that the petition be disposed in such terms. However, in our opinion the petition which raises a fundamental legal question i.e. whether respondent No.4, who is a son of a primary school teacher in KPK, could be appointed as such without undergoing any test etc. which admittedly the Petitioner had qualified. In this respect in particular we would like to examine whether Rule 10 (4) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, which gives the power to the appointing authority to appoint one of the

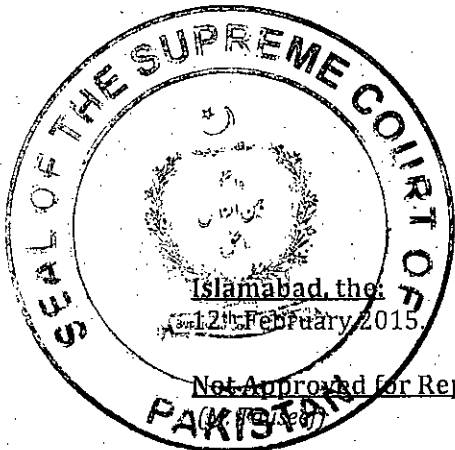
**ATTESTED**

Supervisor  
Supreme Court  
Islamabad Pakistan

children of the deceased civil servant , who have properly qualified to a post in the government service in Basic Pay Scale 1 to 10 without undergoing any test etc. is violative of the KPK Civil Servants Act under which such rules were framed and Article 25 read with Article 27 of the Constitution of the Islamic Republic of Pakistan. Adjourned.

2. The compliance report of the appointment of the petitioner shall be submitted to us in Chambers for perusal within one week from today.

*Chief Justice Tahir Javed*  
*M. Qazi Faiz Hasan*



Not Approved for Reporting

13.2.15

Certified to be True Copy

*[Signature]*  
23/2/15  
Superintendent  
Supreme Court of Pakistan  
Islamabad

2698/15

GR No: \_\_\_\_\_ Civil/Criminal

Date of Presentation: 19.2.15

No. of Words: \_\_\_\_\_

No. of Follies: 0

Registration Fee Rs: 500

Copy Fee in: 2.00

Court Fee stamps: 8.00

Date of Completion of Copy: 23/2/15

Date of delivery of Copy: \_\_\_\_\_

Compared by/Prepared by: [Signature]

Received by: [Signature]



# OFFICE OF THE DIETRICT EDUCATION OFFICER (MALE) MARDAN

## NOTIFICATION

Consequent upon the decision of the Supreme Court of Pakistan in C.P. No.649/2014 decided 12-02-2015, appointment of the following candidate is hereby ordered against the post of Primary School Teacher (PST) in BPS-12 (Rs-7000-500-22000) plus usual allowances as admissible under the rules & policy of the provincial Govt: in the teaching cadre on the terms & conditions given below with effect from the date of their taking over charge in the school as noted against him in the interest of public service.

S/No	Name	F/Name	Adress	School	Remarks
1	Tahir Shah	Sultan Akbar	Hatian	GPS Qutab garh	A.V.Post

### Terms & Conditions

1. No TA/DA is allowed.
2. Charge report should be submitted to all concerned.
3. Age of the candidates is relaxed by the honourable Peshawar High Court Peshawar. Hence candidates are exempted from age limit.
4. Appointment is subject to the condition that the certificates/Documents must be verified from the concerned authorities by the drawing and disbursing officer and after verification of their degrees/certificates should be sent to DEO (M) Mardan office for pay release order with a certificate to the effect that if any discrepancy was found at any stage, the concerned SDEO will be responsible.
5. In case of fake/bogus degrees/certificates detected, later on their appointment order will be automatically cancelled from the date of appointment and will be reported to the law enforcing agencies for further action.
6. Their services are liable to termination on one month prior notice from either side, in case of resignation without notice his one month pay/allowances shall be forfeited to the Govt.
7. They should join their post within 15 days of the issuance of this notification, in case of failure to join the post within 15 days of issuance, their appointment will expire automatically and no subsequent appeal etc shall be entertained.
8. Health and age certificate should be produced from the concerned Medical Superintendent before taking over charge.
9. They will be governed by such rules and regulations as may be issued from time to time by the Govt.

*Handwritten signature*

(HANIFULLAH FAROOQI)  
DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

Endst: No. 1201/G dated. 17/2/15 2015.

Copy forwarded for information and necessary action to the following.

1. Assistant Registrar (Imp) Supreme Court of Pakistan in C.P No.649/2014 decided on 12-02-2015
2. Director Elementary & Secondary Education Khyber Pakhtoonkhwa Peshawar.
3. PS to minister for Elementary & Secondary Education Khyber Pakhtoonkhwa Peshawar.
4. PS to the Secretary to Govt; Khyber Pakhtoonkhwa E & SE Department Peshawar.
5. PA to Director Elementary & Secondary Education Khyber Pakhtoonkhwa Peshawar.
6. District Account Officer Mardan
7. SDEO (M) Primary Mardan.
8. Official Concerned.
9. M/File.

DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

*Handwritten signature*

جناب عالی!

سائل حسب ذیل عرض رساں ہے۔

1۔ مورخہ 31 مئی 2011 کو جناب EDO صاحب مردان کی طرف سے PST آسامیوں پر بھرتی کیلئے مقامی اختیارات میں اشتہار شائع ہو کر سائل نے اپنے یونین کونسل ہاتھیان موجود PST آسامی پر بھرتی کیلئے (E.TEA) ٹسٹ پاس کر کے اپنے یونین کونسل میں اول پوزیشن حاصل کی۔

2۔ تقرری آرڈر مورخہ 27 مارچ 2012 کو عمل میں لائی گئی مگر سائل PST کی تقرری آرڈر دیکھ کر حیران رہ گیا کہ GPS ہاتھیان میں جو ایک سیٹ میرٹھ کیلئے خالی تھی اس پر (Deceased son) کوٹے سے رہ جانے والے ایک بڑے کو بھرتی کیا گیا تھا جس نے (E.TEA) ٹسٹ بھی فیل کیا تھا سائل نے اس کے برخلاف آپ صاحبان کو اپیل بھی کی مگر شنوائی نہ ہو سکی اور بالآخر سائل کو عدالت سے رجوع کرنا پڑا اور مورخہ 12 فروری 2015 کو سپریم کورٹ آف پاکستان کے حکم سے سائل کی تقرری GPS قطب گڑھ میں کی گئی مگر اس مرتبہ پھر سائل کی تقرری "اہلیت" کے تاریخ سے کرنے کی بجائے مورخہ 17 فروری 2015 سے کی گئی جو کہ کس طرح بھی قانون اور انصاف کے تقاضوں سے مطابقت نہیں رکھتی اور اس طرح سائل کی سبٹیارٹی اور دوسرے مراعات بھی متاثر ہونے کا خطرہ ہے۔

لہذا آپ صاحبان سے استدعا کی جاتی ہے کہ سائل کی تقرری کو مورخہ 27 مارچ 2012 آرڈر نمبر G/3805 سے کی جائے۔

تاکہ سائل اپنے Batch کے مطابق سینیارٹی پر رہے، علاوہ  
ازیں سائل کو متعلقہ تمام Back Benefits کے ساتھ اُس  
تاریخ سے ترقری عمل میں لائی جائے۔

نیز دیگر دائرہ سی جو فرین انصاف ہو وہ بھی  
سائل کو مرحمت فرمائی جائیں۔

دعا گو رہوں گا۔

العارض

المقررہ: 17/03/2015

سائل طاہر شاہ PST جی پی ایس قطب گڑھ

یونین کونسل پیر صہی ضلع مردان

نوٹ: تمام ضروری کاغذات درخواست کے ساتھ لف ہے۔

15



DISTRICT EDUCATION OFFICER  
(MALE) MARDAN.

No. \_\_\_\_\_ / Dated 23/5 /2015.

To  
The Director,  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Subject: APPEAL.

Memo

Reference your letter No.1672/F No Appeal/NTS/DE&SE (M) candidates/Vol-III Dated 13-05-2015 on the subject cited above.

It is submitted for your kind information that Mr. Tahir Shah was appointed as PST at GPS Quah Gah wide Endst No. 1201/G Deled 17-05-2015 in the light of the decision issue from the Honorable Peshawar High Court Peshawar.

And his request for appointment w.e.f-27-03-2012 is not justified.

*sdf*  
DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

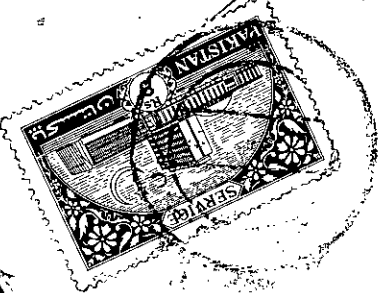
3553

Copy forwarded to the:-

Mr. Tahir Shah PST GPS Quah Gah for information.

*[Signature]*  
DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

*[Signature]*  
District Education Officer  
(Male) Mardan



29 5/15  
pdy

222






پشاور بار ایسوسی ایشن، خیبر پختونخواہ

ایڈوکیٹ: عبد الفاضل

بار کونسل نمبر: 09-1669

رابطہ نمبر: 03005956376

بعدالت جناب:

منجانب: <u>سائل / ایڈووکیٹ</u>	دعویٰ: <u>SERVICE-APPEAL</u>
 <p>ظاہر کیا گیا ہے کہ <u>بنام حکومت پاکستان</u></p>	علت نمبر:
	موضوع:
	جرم:
	تھانہ:

**بابت تحریر آنکہ**

Accepted

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ آن مقام کےسٹور عبد الفاضل کو وکیل مقرر کر 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 حالت و فیصلہ برطاعت دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق و زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہو گا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تنازع پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 30-6-2015

الع بد \_\_\_\_\_ واہ شد \_\_\_\_\_ الع بد

مقام \_\_\_\_\_ کے لئے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

ظاہر کیا گیا ہے کہ بنام حکومت پاکستان (سائل / ایڈووکیٹ)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Service Appeal No: 732/2015

Tahir Shah S/O Sultan Akbar PST GPS Qutab Garh R/O Pir Saddi, District Mardan.  
..... Petitioner

Versus

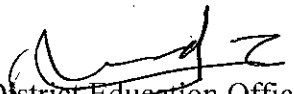
Govt of KPK through Secretary E & SE & Others..... Respondent

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES	
1.	Para wise comments along with affidavit		01	04
2.	Copy of judgment	"A"	05	06
3.	Copy of Notification	"B"	07	--

Respondents No 1 to 3

Through

  
District Education Officer  
(Male) Mardan

Dated: \_\_\_\_\_

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Service Appeal No: 732/2015

Tahir Shah S/O Sultan Akbar PST GPS Qutab Garh R/O Pir Saddi, District Mardan.  
..... Petitioner

Versus

Govt of KPK through Secretary E & SE & Others..... Respondent

Para Wise Comments on Behalf of Respondents No 1 to 3

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standi to file the instant appeal.
2. That the instant appeal is badly time barred.
3. That the appellant has concealed the material facts from this Honourable Tribunal in the instant service appeal.
4. That the instant service appeal is based on malafide intentions.
5. That the appellant has not come to this Honourable Tribunal with clean hands.
6. That the appellant is not entitled for the relief 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 malafide intention just to put extra pressure on the Respondents for gaining illegal service benefits against the post of PST.
9. That the appellant has been treated as par law & policy.
10. That the appeal is not maintainable in its present form.
11. That the appeal is bad for mis-joinder & non-joinder of necessary parties.
12. That the instant service appeal is bared by law.
13. That the appellant is not competent to file the instant appeal against the Respondents.
14. That this Honourable Tribunal has got no jurisdiction to entertain the instant case.
15. That the impugned notification dated 17-02-2015 of the Respondent No 3 is legally competent & liable to be maintained in favor of the Respondent Department.
16. That the appellant is not entitled for the appointment & other service benefits against the said post w.e.f. 27-03-2012 on analogy of no duty no pay.

FACT:

1. Para No 1 needs no comments.

2. Para No 2 correct to the extent that the appellant applied against the post in response to the advertisement, however on the sole post Mr. Shah Fahad being the Deceased Son in the Deceased Son's 100% Quota vide Order Endst No 3222 dated 14-03-2012. Aggrieved from the appointment the appellant filed writ petition No 1086/2012 before the Honourable Peshawar High Court Peshawar which was decided vide judgement dated 19-02-2014 in favor of Respondents. Aggrieved from the judgment of Peshawar High Court Peshawar dated 19-02-2014, the appellant filled Civil Petition No 649/2014, before the August Supreme Court of Pakistan against the Respondents, the matter was heard and decided on 12-02-2015 whereupon in compliance the appellant was appointed against the post of PST vide Notification Endst No 1201/G dated 17-02-2015 the copies whereof have already been endorsed to the quarter concerned for perusal, hence the impugned order is not only competent but is also in accordance with the direction of the August Supreme Court of Pakistan, hence is liable to be maintained in favor of the Respondent in the interest of justice.  
(Copy of judgment is attached as **Annex-A**)
3. Para No 3 pertains to record, as thoroughly explained in Para No 2, hence need no comments.
4. Para No 4 is incorrect baseless, as the real facts of the case have already been agitated in Para No 2, hence need no comments.
5. Para No 5 pertains to record, as explained supra, whereas the judgement of the August Supreme Court of Pakistan dated 12-02-2015 has been implemented in its true letter and spirit vide Notification Endst No 1201/G dated 17-02-2015 by the Respondent No 3. (Copy of Notification is attached as **Annex-B**)
6. Para No 6 is explained supra, hence need no comments.
7. Para No 7 is correct that the impugned Notification dated 17-02-2015 has been made effective with immediate effect from the date of taking over charge against the PST post with reference under the Rule-10 (4) of the Appointment, Transfer & Promotion Rules 1989, hence the appellant is not entitled for the appointment against the said post w.e.f. 27-03-2012 in the Respondent Department.
8. Para No 8 pertains to record, as the departmental appeal of the appellant being meritless was filled, hence need no comments.
9. The appeal of the appellant is liable to be dismissed on the following grounds inter alia


GROUND:


- A. Para A is incorrect baseless against fact & law, the act of the Respondent with regards to the impugned Notification dated 17-02-2015 is in accordance with law, rules & policy, hence is liable to be maintained.

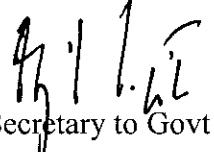
- B. Para B is incorrect and thoroughly explained supra, as the appellant has not been discriminated by the answering respondent and have not violated any articles, hence denied.
- C. Para C is incorrect baseless against fact and law, as thoroughly explained supra, the answering respondent acted as per law, rules & policy, hence denied.
- D. Para D is incorrect, as explained in Para No 2, hence need no comments.
- E. Para E is incorrect, No seniority be affected because seniority always reckoned from the date of regular appointment.
- F. Para F is incorrect baseless against fact & law, the Respondents are legally bound to follow the prescribed rules & policy, hence the plea of the appellant is liable to be dismissed by maintaining the impugned Notification dated 17-02-2015 in favor of the Respondents, hence denied.
- G. The respondent seeks permission to raise additional grounds at the time of arguments.

In view of the above made submission, it is requested that this Honourable Tribunal may very graciously be pleased to dismiss the instant Service Appeal with cost in favor of the Respondent Department.

Respondents No 1 to 3

  
Director E & SE  
Peshawar

  
District Education Officer  
(Male) Mardan

  
Secretary to Govt of  
Khyber Pakhtunkhwa E & SE Department  
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Service Appeal No: 732/2015

Tahir Shah S/O Sultan Akbar PST GPS Qutab Garh R/O Pir Saddi, District Mardan.

..... Petitioner

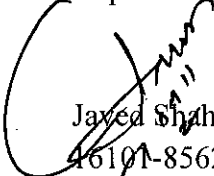
Versus

Govt of KPK through Secretary E & SE & Others..... Respondent

AFFIDAVIT

I, Mr Javed Shah Legal Advisor Education Department Mardan do hereby solemnly affirm and declare that the contents of Para Wise Comments submitted by respondents are true to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Deponent

  
Javed Shah

46101-8562610-3

312

Osmany

10

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

Present:  
MR. JUSTICE SARMAD JALAL OSMANY  
MR. JUSTICE QAZI FAEZ ISA

CIVIL PETITION NO. 649 OF 2014  
(Against the judgment dated 19.02.2014 of the  
Peshawar High Court, Peshawar passed in  
Review Petition No. 82-P/12 in  
W.P.No.1086/12)

Tahir Shah.

... Petitioner

Versus

Govt. of KPK through Secretary Education  
(Elementary & Secondary) and others.

... Respondents

For the Petitioner:

Mr. Ghulam Nabi Khan, ASC

For Respondents No.1-3 & 5:

Mr. Mujahid Khan, Addl.AG., KPK  
Shah Fasih-ud-Din, Litigation Officer,  
Education Mardan.

Respondent No.4:

In-person.

Date of Hearing:

12.02.2015

ORDER

Sarmad Jalal Osmany, J:- After having argued the case at some length Learned Additional Advocate General, KPK, says that the petitioner would be accommodated as a teacher in District Mardan. With such statement Learned ASC for the petitioner is satisfied and prays that the petition be disposed in such terms. However, in our opinion the petition which raises a fundamental legal question i.e. whether respondent No.4, who is a son of a primary school teacher in KPK, could be appointed as such without undergoing any test etc. which admittedly the Petitioner had qualified. In this respect in particular we would like to examine whether Rule 10 (4) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, which gives the power to the appointing authority to appoint one of the

**ATTESTED**

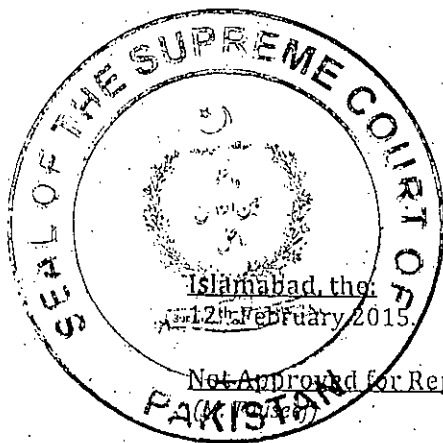
Supervisor  
Supreme Court Pakistan  
Islamabad

(11)

children of the deceased civil servant , who have properly qualified to a post in the government service in Basic Pay Scale 1 to 10 without undergoing any test etc. is violative of the KPK Civil Servants Act under which such rules were framed and Article 25 read with Article 27 of the Constitution of the Islamic Republic of Pakistan. Adjournd.

2. The compliance report of the appointment of the petitioner shall be submitted to us in Chambers for perusal within one week from today.

*Ch. Sarwar Tahir Khan*  
*M. Qazi Faiz B.*



*13.2.15*

Certified to be True Copy

*[Signature]*  
23/2/15  
Superintendent  
Supreme Court of Pakistan  
Islamabad

*2698/15*

GR No: \_\_\_\_\_ Civil/Criminal

Date of Presentation: 19.2.15

No. of Words: \_\_\_\_\_

No. of Pages: 1

Reg. Fee & Fee Rec: 500

Copy Fee: 200

Cost of Preparation: 800

Date of Completion of Copy: 23/2/15

Date of delivery of Copy: \_\_\_\_\_

Completed by: [Signature]

Received by: [Signature]



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

12

NOTIFICATION

Consequent upon the decision of the Supreme Court of Pakistan in C.P. No.649/2014 decided 12-02-2015, appointment of the following candidate is hereby ordered against the post of Primary School Teacher (PST) in BPS-12 (Rs-7000-500-22000) plus usual allowances as admissible under the rules & policy of the provincial Govt: in the teaching cadre on the terms & conditions given below with effect from the date of their taking over charge in the school as noted against him in the interest of public service.

S/No	Name	F/Name	Adress	School	Remarks
1	Tahir Shah	Sultan Akbar	Hatian	GPS Qutab garh	A.V.Post

Terms & Conditions

1. No TA/DA is allowed.
2. Charge report should be submitted to all concerned.
3. Age of the candidates is relaxed by the honourable Peshawar High Court Peshawar. Hence candidates are exempted from age limit.
4. Appointment is subject to the condition that the certificates/Documents must be verified from the concerned authorities by the drawing and disbursing officer and after verification of their degrees/certificates should be sent to DEO (M) Mardan office for pay release order with a certificate to the effect that if any discrepancy was found at any stage, the concerned SDEO will be responsible.
5. In case of fake/bogus degrees/certificates detected, later on their appointment order will be automatically cancelled from the date of appointment and will be reported to the law enforcing agencies for further action.
6. Their services are liable to termination on one month prior notice from either side, in case of resignation without notice his one month pay/allowances shall be forfeited to the Govt.
7. They should join their post within 15 days of the issuance of this notification, in case of failure to join the post within 15 days of issuance, their appointment will expire automatically and no subsequent appeal etc shall be entertained.
8. Health and age certificate should be produced from the concerned Medical Superintendent before taking over charge.
9. They will be governed by such rules and regulations as may be issued from time to time by the Govt.

*Handwritten signature*

(HANIFULLAH FAROOQI)  
DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

Endst: No. 1201/9 dated. 17/2/15 2015.

Copy forwarded for information and necessary action to the following.

1. Assistant Registrar (Imp) Supreme Court of Pakistan in C.P No.649/2014 decided on 12-02-2015
2. Director Elementary & Secondary Education Khyber Pakhtoonkhwa Peshawar.
3. PS to minister for Elementary & Secondary Education Khyber Pakhtoonkhwa Peshawar.
4. PS to the Secretary to Govt; Khyber Pakhtoonkhwa E & SE Department Peshawar.
5. PA to Director Elementary & Secondary Education Khyber Pakhtoonkhwa Peshawar.
6. District Account Officer Mardan
7. SDEO (M) Primary Mardan.
8. Official Concerned.
9. M/File.

DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

*Handwritten signature*



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

S/Appeal No. 732/015.

TAHIR SHAH VS GOVT. OF KPK & OTHERS

Subject: Rejoinder on behalf of Petitioner/Appellant.

Respectfully Sheweth:

Rejoinder on behalf of petitioner is as under:

ON FACTS:

As to Preliminary Objections.

The preliminary objections from Para No. 1 to 16 are baseless and incorrect.

ON FACTS:

1. Para 1 is the same as in main appeal.
2. Para 2 is admitted by the Respondents to the extent of application for appointment by the Present petitioner/appellant however the plea of 100% deceased quota is incorrect because ~~the~~ the said post was for appointment on vacant seat/and not for deceased quota as clearly mentioned in the advertisement & due to the said reason the petitioner approached to the competent courts of law which was finally decided, in favour of the petitioner/appellant, but <sup>here</sup> again, illegality was committed by the respondent dept. by not appointing the petitioner/appellant on his post with effect from the date ~~on~~ on which the cause of action was

arose in favour of the present appellant, as he was entitled to be appointed from the date on which cause of action arose and <sup>w.e.f.</sup> from the date on which his other colleagues were appointed. On one side the respondents deprived him from his legal right of appointment alongwith his other colleagues and on the other hand he has been deprived from his seniority by not appointing him <sup>w.e.f.</sup> the date on which his other colleagues have been appointed. The fault is on the part of Respondents, hence the notification is liable to be rectified to the extent of date of appointment of the appellant i.e. <sup>w.e.f.</sup> from the date on which his other colleagues were appointed instead of appointing him <sup>w.e.f.</sup> 17-2-2015.

3. Record is annexed with the main appeal.

4. Incorrect. The ~~respondents~~ respondents have no right / option to deny the same as ~~even~~ even the supreme court has declared the act of the respondent as illegal while that of the grievance of the petition has been declared as correct and lawful.

5. Record is annexed with the main appeal. While the rest of the para is incorrect. The respondents are not ready to implement the judgment of the supreme court by

depriving him appointment & seniority from the date on which his other colleagues have been appointed. Hence he will ~~also~~ be deprived from his rightful right of seniority and will become junior from his colleagues without no fault on his part.

6. Rejoinder is the same as in the above paras.

7. As admitted by the Respondent, appointment of ~~appellant~~ was made w.e.f 17-2-015 instead of 27-3-2012 while the rest of para is incorrect.

8. The appellant was fully entitled for appointment w.e.f. 27-3-2015 according to the decision made by the August Superior Courts in this regard.

9. Incorrect, the appeal of the appellant was well reasoned but even then the same was not considered by the respondents for ulterior motives in order to adjust their "blue eyed" for monetary gains.

10. Incorrect. The appellant may kindly be awarded remedy as prayed for, as he has established his claim through cogent reasons/record.

ON GROUNDS:


The grounds of the main appeal may kindly be treated as grounds of the

(9)

instant rejoinder and the appeal of the  
appellant may kindly be allowed  
with cost against respondents.

Any other remedy which deems fit  
in the circumstances of the case may  
kindly be awarded to the petitioner/appellant.

Dt. 16<sup>1</sup>/<sub>017</sub>

W.  
Appellant  
through  counsel.