

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT ABBOTTABAD

Service Appeal No. 885/2015

Date of Institution... 06.08.2015

Date of decision... 18.09.2017

Mst. Munnazza Khatoon, D/O Habib Shah, Government Girls Higher Secondary School No. 2 Mansehra. ... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary, E&SE, Peshawar and 2 others. .... (Respondents)

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MR. MUHAMMAD ARSHAD KHAN TANOLI,  
Advocate

... For appellant.

MR. MUHAMMAD BILAL  
Deputy District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. MUHAMMAD AMIN KHAN KUNDI,

... CHAIRMAN  
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was appointed as P.E.T (BPS-15) on 04.05.2009 and when she was posted at Government Girls Higher Secondary School No. 2 Mansehra on 07.12.2010, she was directed to teach the subject of Physical Education to higher secondary school classes till further orders. The appellant was however, not paid the emoluments of the higher post against which she was directed to officiate. The appellant then moved an application to the Secretary of the department on 02.04.2015 for her regular promotion as DPE for the reason that she was eligible for the same and had been officiating against the vacant post of DPE. Thereafter

the appellant approached the Worthy Peshawar High Court in Writ Petition which was finally withdrawn by the counsel for the petitioner (appellant) in order to seek remedy from the proper forum on 25.06.2015. Then the appellant approached this Tribunal on 06.08.2015.

### ARGUMENTS

3. The learned counsel for the appellant argued that the appellant had been officiating against the vacant post of DPE right from 01.10.2012 . That she is otherwise eligible for promotion but promotion was not given to her nor she was given the pay of of the higher post against which she has been officiating nor any additional allowance was granted to her.

4. On the other hand, the learned Deputy District Attorney, argued that there is no final or appellate order wherefrom the appellant is aggrieved. That this Tribunal has got no jurisdiction to allow promotion to any civil servant. That the post of DPE falls within the purview of Public Service Commission.

### CONCLUSION.

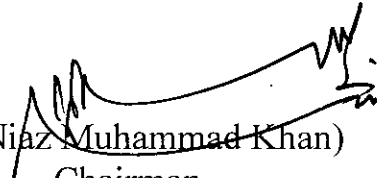
5. There is no original order wherefrom the appellant is aggrieved. She did file a departmental appeal but that appeal was confined only to her promotion to BPS-17. There is no mention of any payment of pay of higher post in that departmental appeal. The Writ Petition filed by the appellant was withdrawn by herself and it cannot be deduced from that withdrawal order that this Tribunal has the jurisdiction in the matter. It is an admitted position of law that this Tribunal cannot order for promotion of any person. At the

most the Tribunal can order for the consideration of a civil servant if otherwise he/she is eligible. It cannot be determined that whether the said post is reserved for promotion quota or direct appointment. In the present appeal this Tribunal cannot reach the conclusion that the appellant was eligible or fit for promotion and has been left out of her due promotion, therefore, no order as to the consideration of the appellant for promotion can be passed.

6. The appeal is therefore dismissed, however, the department is directed to consider the claim of the appellant for pay/additional charge allowance for the period for which she had been serving in officiating capacity on the higher post and decide the same on merit. Parties are left to bear their own costs. File be consigned to the record.



(Muhammad Amin Khan Kundi)  
Member


  
(Niaz Muhammad Khan)  
Chairman  
Camp Court, A/Abad

ANNOUNCED

18.09.2017

14.03.2017

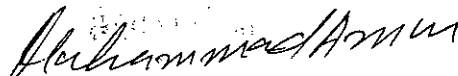
Counsel for the appellant and Mr. Muhammad Usman, Senior Clerk alongwith Mr. Muhammad Siddique, Sr.GR for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for final hearing before the D.B on 18.09.2017 at camp court, Abbottabad.


  
Chairman  
Camp Court, A/Abad

18.09.2017

Counsel for the appellant and Mr. Muhammad Bilal, Deputy District Attorney alongwith Muhammad Usraan, Senior Clerk for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, this appeal is dismissed, however, the department is directed to consider the claim of the appellant for pay/additional charge allowance for the period for which she had been serving in officiating capacity on the higher post and decide the same on merit. Parties are left to bear their own costs. File be consigned to the record room.


  
Member

  
Chairman  
Camp court, A/Abad

ANNOUNCED  
18.09.2017

15.12.2015

Counsel for the appellant and Mr. Fayaz Khan, Supdt. alongwith Mr. Muhammad Siddique, Sr. G.P for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 17.3.2016 before S.B at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

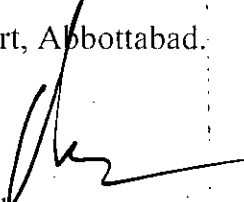
17.03.2016

Counsel for the appellant and Mr. Muhammad Usman, Senior Clerk alongwith Mr. Muhammad Saddique, Sr. GP for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 18.10.2016 at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

18.10.2016

Agent of counsel for the appellant and Mr. Muhammad Usman, Senior Clerk alongwith Mr. Muhammad Siddique, Sr. GP for the respondents present. Rejoinder submitted. Seeks adjournment as learned counsel for the appellant is not available to-day. Adjourned for final hearing before the D.B to 14.3.2017 at camp court, Abbottabad.

  
Member

  
Chairman  
Camp Court, A/Abad

18.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is PET (BPS-15) but appointed as DPE (BPS-17) since 10.10.2012 and as such entitled to the salary of DPE as well as promotion to the said position w.e.f 10.10.2012. That the appellant preferred Writ Petition which was dismissed as withdrawn with the direction to agitate the matter in the Service Tribunal where-after departmental appeal was preferred on 02.04.2015 which was not respondent and hence the present service appeal on 06.08.2015.

That the appellant is entitled to the salary as well as promotion to the position of DPE (BPS-17) w.e.f 10.10.2012 i.e the date from which the appellant is performing duties against the said post..

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 19.10.2015 before S.B at camp court A/Abad.

  
Chairman

Camp Court Abbottabad

19.10.2015

Counsel for the appellant and Mr.Muhammad Fayaz, Supdt. alongwith Mr.Muhammad Tahir Aurangzeb, G.P for respondents present. Requested for adjournment. To come up for written reply/ comments on 15.12.2015 before S.B at Camp Court A/Abad.

  
Chairman

Camp Court A/Abad.

Appellant Deposited  
Process Fee





71-5-91  
S-B at camp court A/Abad.

Form- A  
FORM OF ORDER SHEET

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

Case No. 885/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06.08.2015	<p>The appeal of Mst. Munzza Khatoon presented today by Mr. Muhammad Arshad Khan Tanoli 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	10-8-15	<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up thereon <u>18-8-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

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

Service Appeal No. 885 /2015

Munazza Khatoon daughter of Habib Shah, Govt. Girls Higher Secondary School  
No. 2, Mansehra.

....APPELLANT

**VERSUS**

Secretary Education Elementary & Secondary Education Khyber Pakhtunkhwa,  
Peshawar & others.

....RESPONDENTS

**SERVICE APPEAL**

**INDEX**

<b>S.#</b>	<b>Description</b>	<b>Page No.</b>	<b>Annexure</b>
1.	Service appeal along with affidavit	1 to 9	
2.	Copies of appointment order and transfer order	10-12	"A" & "B"
3.	Copies of degrees and experience certificate	13-17	"C" & "D"
4.	Copy of best teacher award	18	"E"
5.	Copy of letter of respondent No. 3	19	"F"
6.	Copy of appeal	20-22	"G"
7.	Copies of writ petition and order dated 25/06/2015	23-28	"H" & "I"
8.	Copy of policy on appointment and promotion	29-32	"J"
9.	Wakalatnama.	33	

...APPELLANT

Through

Dated: 5/8 /2015

(Muhammad Arshad Khan Tanoli)  
Advocate High Court, Abbottabad



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

Service Appeal No. 885 /2015

**K.W.P. Province  
Service Tribunal**

Diary No. 943

Case 06-8-2015

Munazza Khatoon daughter of Habib Shah, Govt. Girls Higher Secondary School  
No. 2, Mansehra.

....APPELLANT

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa, through Secretary Education Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
13. District Education Officer (Female), Mansehra.

....RESPONDENTS

**SERVICE APPEAL**

**SERVICE APPEAL** UNDER SECTION 4 OF KPK  
SERVICE TRIBUNAL ACT 1974, FOR THE  
DECLARATION TO THE EFFECT THAT THE  
APPELLANT IS A PET (PHYSICAL EDUCATION  
TEACHER) BUT AS PER DIRECTION BY THE  
COMPETENT AUTHORITY TO THE APPELLANT

*6/8/16*

TO TEACH THE SUBJECT OF PHYSICAL EDUCATION AS DPE TO THE HIGHER SECONDARY CLASSES IN THE SCHOOL VIDE ORDER NO. 2701-03 DATED 01/10/2012. THE APPELLANT IS TEACHING AS DPE TO HIGHER SECONDARY CLASSES (BEING QUALIFIED) IN THE SCHOOL SINCE 01/10/2012 TO TILL DATE BUT RESPONDENTS' DEPARTMENT NEITHER PERMANENTLY ABSORBED AS DPE, NOR MAKE PAYMENT OF ADDITIONAL CHARGE TO THE APPELLANT WHICH IS AGAINST THE LAW, PERVERSE, DISCRIMINATORY, MALAFIDE AND NOT MAINTAINABLE UNDER THE LAW AS WELL AS AGAINST PRECEDENT CASE LAW REPORTED 2009 SCMR-1.

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**PRAYER:** ON ACCEPTANCE OF THE INSTANT APPEAL, RESPONDENTS' DEPARTMENT MAY GRACIOUSLY BE DIRECTED TO ABSORB/ APPOINT THE APPELLANT AS DPE AGAINST THE VACANT POST IN THE SAID SCHOOL WITH EFFECT FROM THE DATE OF TEACHING HIGHER SECONDARY CLASSES I.E. 01/10/2012 AND 20% PAY FOR ADDITIONAL CHARGE MAY ALSO BE

GRANTED ON THE ANALOGY OF A SIMILAR  
CASE TITLE "MUHAMMAD RIAZ V/S GOVT. OF  
KPK & OTHERS" DECIDED BY SERVICE  
TRIBUNAL KHYBER PAKHTUNKHWA,  
PESHAWAR IN APPEAL NO. 92/95 DATED  
16/09/1996 WITH ALL SERVICE BACK BENEFIT.

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Respectfully Sheweth: -

Following are the facts, giving rise to the instant appeal;-

1. That the appellant was appointed as (PET) Physical Education Teacher in BPS-15 on 04/05/2009. The appellant was thereafter posted at Govt. Girls High School, Mansehra vide order No. 17522-26 dated 07/12/2010. Copies of appointment order and transfer order are attached as Annexure "A" & "B".
2. That, the appellant is qualified as M.Sc Health and Physical Education and having 3 years teaching experience against the post of DPE (BPS-17).

Copies of <sup>DMC<sub>3</sub></sup>~~degrees~~ and experience certificate are attached as Annexure "C" & "D".

3. That the appellant is teaching the subject of Physical Education to the Higher Secondary Classes with complete devotion and dedication. The appellant is dedicated teacher and earned best teacher certificate on Salam Teachers Day dated 05/10/2011. Copy of best teacher award is annexed as Annexure "E".
4. That a post of DPE (BPS-17) is lying vacant in the said School. That during surprise visit of respondent No. 3 in Govt. Girls Higher Secondary School, Mansehra, the appellant was directed by the competent authority to teach the subject of Physical Education to Higher Secondary Classes vide order No. 2701-03 dated 01/10/2012. Copy of letter of respondent No. 3 is attached as Annexure "F".
5. That the appellant is serving/ teaching the subject of Physical Education being qualified to the Higher Secondary Classes on the directive of respondent No. 3 with effect from 01/10/2012.

Respondents' Department neither paid extra 20% of pay for additional charge nor absorb/ appoint the appellant as DPE against the vacant post in the said school since 01/10/2012.

6. That the appellant feeling aggrieved filed departmental appeal to the respondent No. 3 for redressal of her grievances but the respondents department bother to reply to the appellant. Copy of appeal is attached as Annexure "G".

7. That the appellant filed writ petition No. 678-A/2015 before the Peshawar High Court, Abbottabad bench. The Honourable High Court directed to the appellant to approach the competent forum vide order dated 25/06/2015. Copies of writ petition and order dated 25/06/2015 is attached as Annexure "H" & "I". Hence the instant appeal is filed, inter-alia, on the following grounds;-

**GROUNDS:-**

a. That the appellant is qualified M.Sc in Health & Physical Education and school teaching the subject of Physical Education to

the Higher Secondary Classes with effect from 01/10/2012. It is submitted that a post of DPE (BPS-17) is lying vacant in the School since 2012 to till date. Hence the appellant is entitled to be absorbed/ appointed as DPE with all benefits attached to the said post with effect from the date of teaching the subject of Physical Education to the Higher Secondary Classes.

b. That as per law, appellant is also eligible to be appointed/ promoted as DPE in the respondents' Department. In this regard, the policy on appointment and promotion is attached as Annexure "J".

c. That when law prescribe something which is to be done in a particular manner that must be done in that manner and not otherwise. As per precedent case law decided by Service Tribunal, Khyber Pakhtunkhwa, Peshawar titled "Muhammad Riaz v/s Govt. of KPK" appeal No. 92/95 dated 16/07/1996 almost in a similar case granted the benefit of BPS-17 as Subject Specialist to the

appellant. Therefore the appellant is also entitled to be absorb as DPE in (BPS-17) on the analogy of judgment of Service Tribunal, Khyber Pakhtunkhwa.

- d. That once a point of law is decided by Service Tribunal or the August Supreme Court of Pakistan in a particular case that must be made applicable to all the employees who are similarly placed vide judgment of August Supreme Court of Pakistan reported 2009 SCMR-1. Hence the appellant is entitled for absorption in BPS-17 as DPE against vacant post in the said school.
- e. That there is no other prompt and efficacious remedy available to the appellant except the invocation of Constitutional Jurisdiction of this Honourable Tribunal.

It is, therefore, humbly prayed that on acceptance of the instant appeal, respondents' department may graciously be directed to absorb/ appoint the appellant as

DPE against the vacant post in the said school with effect from the date of Teaching Higher Secondary Classes i.e. 01/10/2012 and 20% pay for additional charge may also be granted on the analogy of a similar case title "Muhammad Riaz v/s Govt. of KPK & others" decided by Service Tribunal Khyber Pakhtunkhwa, Peshawar in appeal No. 92/95 dated 16/09/1996 with all service back benefit.

  
...APPELLANT


Through

Dated: 5/8 /2015

  
(Muhammad Arshad Khan Panoli)  
Advocate High Court, Abbottabad

**VERIFICATION: -**

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

  
...APPELLANT



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

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

Munazza Khatoon daughter of Habib Shah, Govt. Girls Higher Secondary School  
No. 2, Mausehra.

....APPELLANT

VERSUS

Secretary Education Elementary & Secondary Education Khyber Pakhtunkhwa,  
Peshawar & others.

....RESPONDENTS

**SERVICE APPEAL**

**AFFIDAVIT**

I, Muhammad Arshad Khan Tanoli, Advocate High Court,  
Abbottabad (Counsel for appellant), do hereby solemnly affirm and declare  
that the contents of forgoing appeal are true and correct as per information  
furnished by my client and nothing has been concealed therein from this  
Honourable Court.

  
DEPONENT

Annex "A"  
P.E.T(F)

9  
10

OFFICE OF THE EXECUTIVE DISTRICT OFFICER E&S EDUCATION MANSEHRA

ORDER

As approved by the Departmental Selection Committee, the Competent Authority has been pleased to appoint the following PET (F) (Trained) against vacant posts mentioned against each in BPS-9 @ Rs.3820-230-10720 pm plus usual allowances as admissible under the rules in the interest of Public Service with effect from the date of their taking over charge subject to the following terms & conditions:-

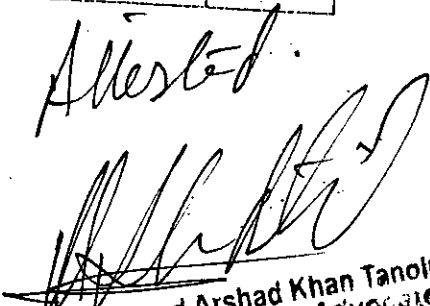
OPEN MERIT

S#	S# in M.List	NAME	FATHER NAME	ADRESS	Place of Posting	Remarks
1	1	SHAZIA KHALID	KHALID MEHMOOD	KHAWARI	GGMS L/THAKRAL	AV Post
2	2	SHAKEELA BIBI	MUHD SULEMAN	DADAR	GGMS DADAR	---do---
3	3	TABBSUM BIBI	JEHAN ZEB KHAN	BATKARAR	GGMS SANGAR	---do---
4	4	ALIA TABBASUM	PERVEZ IQBAL	BAFFA	GGMS MALIKAN	---do---
6	6	IRUM KHAN	MUHD MISKEEN KHAN	BAMPHORA	GGHS KAWAI	---do---
5	5	TOSHEEBA SHAH	SHAH MUHAMMAD	MUFTIABAD	GGMS HASSARI	---do---
7	7	ASIA ZEB	AURANG ZEB	MALIK PUR	GGMS CHAMYAL	---do---
8	8	FOZIA BIBI	MUHD YOUNIS	MANSEHRA	GGMS SAWAN MERA	---do---

BATCH-WISE

S#	S# in M.List	NAME	FATHER NAME	ADRESS	Place of Posting	Remarks
1	1	AMBER JABEEN	MUHD AJOON KHAN	KHARAR MERA	GGMS NARA DOGA	AV Post
2	2	TAMANA BIBI	R.MUHD SAFDAR	BEHALI	GGMS BAI BALA	---do---
3	3	IRUM SHAHZADI	MUHD NAZIR	BAFFA	GGMS DHARYAL	---do---
4	4	SHREEN GUL	BABU FAZAL DAD	BAFFA	GGMS TANDA	---do---
5	5	MUNAZA KHATOON	HABIB SHAH	MANSEHRA	GGMS MERA AMJAD ALI	---do---
6	6	SHAGUFTA SHAHEEN	HAYAT KHAN	SOKAR	GGMS JISGRAN	---do---
7	7	SADIA NAZ	SARWAR REHMAN	GULIBAGH	GGMS AHL	---do---
8	8	SITARA JABEEN	SARFRAZ	GANDHIAN	GGMS ICHRIAN	---do---
9	9	MEHNAZ	AURANG ZEB	BELA MUTRIAN	GGMS AGLA GRAN	---do---
10	10	BUSHRA AZIZ	AZIZ MUHAMMAD	THAKAR MERA	GGHS PERHINNA	---do---
11	11	SAMAVIA JEHANZEB	JEHAN ZEB	MUTRIAN	GGMS MANDA GUCHA	---do---
12	12	IRUM SHAHEEN	AURANG ZEB	DATTA	GGMS KANDAR	---do---
13	13	BIBI SOMIA	ABDUR RASHEED	KHAWARI	GGMS GHANOOL	---do---

HDO

Attested  
  
 Muhammad Arshad Khan Tanoli  
 Advocate  
 Distt: Courts Abbottabad

14	18	SHAMAILA BIBI	MURAD KHAN	KHAKI	GGMS TRAWARA	---do---
15	19	NAVED AKHTER	HAYAT KHAN	SOKAR	GGMS BELIAN	---do---
16	20	FAZAILA HASSAN	GUL HASSAN KHAN	SHOHAL NAJAF	GGHSS G.H.ULLAH	---do---
17	21	SADAF BIBI	JEHAN ZEB KHAN	BATKARAR	GGMS MOHANDRI	---do---
18	22	SOBIA ROSHAN	MUHD ROSHAN KHAN	KHAWARI	GGMS M.B.KALAN	---do---
19	23	ANEESA BIBI	UMER ZEB KHAN	BATKARAR	GGMS BELA SACHA	---do---
20	24	BIBI SHABNUM	MUHD HAROON	MANSEHRA	GGMS TRAPPI	---do---
21	25	FARAH NAZ	SULTAN MUHD KHAN	BALAKOT	GGHSS BALAKOT	---do---
22	26	NAZIA JABEEN	NOOR UL ISLAM	DAB NO.1	GGMS DOGA	---do---
23	27	SAEEDA BEGUM	MUHD IRFAN	DARBAND	GGMS CHANSAIR	---do---
24	28	NAZISH JABEEN	BANARAS KHAN	CHAKIA	GGHS L/NAWAB	---do---
25	29	SANAM MUSHTAQ	MUSHTAQ AHMAD	BEHALI	GGHS PHULRA	---do---

### TERMS & CONDITIONS:

1. Their appointments are purely on temporary basis and liable to termination at any stage without assigning any reason/notice.
2. They will be governed by such rules and regulations enforce and as may be prescribed by the Government from time to time for the category of the Government servants to which they belong.
3. In case they failed to assume the charge of their posts within 15 days of their appointment, candidature-ship will be stand automatically cancelled.
4. Their services are regular but will not be entitled for pension/gratuity & they will not contribute any amount towards GP Fund however they will contribute CP fund on the prescribed rate & half contribution will be made by the Government.
5. All the DDOs are directed to get verified their credentials before the drawl of their pay etc.
6. Their services are liable to termination on one month prior notice from either side in case of resignation without prior notice. Their one month pay/allowances if any shall be forfeited to Government Treasury.
7. Their services can be terminated at any time in case their performance is found unsatisfactory any they will be proceeded against under the removal from service (Special Power) Ordinance, 2000 and E&D.Rules 1973.
8. They should produce Age & Health Certificate from the MS DHQ Hospital Mansehra.
9. They may not be handed over the charge if their age is above 33 years and below 18 years.
10. They, who passed their professional qualification from Sarhad University, are bound to produce three months refresher course in the relevant field from the RITE in accordance

A. Ustod

Muhammad Arshad Khan Tanoli  
Distt. Courts Abbottabad

with the instructions issued from the Government of NWFP Elementary & Secondary Education Department Peshawar No. SO(B/D)S&L/1-1/2007/Sarhad University/dated Peshawar the 09-07-2008.


11. No. TA/DA etc is allowed.
12. Charge report should be submitted to all concerned in duplicate.

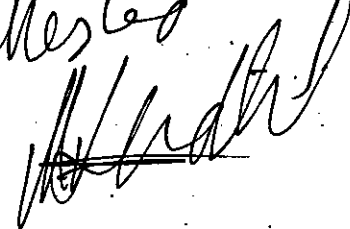
Sd/-  
(MUHAMMAD JAVED)  
EXECUTIVE DISTRICT OFFICER  
E&S EDU: MANSEHRA

Endst: No. 6724-66 Appt: PET(F)/2008-09 Dated Mansehra the 4-5-2009  
Copy to the:-

1. Secretary to Govt: of NWFP (S&L) Department Peshawar.
2. Director (S&L) Department NWFP Peshawar.
3. District Accounts Officer, Mansehra.
- 5-6. DO (M&F) Local Office.
7. Principal/HM School concerned.
8. PA to District Nazim, Mansehra.
9. PA to District Coordination Officer, Mansehra.
10. Budget & Accounts Officer, local office, Mansehra.
- 11-43 Candidates concerned.

  
D.O.

  
DISTRICT OFFICER (FEMALE)  
E&S EDU: MANSEHRA

Attested  


OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&amp;S) EDUCATION, MANSEHRA.

ADJUSTMENT/Transfer.

As approved by the competent authority the following PET(F) are hereby ordered on their own pay and grade in the interest of public service.

S.No	Name/Class/School.	To	From
1.	Manaza Khatoon PET GGMS M.A.Ali.	GGHS No 2 Mansehra.	Vice No 3.
2.	Iffhat Shehwar PET GGHS No 2 Mansehra	GGHS No 1 Mansehra.	Vice No 3
3.	Iffhat Jabeen PET GGHS No 1 Mansehra.	Who has been selected as ADO(F)	

NOTE:- Order should be implement w.e.f the dated of promotion of Mst:Iffhat Jabeen PET as ADO(F)

2. Charge report should be submitted to all concerned.
3. No TA/DA is allowed.

3d-  
EXECUTIVE DISTRICT OFFICER  
(E&S) EDUCATION MANSEHRA.

Endst: No 17522-26 /AE-II/Transfer/Dated 7/12 /2010.

Copy to the:-

1. District Accounts Officer Mansehra.
2. Principal GGHS No 1 Mansehra.
- 3-4. Headmistress GGHS No 2 Mansehra/GGMS M.A.Ali.
5. Teacher concerned.

*Ramona*  
DISTRICT OFFICER (FEMALE)  
(E&S) EDUCATION MANSEHRA.

Attested

*Muhammad Arshad Khan Tanzeel*

Muhammad Arshad Khan Tanzeel  
Advocate  
District Council Mansehra

DMC No. SU/ 14845

## Detailed Marks Certificate

Fall 2011

Annex "C"  
(14)



Student's Name	Munaza Khatoon	Roll No.	10-FA-33654
Father's Name	Habib Shah	Registration No.	SUIT-10-01-60033
Programme	Master of Health & Physical Education - M.Sc. (HPE)	Term No.	2

Courses	Max Marks	Marks Obtained		Remarks
		In Fig.	In Words	
Psychology of Sports	100	058	Fifty Eight	Pass
Research Method in Physical Education	100	059	Fifty Nine	Pass
Test, Measurement & Evaluation in Physical Edu.	100	055	Fifty Five	Pass
Science of Sports Training	100	059	Fifty Nine	Pass
Quantitative Research Methods	100	059	Fifty Nine	Pass
Qualitative Research Methods	100	063	Sixty Three	Pass
Administration & Management in Physical Education	100	055	Fifty Five	Pass
<b>Total</b>	<b>700</b>	<b>408</b>	<b>Four Hundred Eight</b>	<b>Pass</b>

**General Remarks** The Examination was passed in parts in 2nd division

Exam held 04-Feb to 09 Mar, 2012

Result declared April 14, 2012

Date of issue September 05, 2012

Dean

*(Errors and omissions are subject to subsequent rectification)*

Controller of Examinations

*Attested*  
  
Muhammad Arshad  
Advocate  
Distt: Courts Abbottabad

## Detailed Marks Certificate

DMC No. SU/ 05454

15



Examination - Spring 2010

Student's Name	<u>Munazza Khatoon</u>	Roll No.	<u>09-FA-19446</u>
Father's Name	<u>Habib Shah</u>	Registration No.	<u>SUIT-09-01-69028</u>
Programme	<u>Senior Diploma in Health &amp; Physical Education</u>	Term No.	<u>2</u>

Courses	Max Marks	Marks Obtained		Remarks
		In Figures	In Words	
Philosophical Basis of Physical Education	100	064	Sixty Four	Pass
Science of Track & Field	100	061	Sixty One	Pass
Advance Health Education	100	062	Sixty Two	Pass
Rules & Techniques of Games & Sports	100	068	Sixty Eight	Pass
Bio Mechanics	100	056	Fifty Six	Pass
Technique & Teaching of Edu. of Gymnastic (Pract.)	100	076	Seventy Six	Pass
Technique & Teaching of Track & Field (Pract.)	100	075	Seventy Five	Pass
Sports Medicine	100	063	Sixty Three	Pass
Technique & Teaching of Games (Pract.)	100	080	Eighty Only	Pass
Teaching Practice + Project - SDPE	150	131	One Hundred and Thirty One	Pass
<b>Total</b>	<b>1050</b>	<b>736</b>	<b>Seven Hundred and Thirty Six</b>	<b>Pass</b>

**General Remarks** The Examination was passed as a Whole in 1st division

Exam held 12-Jul to 10-Aug, 2010      Result declared October 25, 2010      Date of issue February 26, 2011

Dr. A. B. Khan  
Dean

*(Signatures)*

Sais-  
Controller of Examinations

*(Errors and omissions are subject to subsequent rectification)*

# 30-B, CHINAR ROAD, UNIVERSITY TOWN, PESHAWAR  
Tel : +92-91-5846508-9, 5846516-8, Fax : +92-91-5841460



# SARHAD UNIVERSITY

OF SCIENCE & INFORMATION TECHNOLOGY, PESHAWAR

## Detailed Marks Certificate

18

DMC No. SU/03574

### Junior Diploma in Physical Education Annual Examination 2005

Name: **Munaza Khatoon**

Reg. No: **SUIT-04-01-DPE0151**

Father's Name: **Habib Shah**

Roll. No: **04-FA/02458**

Program: **Junior Diploma in Physical Education (JDPE)**

Session: **2004-2005**


Faculty: **Sciences**

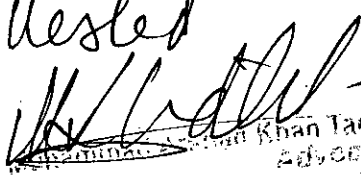
Completion Date: **27 Sep, 2005**

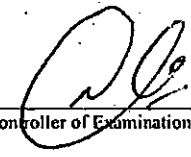
SUBJECTS	Maximum Marks	MARKS OBTAINED	
		In Figures	In Words
Anatomy & Physiology	100	57	Fifty Seven
Fundamental Rules of Games & Sports	100	46	Forty Six
Principles, Organization & Administration of Physical Education	100	75	Seventy Five
Track & Field	100	77	Seventy Seven
Health Education	100	60	Sixty Only
Science of Movement	100	58	Fifty Eight
Techniques & Teachings of Games - Practical	100	51	Fifty One
Techniques & Teachings of Track & Field - Practical	100	59	Fifty Nine
Techniques & Teachings of Educational Gymnastic - Practical	100	53	Fifty Three
Teaching Practice	100	72	Seventy Two
Project - (Scouting/Senior Guide, Hiking, Civil Defense, First Aid Training)	50	27	Twenty Seven
<b>Total</b>	<b>1050</b>	<b>635</b>	<b>Six Hundred &amp; Thirty Five</b>

The Examination was passed as a Supplementary in First division  
Examination Held from 22 Mar. to 07 Apr, 2006  
Result Declared on July 19, 2006

END OF DMC

  
\_\_\_\_\_  
Dean

*Attested*  
  
\_\_\_\_\_  
Advocate  
Dist: Courts Abbottabad

  
\_\_\_\_\_  
Controller of Examinations

(Errors and omissions are subject to subsequent rectification)



Annex "D"

178

PERFORMANCE CERTIFICATE

Certified that Mst: Munaza Khatoon D/O Habib Shah has been working in education Department since 01/12/2002. Presently she is working as PET BPS-15, at Government Girls Higher Secondary School No.2 Mansehra.

She belongs to a respectable family of the District and bears good moral character. She is performing her duty to the entire satisfaction of her superior. She is a qualified teacher having her MSc degree in (Health & physical Education).

She is teaching Health & physical Education to 1<sup>st</sup> year and 2<sup>nd</sup> year's students and as per BISE Abbottabad, her result in subject of Health & Physical Education is 100% for the Last 2 $\frac{1}{2}$  years. She is committed to her Job and performing the duty punctually, honestly & is considered as highly alert and responsible teacher.

*[Signature]*  
31-03-15

PRINCIPAL,

GOVT: GIRLS HIGHER SECONDARY SCHOOL  
NO.2 MANSEHRA

COUNTERSIGNED

*[Signature]*  
DISTRICT EDUCATION OFFICER  
(FEMALE) MANSEHRA  
District Education Officer  
(Female) Mansehra

*A. Ustaid*

*[Signature]*  
Muhammad Arshad Khan Tanoli  
Advocate  
Distt: Courts Abbottabad

18

Annex "E" 11

"ہم اپنے اساتذہ کی عظمت کو سلام پیش کرتے ہیں"

Elementary & Secondary Education Department Mansehra



Best Teacher Certificate

is awarded to Miss. MUNAZA KHATOON Desig: PET  
School G.G.H. O.2 MANSEHRA in recognition of his/her  
services for the Education Department specially for uplifting of the  
Quality Education in the District Mansehra on the occasion of

"Salam Teacher Day"

5th Oct, 2011

*Khān Muhammad*  
District Officer (Male)  
E&SE Mansehra

*Umar Khan Kundi*  
Executive District Officer  
E&SE Mansehra

*Atishat*  
Advocate  
District Court Mansehra

EXECUTIVE DISTRICT OFFICER  
ELEM. & SEC'DY. EDU. MANSEHRA

District Officer  
Elementary & Secondary  
Education Mansehra

**OFFICE OF THE EXECUTIVE DISTRICT OFFICER**  
**ELEMENTARY AND SECONDARY EDUCATION**  
**MANSEHRA**

No. 2701-03  
Dated: 01/10/2012

**OFFICE ORDER**

During the surprise visit at GGHSS NO. 02 Mansehra, an issue was brought into the notice of undersigned.

The students of Higher Secondary classes in the subject of Physical Education are suffering as the post of DPE is lying vacant since its sanction.

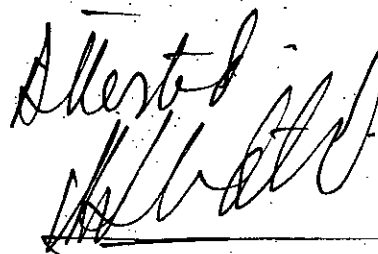
To resolve this issue Mst. Munaza Khatoon PET (BPS-15) of GGHSS NO. 02 Mansehra is hereby directed to teach the subject of Physical Education at Higher Secondary classes / level as DPE (being qualified) till further order.

-----Sd-----

EXECUTIVE DISTRICT OFFICER  
ELEMENTARY AND SECONDARY  
EDUCATION MANSEHRA

Copy of the: -

1. Principal GGHSS No. 02 Mansehra
2. Teacher concerned
3. Office file.



Muhammad Arshad Khan Tanoli  
Advocate  
Distt. Courts Abbottabad

EXECUTIVE DISTRICT OFFICER  
ELEMENTARY AND SECONDARY  
EDUCATION MANSEHRA

بخدمت جناب سیکرٹری صاحب ایلمنٹری اینڈ سیکنڈری ایجوکیشن صوبہ خیبر پختونخواہ پشاور  
عنوان:- محکمہ اہل

جناب عالی!

۱- منوڈ بانہ گزارش ہے کہ سائلہ حکم نمبری 7736-7801 بتاریخ 28.11.2002 کو محکمہ تعلیم میں بحیثیت PTC تعینات ہوئی تھی اور سائلہ نے 01.12.2002 کو اپنا چارج لیا۔ (آرڈر لف ہے)۔

۲- یہ کہ محکمہ تعلیم کے مجاز افسر صاحب نے بذریعہ حکم نمبری 66-6724 مورخہ 04.05.2009 کو سائلہ کا PET پوسٹ پر تعیناتی کا حکم جاری کیا اور گورنمنٹ گرلز مڈل سکول میرا امجد علی میں بطور PET تعینات کر دیا۔ (آرڈر لف ہے)۔

۳- یہ کہ محکمہ تعلیم کے مجاز افسر نے سائلہ کو بذریعہ حکم نمبری 26-17522 مورخہ 07.12.2010 کو گرلز مڈل سکول میرا امجد علی سے گورنمنٹ گرلز ہائی سکول نمبر 02 مانسہرہ میں ٹرانسفر کر دیا۔ (آرڈر لف ہے)۔

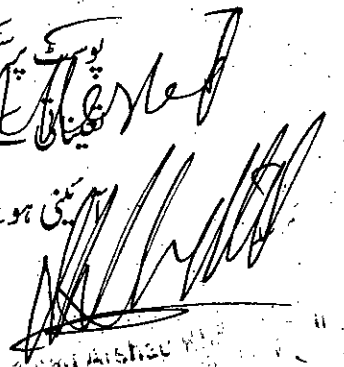
۴- جناب والا! یہاں یہ امر قابل ذکر ہے کہ سائلہ کو جب گورنمنٹ گرلز ہائی سکول نمبر 02 مانسہرہ میں تعینات کیا گیا تو بعد میں مذکورہ ہائیر سیکنڈری ہو گیا اور اس میں DPE کی پوسٹ بھی منظور ہوئی لیکن اس پوسٹ پر DPE کی تعیناتی نہیں کی گئی بلکہ سائلہ کو ایگزیکٹو ڈسٹرکٹ آفیسر ایجوکیشن مانسہرہ کے حکم کے تحت ہائیر سیکنڈری کلاسز کو ہیلتھ اینڈ فزیکل ایجوکیشن بطور DPE پڑھانے کا حکم صادر ہوا اور سائلہ عرصہ (2-1/4) سوا دو سال سے DPE کے مضامین یعنی فزیکل ایجوکیشن پڑھا رہی ہے اور سائلہ کا ریزلٹ بھی بہترین آرہا ہے جس کا واضح ثبوت موجود ہے۔ (اس حوالے سے ایگزیکٹو ڈسٹرکٹ آفیسر ایجوکیشن مانسہرہ کا حکم لف ہے)۔

۵- یہ کہ سائلہ نے DPE کی جملہ کوالیفیکیشن یعنی M.Sc Health & Physical کی تعلیم حاصل کر رکھی ہے اور DPE کے جملہ مضامین بھی پڑھا رہی ہے اور سائلہ ہر لحاظ سے DPE

پوسٹ پر سکیل 17 کی حقدارہ ہے لیکن DEO (Female) مانسہرہ نے DPE پوسٹ پر

تعیناتی کے بجائے سائلہ کو PET پوسٹ پر ہی رکھا ہوا ہے جو کہ حکم افسر مجاز غیر قانونی وغیر

مبنی ہونے کے ساتھ ساتھ حکومت کی پالیسیوں اور نوٹیفیکیشنز کی بھی خلاف ورزی ہے جبکہ

  
Muhammad Ashtab  
Distt. Courts Abbottabad

سائلہ نے اس نسبت DEO(Female) مانسہرہ کو درخواست دے رکھی ہے۔ (نقل  
درخواست لف ہے)۔

۶۔ یہ کہ سائلہ عرصہ (2-1/4) سوادوسال سے DPE پوسٹ پر کام کر رہی ہے اور ان (2-1/4) سوا  
دوسالوں کا بہترین ریزلٹ سائلہ کی پیشہ ورانہ مہارت اور محنت کا منہ بولتا ثبوت ہے۔

۷۔ یہ کہ سائلہ کو گزشتہ عرصہ (2-1/4) سوادوسال سے DPE پوسٹ پر سکیل 17 کے مراعات سے  
محروم رکھا گیا ہے جبکہ سائلہ کی تعلیمی قابلیت اور اس پوسٹ کے لیے دیگر لوازمات پوسٹ کے  
مطلوبہ معیار کے عین مطابق ہیں۔

۸۔ اس حوالے سے سروں ٹریبونل کے فیصلہ اپیل نمبر 92/95 محررہ 16.07.1996 کے تحت  
ایک شخص محمد ریاض کو SET پوسٹ سے بطور Subject Specialist تعینات کیا۔  
(فیصلہ لف ہے)۔

لہذا استدعا ہے کہ سائلہ کو DPE پوسٹ پر باقاعدہ سکیل 17 میں بمعہ جملہ  
مراعات Appoint کرنے کا حکم صادر فرمایا جائے اور سائلہ کو اسی پوسٹ پر اسی سکول میں  
ترقی دی جائے۔ تا فیصلہ اپیل کسی بھی طرح سے گورنمنٹ گرلز ہائیر سیکنڈری سکول نمبر 02 مانسہرہ  
میں DPE کی تعیناتی نہ فرمائی جاوے۔

المرقوم  
02-4-2002

الارض

منزہ خاتون PET گورنمنٹ گرلز ہائیر سیکنڈری سکول نمبر 02 مانسہرہ

Attested  
Muhammad Aslam Khan Tanoli  
Advocate  
Distt: Courts Abbottabad

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحب (زنانہ) محکمہ تعلیم مانسہرہ (22)

عنوان: اپیل بمراد DPE پوسٹ

جناب عالیہ!

مودبانہ گزارش یکہ سالہ آرڈر نمبر 7736-7801 بتاریخ 28-11-2002 کو محکمہ تعلیم میں بحیثیت PTC تعینات ہوئی تھی اور اپنا چارج 01-12-2002 کو لیا۔

بعد ازاں میرا آرڈر PET پوسٹ پر آرڈر نمبر 66-6724 مورخہ 04-05-2009 کو گورنمنٹ گرلز ہائی اسکول میرا امجد علی میں ہوا۔

جناب عالیہ! ای ڈی او صاحب ضلع مانسہرہ کے حکم نمبر 22-26 مورخہ 07-12-2010 کے تحت میرا تبادلہ گورنمنٹ گرلز ہائی اسکول میرا امجد علی سے گورنمنٹ گرلز ہائی اسکول نمبر 02 مانسہرہ میں ہوا۔

جب میرا تبادلہ گورنمنٹ گرلز ہائی اسکول نمبر 02 مانسہرہ میں ہوا تو بعد میں مذکورہ اسکول ہائیر سیکنڈری ہو گیا اور فرسٹ ایئر کی کلاس بھی شروع ہوئی فرسٹ ایئر کی فیزیکل ایجوکیشن پڑھانے کے لئے DPE تعینات نہیں کی گئی اس وقت سے لے کر آج تک میں فرسٹ ایئر اور سیکنڈ ایئر کو DPE کے مضامین یعنی فیزیکل ایجوکیشن پڑھا رہی ہوں فیزیکل ایجوکیشن کے مضامین پڑھاتے ہوئے مجھے دو سال سے بھی زائد کا عرصہ ہو چکا ہے میرا ان دو سالوں کا بورڈ کا ریزلٹ بھی بہترین ہے۔

سالہ نے DPE کی جملہ کوالیفیکیشن یعنی فیزیکل ایجوکیشن میں M.Sc کی ہوئی ہے اور DPE کے جملہ مضامین بھی پڑھا رہی ہے اور سالہ ہر لحاظ سے DPE پوسٹ پر سکیل 17 میں ترقی کی حقدار ہے۔ یہ کہ سالہ عرصہ دو سے سال DPE پوسٹ پر کام کر رہی ہے اور ان دو سالوں کا سو فیصد ریزلٹ سالہ کی پیشہ ورانہ مہارت اور محنت کا منہ بولتا ثبوت ہے۔

جناب عالیہ! سالہ کو گزشتہ دو سال سے DPE پوسٹ پر سکیل 17 کے مراعات سے محروم رکھا گیا ہے جبکہ سالہ کی تعلیمی قابلیت اور اس پوسٹ کے لئے دیگر لوازمات پوسٹ کے مطلوبہ معیار کے عین مطابق ہیں۔

لہذا استدعا ہے کہ سالہ کو DPE پوسٹ پر باقاعدہ سکیل 17 میں بمعہ جملہ مراعات Appoint کرنے کا حکم صادر فرمایا جائے اور سالہ کو اسی پوسٹ پر اسی اسکول میں ترقی دی جائے۔

عین گزارش ہوگی۔

المقوم: 12 اکتوبر 2014ء

ارض

منزہ خاتون پی ای ٹی گورنمنٹ گرلز ہائیر سیکنڈری اسکول نمبر 2 مانسہرہ

Muhammad Arshad Khan Tanchi  
Advocate  
Distt: Courts Abwatsbad

Annex "H"

23

**BEFORE THE PESHAWAR HIGH COURT**

**BENCH ABBOTTABAD**

WP 678 M/15



Munazza Khatoon D/O Habib Shah Govt. Girls Higher  
Secondary School No 2 Mansehra

.....Petitioner

**VERSUS**

1. Secretary Education Elementary and Secondary Education KPK Peshawar.
2. Director Elementary and Secondary Education, KPK Peshawar.
3. District Education Officer (Female) Mansehra.

.....Respondents

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 FOR DECLARATION TO BE EFFECT THAT THE PETITIONER IS A PET (PHYSICAL EDUCATION TEACHER) BUT AS PER DIRECTION BY THE COMPETENT AUTHORITY TO THE PETITIONER TO TEACH THE SUBJECT OF PHYSICAL EDUCATION AS DPE TO THE HIGHER SECONDARY CLASSES IN THE SCHOOL VIDE ORDER NO 2701-03 DATED 1.10.2012. THE PETITIONER IS TEACHING AS DPE TO HIGHER SECONDARY CLASSES (BEING QUALIFIED) IN THE SCHOOL SINCE 1.10.2012 TO TILL DATE BUT RESPONDENTS' DEPARTMENT DID NOT PERMANENTLY ABSORBED THE PETITIONER AS DPE WHICH IS AGAINST THE LAW, PERVERSE, DISCRIMINATORY, MALAFIDE AND NOT MAINTAINABLE.**

2774  
024.6.15  
Certified to be True Copy  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Sec 75 Acts Ordms

FILED TODAY  
Additional Registrar  
Peshawar High Court  
Abbottabad Bench

24

UNDER THE LAW AS WELL AS AGAINST  
PRECEDENT CASE LAW REPORTED 2009  
SCMR -1.

Prayer:

ON ACCEPTANCE OF INSTANT WRIT  
PETITION RESPONDENTS' DEPARTMENT  
MAY GRACIOUSLY BE DIRECTED TO  
ABSORB/APPOINT THE PETITIONER AS  
DPE AGAINST THE VACANT POST IN THE  
SAID SCHOOL WITH EFFECT FROM DATE  
OF TEACHING HIGHER SECONDARY  
CLASSES I.E .1.10.2012 AND 20% PAY  
FOR ADDITIONAL CHARGE MAY ALSO BE  
GRANTED ON THE ANALOGY OF A  
SIMILAR CASE TITLE MUHAMMAD RIAZ  
VS GOVT. OF KPK & OTHERS DECIDED  
BY KPK SERVICE TRIBUNAL IN APPEAL  
NO 92/95 DATED 16.9.1996 WITH ALL  
SERVICE BACK BENEFIT.

Respectfully Sheweth,

1. That, the petitioner was appointed as (PET) Physical Education Teacher in BPS-15 on 4.5.2009. The petitioner was thereafter posted at Govt. Girls High School Mansehra vide order No 17522 -26 dated 7.12.2010. Copies of appointment order and transfer order are attached as annexure "A" & "B"
2. That, the petitioner is qualified as M. Sc Health & Physical Education and having 3 year teaching experience against the post of DPE (BPS-15)

NO 2774  
24-6-15

**TRIBUNAL**  
Certified to be True Copy  
Examined  
Additional Sessions Court  
Peshawar  
Abstrained Bench  
Authorized under Section 40 of the  
Abolition of Sittings of Courts Act, 1974  
24/6/15



Copies of degrees & experience Certificate are attached as annexure "C" & "D".

- 3. That the petitioner is teaching the subject of Physical Education to the Higher Secondary Classes with complete devotion and dedication. The petitioner is dedicated teacher and earned best teacher Certificate on Salam Teacher Day dated 5.10.2011. Copy of best teacher award is annexed as Annexure "E"
- 4. That, a post of DPE (BPS-17) is lying vacant in the said School. That during surprise visit of respondent No 3 in Govt. Girls Higher Secondary School Mansehra, the petitioner was directed by the competent authority to teach the subject of Physical Education to Higher Secondary Classes vide order No 2701-03-1.10.2012. Copy of letter of Respondent No 3 is attached as annexure "F".
- 5. That, the petitioner is serving/teaching the subject of Physical Education being qualified to the Higher Secondary Classes on the directive of Respondent NO 3 with effect from 1.10.2012. Respondents' Department neither paid extra 20% of pay for additional charge nor absorb/appoint the petitioner as DPE against the vacant post in the said School since 1.10.2012.
- 6. That, the petitioner feeling aggrieved, filed Departmental appeal to respondent No 3 for redressal of her grievances but the respondent department bother to reply to the petitioner. Copy of appeal is attached as annexure "G". Hence the instant writ petition is filed inter-alia on the following grounds

**GROUND**

- I. That the petitioner is qualified M.Sc in Health and Physical Education and she is teaching the subject of Physical Education

Additional Teaching  
Peshawar High Court  
Abbottabad Bench

Certified to be True Copy

03/10/12

Examiner  
Peshawar High Court  
Abbottabad Bench  
Authorized under Sec 75 Act 1973

to the Higher Secondary Classes with effect from 1.10.2012. It is submitted that a post of DPE (PBS-17) is lying vacant in the School since 2012 to till date. Hence the petitioner is entitled to be absorbed/appointed as DPE with all benefits attached to the said post with effect from the date of teaching the subject of physical education to the Higher Secondary Classes.

II. That as per Law, petitioner is also eligible to be appointed/promoted as DPE in the respondents' Department. In this regard, the policy on appointment and promotion is attached as annexure "H".

III. That when Law prescribe something which is to be done in a particular manner that must be done in that manner and not otherwise. As per precedent case law decided by KPK Service Tribunal titled Muhammad Riaz VS Govt. of KPK appeal No 92/95 dated 16.7.1996 almost in a similar case granted the benefit of BPS-17 as subject Specialist to the appellant. Therefore the petitioner is also entitled to be absorb as DPE in (BPS-17) on the analogy of judgment of KPK Service Tribunal. Copy of Judgment of Service Tribunal is attached as Annexure "I".

IV. That, once a point of Law is decided by Service Tribunal or the August Supreme Court of Pakistan in a particular case that must be made applicable to all the employees who are similarly placed vide judgment of August Supreme Court of Pakistan reported 2009 SCMR -1. Hence the petitioner is entitled for absorption in BPS 17 as DPE against vacant post in the said School.

Certified to be True Copy.  
Peshawar High Court  
Abdoolkader Barch  
[Signature]

27

V. That there is no prompt and efficacious remedy available to the petitioner except the invocation of Constitutional Jurisdiction of this Honourable Court.

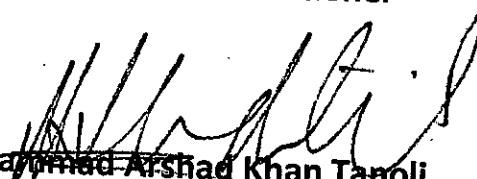
VI. Court Fee attached Rs. 500/-

It is, therefore, prayed that On acceptance of instant writ Petition respondents' department may graciously be directed to absorb/appoint the petitioner as DPE against the vacant post in the said school with effect from date of teaching Higher Secondary Classes i.e .1.10.2012 and 20% pay for additional charge may also be granted on the analogy of a similar case title Muhammad Riaz VS Govt. of KPK & others decided by KPK Service Tribunal in Appeal No 92/95 dated 16.9.1996 with all service back benefit.

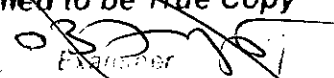
Dated:-----/2015

Petitioner

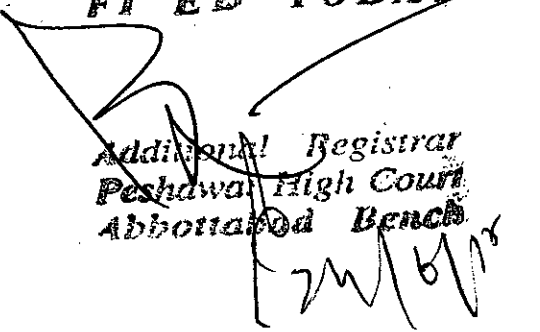
Through

  
Muhammad Arshad Khan Tanoli  
Advocate, High Court  
Abbottabad

Certified to be True Copy

  
Examiner  
Peshawar High Court  
Abbottabad Bench  
Authorized Under Sec 75 Acts Ordms

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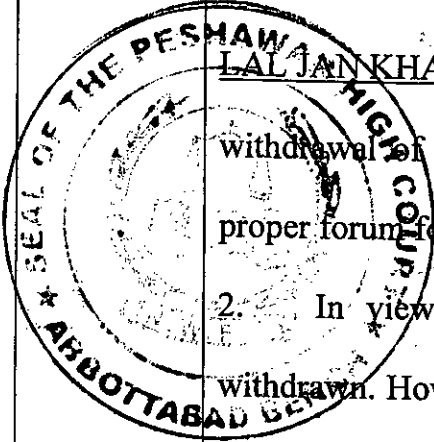
  
Additional Registrar  
Peshawar High Court  
Abbottabad Bench

Annen I

PESHAWAR HIGH COURT ABBOTTABAD BENCH  
FORM 'A'  
FORM OF ORDER SHEET

28

Date 1.	Order of the Court with signature of Honourable Judge (s) 2.
25.6.15	<p>WP No. 678-A/2015</p> <p>Present: Mr. Muhammad Arshad Tanoli advocate for the petitioner.</p> <p>*****</p> <p><u>LAL JANKHATTAK J.</u> Learned counsel for the petitioner seeks withdrawal of the instant writ petition in order to seek remedy from the proper forum for redressal of the petitioner's grievance..</p> <p>2. In view of the above, the instant writ petition is dismissed as withdrawn. However, petitioner would be at liberty to seek her remedy from the proper for the redressal of her grievance, if any.</p> <p style="text-align: right;">SD JUDGES</p>



Certified to be True Copy

03/7/15  
Examiner

Peshawar High Court  
Abbottabad Bench

Authorized Under Sec 75 Acts Ordms



2/10

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

32

Endst : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA.
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
22. Master file

Attested  
[Signature]

Muhammad Arshad Khan  
Advocate  
Distt: Courts Abbottabad

[Signature]  
(ZARIN IFTIKHAR MOMAND)  
SECTION OFFICER (PRIMARY)

(7)

Annex "J"

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

29

Peshawar, dated the 24<sup>th</sup> July, 2014.

تنظیم اساتذہ پالتا کپی - خیراتلہ ذوالحجہ، سید فتح شاہ جاہا، شاہ پور محمد لوہر، سکول ذوالشہادہ پشاور  
03339-18249 / 0300-5642594 / 0300-5737622 / 0301-8915658



NOTIFICATION

No.SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No.SO(G)S&LD/1-28/2003/Vol-II dated, 09-04-2004, Notification No.SO(G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and Notification No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

Serial No. 1 shall be renumbered as 1B and before Serial No. 1B, as so renumbered, the following new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1	Subject Specialist (BPS-17)	i. At least second class Master's Degree or four years BS Degree in the relevant subject; and  ii. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualification from a recognized University.	23 to 35 years	(a) Fifty per cent by promotion, on the basis of seniority cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16), with at least five years service as such and having qualification mentioned in column No. 3.  Note: If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial

Muhammad Asif  
District Officer, Abbottabad

Handwritten notes in Urdu, including "DPE", "بھارتی", "پاکستانی", "مدرسہ", "اساتذہ پالتا", "کپی", "خیراتلہ ذوالحجہ", "سید فتح شاہ جاہا", "شاہ پور محمد لوہر", "سکول ذوالشہادہ پشاور", "03339-18249", "0300-5642594", "0300-5737622", "0301-8915658".

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1A	Director Physical Education (BPS-17)	At least second class Master's Degree in Physical Education from a recognized University.	22-35 years	<p>recruitment; and (b) fifty percent by initial recruitment. 0323-5842594.</p> <p>(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Physical Education Teachers (BPS-16), with at least five years service as Senior Physical Education Teacher and Physical Education Teacher and having qualification mentioned in column No. 3:</p> <p>Provided that if no suitable person is available from amongst Senior Physical Education Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst the Physical Education Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>Note:- If no suitable candidate is available in the relevant cadres of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment; and (b) fifty percent by initial recruitment; and</p>
----	--------------------------------------	---	-------------	--

*Shahid*  
*M. H. Khan*  
Shahid  
Advocate  
Khan Tanvir  
Abulabad



(ii) against Serial No. 1B, as so renumbered, for the existing entries, the following shall be substituted, in respective columns, namely:

Tanzim-e-Akshaya KPLA .0301-891565B-0300-5642594

1	2	3	4	5
"1B.	Secondary School Teacher (BPS-16)	<p>I. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology), Or (b) (Physics, Maths "A" or "B" or Statistics) Or (c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p>and</p> <p>II. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualifications from a recognized University.</p>	21 to 35 years.	<p>1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner:</p> <p>(a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters(BPS-16), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3:</p>

Muhammad Arshad Khan Tanoli  
 District Courts, District  
 (3)

30

Tanzeem e Aqada U.P.

0307-8915858 -

*Handwritten signatures*

Muhammad Ahsan Khan Tanoli  
District Court Muzaffargarh  
Magistrate

(4)

Provided that if no suitable candidate is available from amongst Senior Drawing Masters for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3;

(c) four per cent from amongst the Senior Arabic Teachers(BPS-16), with at least five years service as Senior Arabic Teachers and Arabic Teachers, and having qualification mentioned in column No.3:

Provided that if no suitable candidate is available from amongst Senior Arabic Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Arabic Teachers with at least five years service as such and having qualification mentioned in column No. 3;

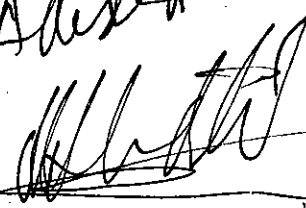
(d) four per cent from amongst the Senior Theology Teachers(BPS-16), with at least five years service as Senior Theology Teachers and Theology Teachers and having qualification mentioned in

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 0300-5737622  
 0333-9018249

مکتبہ اسلامیہ  
 مدرسہ اسلامیہ  
 مدرسہ اسلامیہ  
 مدرسہ اسلامیہ

Attested  


Provided that if no suitable candidate is available from amongst Senior Theology Teachers for promotion, then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers with at least five years service as such and having qualification mentioned in column No. 3;

(e) three per cent from amongst the Senior Qaris (BPS-16), with at least five years service as Senior Qari and Qari, and having qualification mentioned in column No.3;

Provided that if no suitable candidate is available from amongst the Senior Qaris then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Qaris with at least five years service as such and having qualification mentioned in column No. 3;

(f) twenty per cent from amongst the Primary School Head Teachers (BPS-15), with at least seven years service as Primary School Head Teachers and Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3;

Provided that if no suitable candidate is available from amongst

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Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least seven years service as Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3:

Provided further that if no suitable candidate is available from amongst Senior Primary School Teachers for promotion then the post shall be filled from amongst Primary School Teachers with at least seven years service as such and having qualification mentioned in column No. 3; and

(ii) twenty five percent by initial recruitment.

Note:

I. If no suitable candidate is available in the relevant cadre of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment.

II. Posts of General SST and SSTs-1 Science and SST-2 Science shall be filled by promotion or initial recruitment, each on need basis separately.

Muhammad Arshad  
Distt. Court

## وکالت نامہ

کورٹ فیس

قیمتی

بعدالت جناب سر ویس کٹر ایگنٹس پبلک لٹریچر  
 عنوان: مندرجہ خاتون نام حکومت پنجاب  
 منجانب: Appellant  
 نوعیت مقدمہ: نوزد اصنافی Ray و سٹر 1

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آل مقام  
 محرار مندرجہ خاتون تنوی اور وکسٹ ساجی کوگی

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب  
 موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء  
 وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور  
 کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار  
 بھی ہوگا اور صاحب مقرر شدہ کو بھی دہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و قبول  
 ہوگا۔ دوران مقدمہ جو خرچ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔  
 نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف  
 پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جز و بقایا ہو تو وکیل صاحب موصوف  
 مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالش بصیغہ مفلسی کے دائر کرنے اور اس کی  
 پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 57872015

بمقام  
 Accepted  


مندرجہ خاتون



Munazza Khatoon D/O Habib Shah GGSS No-2 Mansehra.....APPELLANT

**Versus**

1. Govt of Khyber Pakhtun Khawa through Secretary Elementary and Secondary Education, Khyber pakhtun Khawa, Peshawar.
2. Director Elementary and Secondary Education, Khyber pakhtun Khawa, Peshawar.
3. District Education Officer (Female) Mansehra.

.....RESPONDENTS.

Written reply on behalf of the Respondent No. 1, 2, & 3.

**PRELIMINARY OBJECTIONS.**

1. That the appellant has got no cause of action to file the present appeal.
2. That the appeal is not maintainable in its present form.
3. That the appellant has not come to this Honorable Court with clean hands.
4. That the appellant is not entitled for higher post without fulfilling the criteria of post.
5. That the appellant has suppressed the original facts from this Honorable Tribunal hence, not entitled for any relief.
6. That the appellant is time barred.
7. That the appellant is not entitled for the post of DPE without the recruitment of Public Service Commission hence the appeal is liable to be dismissed without any further proceeding.

**FACTUAL OBJECTIONS**

- 1) Para No.1 is relates to record.
- 2) Para is not admitted. The appellant has been appointed as PET and holding of such additional qualification by any Government official cannot justify his/her appointment on higher post without fulfilling the recruitment criteria / formalities.
- 3) Para is incorrect. Para not admitted. Best teacher award involves highly competitive process. It is also the jurisdiction of higher authority of (E&SE) Department. While the so-called certificate cannot justify any claim for a higher post unless fulfilling the criteria of the post.
- 4) Para is incorrect. The said direction has no competency of having any force or legality by the dint of which the appellant claims for high post of DPE B-17. Such order was merely stopgap arrangement, which is already being followed by many other schools, where the post of DPE is vacant.

- 5) Para is not admitted. Appellant is not entitled for the claim respecting higher post. The stopgap arrangement order was at one time/ besides, the DPE is to be filled through Public Service Commission. Mere a simple order, beyond the jurisdiction of authority, cannot justify any claim in relation to higher post.
- 6) The Departmental appeal was inapplicable and was, thus, liable to rejection.
- 7) Para needs no comments.
- 8) That the orders vide No.2701-3 dated 01-10-2012 is cancelled by the competent authority through office order No. 10414-17 dated 22-10-2015 copy attached.

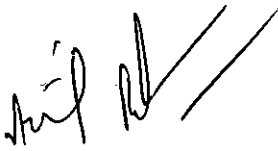
**GROUND:-**

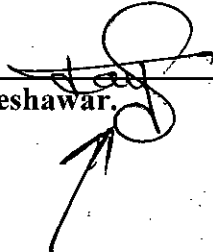
- A.** In correct. Appellant should follow the recruitment criteria as admissible for DPE post. Mere qualification or working on stopgap arrangement, which was also the choice of appellant, cannot reasonable ensure neither any entitlement for selection nor any other benefit of DPE post.
- B.** Not admitted. The said policy exclusively contains the feature of seniority cum fitness. The Seniority requires that 50 percent quota shall be observed for candidates within service, wherein SPET B-16 having, at least, 5 years service shall be considered by the Departmental Promotion Committee. While fitness requires that candidates shall not be more than 35 years. Therefore the criteria need to be observed. Moreover, it has been already stated that the post of DPE shall filled through Public service Commission.
- C.** Para is incorrect. That the instant appeal has no such leading precedent. As has already been explained that most of the higher Secondary schools, functioning under the jurisdiction of Respondent Department, are in want of DPE. The higher classes are, thus being taught with the collaboration of other teachers, mostly PET or SPET. Therefore, the instant appeal is malafide. The appellant, with the collusion of certain officials, has brought about an unauthorized order (Annexure-F) which amounts to ulterior motives.
- D.** Incorrect. The appellant has wrongly interpreted the judgment of August Supreme Court. It submitted before this Honorable Court that appellant has joined the Department as PET in April 2009, while, she has completed her M.Sc in health & Physical Education (SDPE) in August 2010. Science classes are mostly regular, while during 2010 the appellant has been in Government Service. Besides, the Respondent Department was in dark about the joining of M.SC classes by the appellant. Under the prevailing Departmental Rules and Regulations the appellant was strictly required to seek NOC from the Department to join the classes. She was

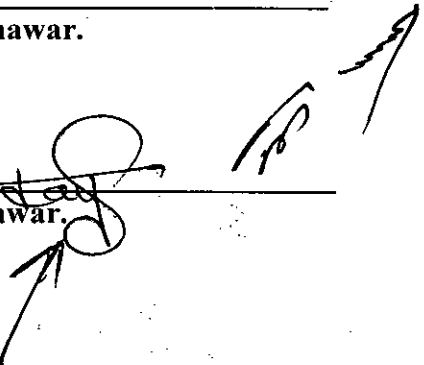
also required to obtain permission to sit in the exam. But these formalities have not been fulfilled by the appellant. Who obviously defied the Departmental Rules. Hence the instant appeal is not maintainable.

**Prayers.**

It is therefore, humbly prayed that the instant appeal may very kindly be dismissed with cost please.

Respondent No. 1   
Secretary E&SE, KPK, Peshawar.

Respondent No.2   
Director E&SE, KPK, Peshawar.

Respondent No. 3   
District Education Officer  
(Female) Mansehra.



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MANSEHRA.

**CANCELLATION.**


Office order issued by Ex- District Education Officer (E&SE) Mansehra No 2701-3 dated 01.10.2012 in respect of Munaza Khatoor PET is hereby cancelled with immediate effect in the interest of public service.

  
DISTRICT EDUCATION OFFICER  
(FEMALE) MANSEHRA.

Endstt: No 106114-17 /CT(F)

Dated: 22/10/ /2015.

1. The District Accounts Officer Mansehra
2. Principal GGHSS No n2 Mansehra.
3. Teacher concerned.
4. Office file.

  
DISTRICT EDUCATION OFFICER  
(FEMALE) MANSEHRA.

19-8-2016

**AFFIDAVIT**

I, Mr. Sakinullah, ADEO(Litigation), District Education Officer (F) Mansehra, do, hereby solemnly affirm and declared that the contents of reply in the instant Appeal No.885-A/2015 titled case Munazza Khaton Versus Education are correct and true to the best of my knowledge and belief and I have concealed nothing as material facts before this Honorable Court.

  
DEPONENT

**BEFORE THE PESHAWAR HIGH COURT,**  
**ABBOTTABAD BENCH**

Writ Petition No. \_\_\_\_\_ -A/2016

Munazza Khatoon daughter of Habib Shah GGHSS No. 2 Mansehra.

....PETITIONER

**VERSUS**

Govt. of KPK through Secretary (E&SE), Peshawar & others

...RESPONDENTS

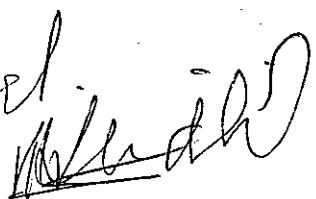
**REJOINDER ON BEHALF OF PETITIONER**

**INDEX**

S. No.	Description	Page Nos.	Annexure
1.	Rejoinder alongwith affidavit	1 to 7	
2.	Copy of office order	8	"A"
3.	Copy of approval letter dated 31/01/2013	9	"B"
4.	Copy of DPE vide letter	10-11	"C" & "D"
5.	Copy of performance certificate issued by principle of GHSS No. 2	12	"E"

Dated: \_\_\_\_\_/2016

  
...PETITIONER

Counsel  


1

**BEFORE THE PESHAWAR HIGH COURT,**  
**ABBOTTABAD BENCH**

Writ Petition No. \_\_\_\_\_ -A/2016

Munazza Khatoon daughter of Habib Shah GGHSS No. 2 Mansehra.  
....PETITIONER

**VERSUS**

Govt. of KPK through Secretary (E&SE), Peshawar & others  
...RESPONDENTS

**WRIT PETITION**

**REJOINDER ON BEHALF OF PETITIONER**

Respectfully Sheweth;-

**PRELIMINARY OBJECTIONS:**

1. Para No. 1 of the preliminary objection is incorrect and denied. Infact the appellant is serving against vacant post of Director Physical Education, having the requisite qualification for the post of DPE w.e.f 01/10/2012 to till date. The appellant is though PET, but the competent authorities directed her to teach the subject of physical education to Higher

Secondary Classes vide order dated 01/10/2012.

Copy of office order attached as Annexure "A".

Besides, the competent authority also endorsed the approval of the same through letter dated 01/10/2012 vide approval letter Endst: No. 316-320 dated 31/01/2013. Copy of approval letter dated 31/01/2013 is attached as Annexure "B".

2. That para No. 2 of the preliminary objection is incorrect and denied. The valuable rights for grant of post of DPE as well as pay of higher scale in BPS-17 has been accrued to the appellant.
3. That para No. 3 of the preliminary objection is incorrect and denied.
4. That para No. 4 of the preliminary objection is incorrect. The appellant fulfils the requisite and prescribed criteria which is sine quo non for the post. It is further submitted that on the basis of higher qualification, the appellant was directed to teach higher classes in the capacity of DPE.
5. That para No. 5 of the preliminary objection is incorrect and denied.

6. That para No. 6 is incorrect. As per law, the appellant has a continuous cause of action as and when question of salary arises.
7. That para No. 7 of the preliminary objection is incorrect. The appellant is serving as DPE against the vacant post in GGHSS No.2 Mansehra since 2012 to till date. Therefore, the appellant is to be absorbed against the said post on the basis of her qualification and teaching as DPE.

**FACTUAL OBJECTIONS:-**

1. Para No. 1 of factual objection needs no reply.
2. Para No. 2 of factual objection is incorrect and denied, In fact as mentioned above, the appellant having qualification of MSC Health and Physical Education was directed to teach the Higher Secondary Classes as DPE vide letter already annexed as Annexure "C" & "D". Once the appellant was directed by the competent authorities to work as DPE against the vacant post, she is entitled to be appointed as DPE w.e.f 01/10/2012

and she is also entitled for receipt of pay in BPS-17 as well w.e.f the date of taking over the charge of the post of DPE i.e. 01/10/2012 to till date.

3. That para No. 3 of the preliminary objection is incorrect whereas para No. 3 of the appeal is correct.
  
4. In reply of para No. 4 of preliminary objection the para of the appeal has been admitted by the department that the appellant was directed vide order dated 01/10/2012 to till stop gape arrangement against the vacant post of DPE BPS-17. Rest of the para No. 4 is incorrect. It is not out of place to mention here that the department did not produced the arrangement of DPE in the school since 2012 to till date because, the appellant was teaching as DPE to the entire satisfaction of the students as well as higher authorities for the last near about five years. Therefore, Govt. has no loss of, the services of the appellant is regularized against the post of DPE on regular basis w.e.f 01/10/2012.



5. That para No. 5 of preliminary objection is incorrect whereas para No. 5 of the appeal is correct.
6. That para No. 6 is incorrect and denied.
7. That para No. 7 of the factual objection is incorrect, infact the cancellation of order No. 7201-3 dated 01/10/2012 vide order No. 10414-17 dated 22/10/2015 has yet not been received to the concerned school and the appellant is still teaching as DPE. In this regard, principal GHSS No. 2 Mansehra issued performance certificate to the appellant where in it has been mentioned that appellant is DPE from 2012 and achieved 100% result vide letter dated 08/09/2016. Copy of performance certificate issued by principle of GHSS No. 2 is attached as Annexure "E".

**REJOINDER ON GROUNDS:-**

- (a) Para "a" of the ground is incorrect whereas para "a" of the appeal is correct.

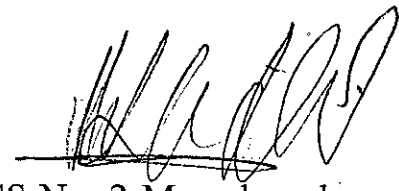
- (b) Para "b" of objection on Ground is incorrect where para "b" of the appeal is correct.
- (c) Para "c" of objection on ground is incorrect infact in the judgment of service tribunal dated 16/07/1996 is S.A No. 92/95 titled M.Riaz V/s Govt of KPK is applicable in this case.
- (d) That comment on para "d" of ground are incorrect to the entent of getting NOC for studying on MSC Health and Physical Education. Infact, the appellant obtained no objection certificate from the competent authority from E&SE Mansehra, for studying the classes of senior diploma in Physical education in evening time from Abbot College Dob No. 2 Mansehra on 06/07/2009 and also obtained NOC for attending the classes for MSC and Health and Physical Education during evening time at Abbott College Dob No. 2 Mansehra Copies of no object certificate dated 06/07/2009 & 09/07/2010 is attached as Annexure "F".

It is also submitted that as her judgment reported 2009 Scmr-1 once a point of law is decided in a case that is applicable to all the employees whose cases similar. On acceptance of the instant appeal, respondents, department may graciously be directed to absorb/ appoint the appellant as DPE against the vacant post in the said school with effect from the date of teaching higher secondary classes I.E 01/10/2012 and 20% pay for additional charge may also be granted on the analogy of a similar case title "Muhammad Riaz v/s Govt. Of KPK & others" decided by service tribunal Khyber Pakhtunkhwa, Peshawar in appeal No. 92/95 dated 16/09/1996 with all service back benefit. In view of the above it is prayed that the appeal of the appellant may graciously be accepted as prayed for.

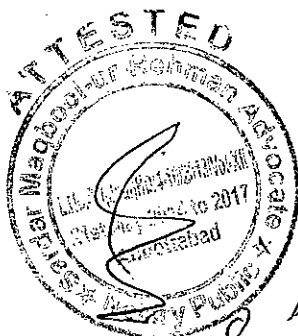
Dated: 18/10/2016

  
...PETITIONER

**AFFIDAVIT:**



I, Munazza Khatoon daughter of Habib Shah GGSS No. 2 Mansehra, do hereby solemnly affirm and declare that the contents of forgoing rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



  
DEPONENT

18/10/2016

Annex "A"

**OFFICE OF THE EXECUTIVE DISTRICT OFFICER**  
**ELEMENTARY AND SECONDARY EDUCATION**  
**MANSEHRA**

No. 2701-03  
Dated: 01/10/2012

**OFFICE ORDER**

P-8

During the surprise visit at GGHSS NO. 02 Mansehra, an issue was brought into the notice of undersigned.

The students of Higher Secondary classes in the subject of Physical Education are suffering as the post of DPE is lying vacant since its sanction.

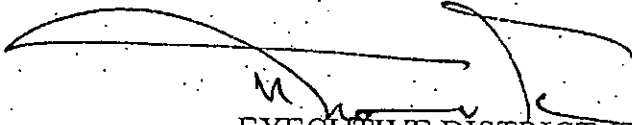
To resolve this issue Mst. Munaza Khatoon PET (BPS-15) of GGHSS NO. 02 Mansehra is hereby directed to teach the subject of Physical Education at Higher Secondary classes / level as DPE (being qualified) till further order.

-----Sd-----

EXECUTIVE DISTRICT OFFICER  
ELEMENTARY AND SECONDARY  
EDUCATION MANSEHRA

Copy of the: -

1. Principal GGHSS No. 02 Mansehra
2. Teacher concerned
3. Office file.

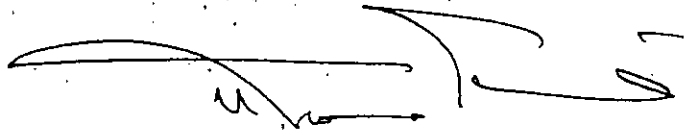
  
EXECUTIVE DISTRICT OFFICER  
ELEMENTARY AND SECONDARY  
EDUCATION MANSEHRA

Annex "B"

**OFFICE OF THE EXECUTIVE DISTRICT OFFICER E & S.E) MANSEHRA**  
**OFFICE ORDER.**

P-9

As approved by the Competent Authority Office Order issued vide this Office No. 2701-03 dated 1.10.2012. is hereby endorsed/ approved in the interest of Public Service with the effect from 1.10.2012.



EXECUTIVE DISTRICT OFFICER  
ELEM. & SECY. EDUCATION MANSEHRA

*for*

Endst. No. 316 - 320

Dated 31 / 01 / 2013

Copy to the:-

1. The P/S to Secretary (E&S) Edu. Peshawar.
2. Director (E & S) Edu. Peshawar.
3. District Officer Female Mansehra.
4. Principal GGHSS No. 2 Mansehra.



EXECUTIVE DISTRICT OFFICER  
ELEM. & SECY. EDUCATION MANSEHRA

*for*

Annex "C"

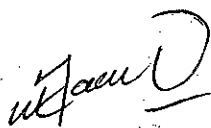

P-10

**PERFORMANCE CERTIFICATE**

It is to certify that Mst. Munazza Khatoon D/O Habib Shah is a regular employee in Education Department as Physical Education Teacher B-15 at Government Girls Higher Secondary School-II Mansehra. She belongs to a respectable family and is a highly qualified Teacher being Master in Health & Physical Education.

Her performance in the field of Education has been prominent as she has been working as D.P.E. from 2012 with 100 percent yearly results from Board of Intermediate & Secondary Education Abbottabad.

Dated the: 8<sup>th</sup> September, 2016

  
PRINCIPAL  
Girls Higher  
Secondary School  
Mansehra  
GGHSS-II MANSEHRA  


Annexure. D

**OFFICE OF THE EXECUTIVE DISTRICT OFFICER**  
**ELEMENTARY & SECONDARY EDUCATION MANSEHRA.**

**NO OBJECTION CERTIFICATE.**

P-11

It is to certify that **Mst. Munazza Khatoon P.E.T.** is a permanent Government Servant serving in Education Department at Government Girls High School No.2 Mansehra .

The Department **has no objection** in regard with her admission at Abbott College Dab No.2 Mansehra, in **Senior Diploma Physical Educational Classes** during evening time and subject to the condition that her admission shall have no effect upon her duty hours. (*Session 2007-2010*)

*[Signature]*  
**EXECUTIVE DISTRICT OFFICER**  
**(E&S) EDUCATION MANSEHRA**

*6/7*  
*2007*

Annexure - E

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION  
MANSEHRA.

NOC FOR M. Sc IN HPE AT ABBOTT COLLEGE MANSEHRA

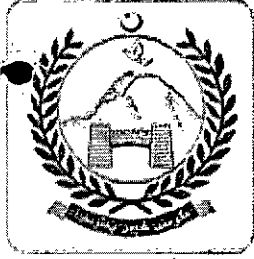
P-12

It is to certify that Ms. Munazza Khatoon PET has been serving in Education Department at Govt. Girls High School No 2 Mansehra. This Department has no objection on her admission in Master in Health and Physical Education Classes during Session 2010-2012 at Abbott College Dab No.2 Mansehra to be held during evening time after the duty hours.

*Munazza Q* 09/7/2010

EXECUTIVE DISTRICT OFFICER  
ELEM: & SECY. EDUCATION MANSEHRA





**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

No. 2/24 /ST Dated: 27/09 /2017

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

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


To,

The District Education Officer (Female),  
Government of Khyber Paktunkhwa,  
Manshera.

Subject: - JUDGMENT IN APPEAL NO. 885/2015, MST. MUNNAZZA KHATOON.

I am directed to forward herewith a certified copy of judgment dated 18/09/2017 passed by this tribunal on the above subject for strict compliance.

Encl: as above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR