

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No: 1464/2022

Entry No. 4960

Date 20/4/2022

Muhammad Faisal Abbasi SS in (Economics) BS-17 GHSS Ziarat Masoom
District Abbottabad.....Appellant

VERSUS

Chief Secretary Government of, Khyber Pakhtunkhwa through the Secretary
E&SE Department & others..... Respondents

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(Signature)
20/4/2022
Assistant Director (Lit: II)
E&SE Department, Khyber
Pakhtunkhwa, Peshawar.

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No # 1464/2022

Mr. Faisal AbbasiAppellant

Versus

Secretary E&SE, Govt of Khyber Pakhtunkhwa & Other.....Respondent

APPLICATION FOR SETTING ASIDE EX-PARTY PROCEEDING AND RESTORING RIGHT OF FILING PARA-WISE COMMENTS.

Respectfully Sheweth,

Respondent No 01 to 03 submits as under:-

1. That the above titled appeal is pending before this Honorable Tribunal for 26-04-2023.
2. That on 22-02-2023 the Honorable Tribunal has ordered the respondents as ex-parte alongwith striking out the right of respondents to file para-wise comments.
3. That facting aggrieved the respondents seeks restoration of the right of filing para-wise comments on the following grounds inter alia.

Grounds:

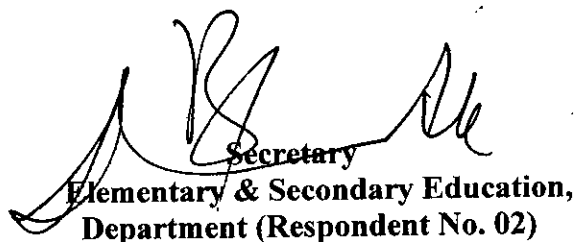
1. That the valuable rights of the department/respondents are involved with the Service Appeal.
2. That the application is within time and there is nothing dis-obedient on the part of respondents.
3. That on the very same day on which the respondents were proceeded ex-party. The para-wise comment were ready to file but the duly was caused due to the through proper channel vetting process.
4. That there is no legal bar in acceptance of the application in hand.
5. That the delay was not international but due to the above reason respondents will show punctuality in future.
6. That according to the rule of natural justice no one can be condemned un-heard.
7. That the filing of para-wise comments is very necessary for the just and proper disposal of the above service appeal.

It is therefore, most humbly requested that an acceptance of this application the ex-party proceedings against the respondents may be set aside & right to file para-wise comments may kindly be restored.



Director

**Elementary & Secondary Education,
Khyber Pakhtunkhwa,
Peshawar (Respondent No. 03)**



**Secretary
Elementary & Secondary Education,
Department (Respondent No. 02)**

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA
SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No: 1464/2022

**Muhammad Faisal Abbasi SS in (Economics) BS-17 GHSS Ziarat Masoom
District Abbottabad.....Appellant**

VERSUS

**Chief Secretary Government of, Khyber Pakhtunkhwa through the Secretary
E&SE Department & others.....Respondents**

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No: 1-3.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action.
- 2 That the appellant is not an aggrieved person within the meaning of Article 212 of the constitution of Islamic Republic of Pakistan.
- 3 That the appellant has concealed material facts from this Honorable Bench.
- 4 That the Appellant has not come to this Honorable Court with clean hands.
- 5 That the appeal in hand is based on mala fide intentions for illegal service benefits.
- 6 That the matter in hand is barred by law in view of the law of limitation Act 1908.
- 7 That the case is bad for mis-joinder and non-joinder of the necessary parties.
- 8 That the appellant was inducted against the SS BS_17 post as an untrained through the Khyber Pakhtunkhwa Public Service Commission, whom, the appellant not made Respondent in the titled case.
- 9 That the appellant has failed to acquire the prescribed qualification of B.Ed within next 03 years from the date of his first appointment against the SS BS-17 (TC) Cadre post in the Respondent Department.
- 10 That the appellant is not entitled for the grant of promotion against the SS BS-18 TC w.e.f. 16-4-2015 due to lack of the prescribed length of service in view of his failure in acquiring B.Ed Degree within the stipulated period of 03 years after his induction as SS BS-17 (TC) through the Khyber Pakhtunkhwa Public Service Commission as evident from the Notification dated 01-01-2008 with reference to the terms & conditions.
- 11 That the plea of the appellant regarding non-grant of NOC for B.Ed is based on mala fide intentions & liable to be rejected.

ON FACTS.

- 1 That Para-1 is needs no comments being pertains to the Academic record of the appellant including B.Ed acquired by the appellant after the expiry of 03 years prescribed period, made by the Department as precondition for regularization of services against the noted post under the Rules.
- 2 That Para-2 is correct that vide Notification dated 01-01-2008, the appellant was inducted against the SS Economics in BS-17 (TC) as an untrained Teacher with the condition that he will acquire the prescribed qualification of B.Ed within next 03 years from the date of his 1st appointment as an SS in BS-17 (TC) post which the appellant did not acquire within the prescribed timeline & has taken plea of non-grant of an NOC for B.Ed by the Department which is based on malafide & liable to be dismissed in favor of the Department. *(Copies of the Notification dated 01-01-2008 & B.Ed Degree under Roll No. 1432 with the date of result declaration is 29-11-2011 obtained from the UOP in Session 2011 are attached as Annexure-A & B).*
- 3 That Para-3 is correct that at the time of the induction of the appellant as SS in BPS-17 (TC) was not a qualified Teacher in terms of B.Ed Degree which was liable to be acquired within next 03 years w.e.f. 01-01-2008, however, he has acquired the same Degree B.Ed on 29-11-2011 beyond the prescribed period of 03 year, therefore, he was not considered for promotion as SS BS-18 (TC) post in the Notification dated 16-4-2015 by the Respondent Department which is attached as Annexure-C. Hence, the claim of the appellant is illegal & liable to be rejected is favor of the Department.
- 4 That Para-4 is also incorrect on the grounds that the appellant is entitled for seniority against the noted post w.e.f. 29-11-2011 subject to the regularization of his services against the post her olds in the Department and is not entitled for the grant of promotion w.e.f. 16-4-2015 in view of the stance & legal ground in the foregoing paras of the present reply on behalf of the Department.
- 5 That Para-5 is also incorrect, hence, denied on the legal grounds that the appellants is not an aggrieved person within the meaning of Article 212 of the constitution of 1973, therefore, the case in hand is liable to be dismissed on the following grounds inter alia:-

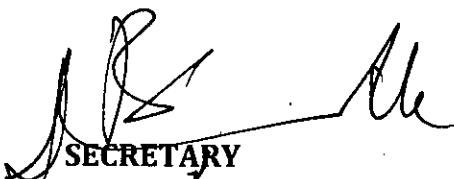
ON GROUNDS.


- a. Incorrect & not admitted, on the grounds that the plea of the appellant is illegal as he was not entitled for promotion against the SS BS-18 (TC) post in the Notification dated 16-4-2015 of the Respondent Department in view of the lack of acquiring the B.Ed Degree after due date & time line of 03 years w.e.f. 01-01-2008.
- b. Incorrect & not admitted. The cited case is not applicable upon the case of the appellant on the legal grounds of different in both question of law & facts of case from the titled case.
- c. Incorrect & not admitted. The appellant has been treated as per Law & Rules & prescribed policy & criteria by the Department in the Notification dated 16-4-2015 which is the outcome of due process of law & rules.
- d. Incorrect & not admitted. The appellant could not acquire the prescribed qualification of B.Ed within the prescribed period of 03 years from the date of his 1st appointment vide Notification dated 01-01-2008 as an un qualified/trained SS in the Department.

- e. **Incorrect & not admitted.** The act of the Department is illegal with regard to the Notification dated 16-4-2015 & liable to be maintained in favor of the Department.
- f. **Incorrect & not admitted.** The plea of the appellant is legal as no he has been treated as per law & Rules by the Department in the titled case.
- g. **Incorrect & not admitted.** The stand of the appellant is illegal as he could not made out his case for promotion as SS in BS-18 (TC) in the Notification dated 16-4-2015 of the Department. Therefore, the Respondent also seek leave of this Learned Bench to submit additional grounds/record & case law at the time of hearing.

Therefore, in view of the above made submissions, the appeal in hand may kindly be rejected in favor of the Department in the interest of justice.

Dated. ___/___/2023.


SECRETARY
 E&SE Department Khyber
 Pakhtunkhwa, Peshawar.
 (Respondents No: 1 & 2)


DIRECTOR
 E&SE Department Khyber
 Pakhtunkhwa, Peshawar.
 (Respondent No: 3)

AFFIDAVIT

I, Dr. Hayat Khan Assistant Director (Litigation-II) E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief.


 Deponent

ATTESTED

 04-223

Annex B 16

**GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPARTMENT**

Dated Peshawar the 01-01-2008.

NOTIFICATION

NO.SO(S)3-2/2006/SS(Male). Consequent upon the recommendations of the NWFP Public Service Commission, the Competent Authority has been pleased to appoint the following Subject Specialists (Male) in various subjects in BPS-17 (Rs.8210-615-20510) plus usual allowances as admissible under the rules on Regular basis but without pension and gratuity in terms of Section-19 of the Civil Servant Act 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005 with immediate effect under the provision of Establishment & Administration Department Circular bearing No.SOR-6 (E&AD) 13-1/2005 dated 10-8-2005:

1-	Arif Ali S/O Aman-Ur-Rehman, Aman Sons Chemist & Drugest Sikandar Pura Peshawar.
2-	Zia-Ur-Rehman Awan S/O Professor Aziz-Ur-Rehman, Vill:Kotka Feroz PO Nizam Bazar Tehsil & District Bannu.
3-	Muhammad Hanif S/O Abdur Rasheed Khan, House No.1720 C/O Khurshid Alam Main Bazar Nawa Sher Abbottabad.
4-	Muhammad Najib Uddin S/O Faridoon Vill: Hlaibat Gram PO Thana Malakand Agency.
5-	Muhammad Ali Asghar S/O Ghulam Qadar, 286 Nawab Ali Road Bekit Gunj Mardan.
6-	Zahid Younis S/O Muhammad Younis Vill: & PO Latamber Tehsil & District Karak.
7-	Arifullah Khan S/O Muhammad Younis Vill: & PO Azim Qilla Tehsil & District Bannu.
8-	Maqsood Ali S/O Abdul Jalil Vill: & PO Sard China Moh: Nawar Khel Tehsil Lahor & District Swabi.
9-	Alamghir Khan S/O Feroz Khan, New Tribal Hostel Islamia Collegite School University Peshawar.
10-	Muhammad Faisal Abbasi S/O Muhammad Shamroz Abbasi, PO Barkau Moh:Usman Abad District Islamabad.
11-	Fazal Rehman S/O Muhammad Bashir C/O Bismullah Khan General Store opposite Bus Ada Shah, Dara Mingora Swat.

2- On their appointment they are posted in Government Higher Secondary Schools as noted against each subject to the conditions given below:

S.No.	Name	To be Posted as.	Remarks.
1-	Arif Ali S/O Aman-Ur-Rehman	SS (Chemistry) (BS-17) GHSS Sufaid Sang Peshawar.	Against Vacant Post.
2-	Zia-Ur-Rehman Awan S/O Professor Aziz-Ur-Rehman,	SS (Biology) (BS-17) GHSS Kot Gurh D.I.Khan.	--do--
3-	Muhammad Hanif S/O Abdur Rasheed Khan	SS (Biology) (BS-17) GHSS Berot Abbottabad.	--do--
4-	Muhammad Najib Uddin S/O Faridoon.	SS (Biology) (BS-17)GHSS Palai Malakand.	--do--
5-	Muhammad Ali Asghar S/O Ghulam Qadar	SS(English) (BS-17) GHSS Nawagai Buntr.	--do--
6-	Zahid Younis S/O Muhammad Younis.	SS(English) (BS-17) GHSS Landi Kachi Kohat.	--do--
7-	Arifullah Khan S/O Muhammad Younis	SS(English) (BS-17) GHSS Dalan Hangu.	--do--
8-	Maqsood Ali S/O Abdul Jalil	SS(English) (BS-17) GHSS Mansabdar Swabi.	--do--
9-	Alamghir Khan S/O Feroz Khan	SS(English) (BS-17) GHSS Adazai Peshawar.	--do--
10-	Muhammad Faisal Abbasi S/O Muhammad Shamroz Abbasi	SS (Econ) (BS-17) GHSS Richban Abbottabad.	--do--
11-	Fazal Rehman S/O Muhammad Bashir	SS (Econ) (BS-17) GHSS Kalam Swat.	--do--

ATTESTED

TERMS & CONDITIONS

- 1- Their services will be considered regular but without pension or Gratuity in term of Section-19 of the NWFP Civil Servant Act; 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005. They will however be entitled to Contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
- 2- Their services will be liable to termination on one month's notice from either side. In case of resignation without notice their two month's pay/allowances, shall be forfeited to Government.
- 3- The appointee should join his post within 30-days of the issue of this notification. The Director, Schools & Literacy, NWFP, Peshawar would furnish a certificate to the effect that the candidates have joined the post or otherwise, after one month of the issue of this Notification, failing which his candidature will expire automatically and no subsequent appeal etc. shall be entertained.
- 4- They would be on probation for a period of two years extendable for another one year.
- 5- They will be governed by such rules and regulations as may be issued from time to time by the Government.
- 6- Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they will be proceeded against under the NWFP Removal from Service (Special Power) Ordinance; 2000 and the Rules framed from time to time.
- 7- Charge report should be submitted to all concerned.
- 8- No TA/DA will be allowed to the appointees for joining their duty.

SECRETARY

ENDST. NO. & DATE EVEN

Copy forwarded for information & necessary action to:

- 1- Accountant General, NWFP, Peshawar.
- 2- Director, Schools & Literacy, NWFP, Peshawar.
- 3- Director of Education (FATA) Peshawar.
- 4- District / Agency Accounts Officers Concerned.
- 5- EDOs, S&L Concerned.
- 6- PS to Minister for Education, NWFP, Peshawar.
- 7- PS to Chief Secretary, NWFP, Peshawar.
- 8- PS to Secretary, Schools & Literacy Deptt. NWFP, Peshawar.
- 9- Candidates Concerned.
- 10- Director Recruitment, NWFP Public Service Commission, Peshawar.
- 11- Deputy Database Administrator, EMIS, S&L Deptt. NWFP.
- 12- PA to Additional Secretary, S&L Deptt. NWFP.
- 13- PA to Deputy Secretary (Admn) S&L Deptt. Peshawar.
- 14- Office order file.

Nasrullah Khan
 (NASRULLAH KHAN)
 SECTION OFFICER (SCHOOLS)

M-Tahir/Rafiqullah
 Tari Muhammad

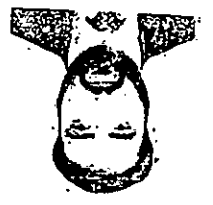
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Session Annual 2011

University of Peshawar

(Pakistan)



MUHAMMAD FAISAL ABBASI

Son of

MUHAMMAD SHAMRAIZ ABBASI

and a

JRK Hazzara College of Education Abbottabad having passed the

prescribed examination held in June 2011 is this day admitted by the University of Peshawar to

the Degree of Bachelor of Education

In 1st Division in Teaching Practice In 1st Division in Aggregate

He passed also in MODERN APPROCHES TO TEACHING as an Elective subject

The examination was taken as a whole

Registration No.

14325-215

Q.N.P. Q.N.

61181-911429

ISSUED

November 29, 2011

By Result Declared on



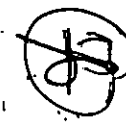
note: University reserves the right to correct any inadvertent error that may be

Q.N.C.

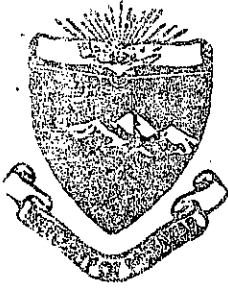
Registrar

University of Peshawar University of Peshawar University of Peshawar University of Peshawar University of Peshawar University of Peshawar

14



No 0005131



University of Peshawar

Pakistan Detailed Marks Certificate

Bachelor of Education
(B.Ed)

Annual Examination 2011

JRK Hazzara College of Education Abbottabad



Regular

Name: MUHAMMAD FAISAL ABBASI

Gender: Male

Roll No: 1432

Father's Name: MUHAMMAD SHAMRAIZ
ABBASI

Registration No: 2010-HCE-215

Division: 1st

Papers	Max Marks	Marks Obtained	
		In Figures	In Words
Persp: of Edu: & Cont Social Issues	100	63	Sixty Three
School Org: & Classroom Manag: (New)	100	46	Forty Six
Edu: Psychology, Guidance & Counseling	100	58	Fifty Eight
Evaluation Techniques	50	30	Thirty Only
Curriculum & Instruction	100	63	Sixty Three
Functional English	50	41	Forty One
Islamiat/I.History(for non-muslim)(New)	100	73	Seventy Three
Method of Teaching of English	100	46	Forty Six
Method of Teaching of Urdu	100	48	Forty Eight
Elec: Modern Approaches to Teaching	100	53	Fifty Three
Practice of Teaching:	200	153	One Hundred and Fifty Three
	1100	674	Six Hundred and Seventy Four

Errors & omissions are subject to subsequent rectification

Chances Availed: 1

The Examination was taken As a Whole

Examination held From 24-Jun-2011 to 16-Jul-2011

Result Declared on Tuesday, November 29, 2011.

Issue Date: 30-Nov-2011

5:03 pm

Computerized by RTC

(Iftekhar Hussain Khan)
CONTROLLER OF EXAMINATIONS
UNIVERSITY OF PESHAWAR

Annex D 9/18



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the April 16, 2015

NOTIFICATION

NO.SO(S/M) E&SED/1-3/2014/Promotion BS-17 to BS-18/4-tier 2nd Phase The Competent Authority on the recommendations of the Provincial Selection Board is pleased to promote/appoint the following (520) Officers of Teaching Cadre of Elementary & Secondary Education Department from BS-17 to BS-18 on regular basis with immediate effect as under except Sr. No. 1:

Sr.#	Name	Sr.#	Name	Sr.#	Name
1	Mr. Gul Yar Khan	2	Mr. Fateh Gul	3	Mr. Nisarullah
4	Mr. Ghulam Baqi Jan	5	Mr. Amal Shah	6	Mr. Aurang Zeb
7	Mr. Inayatullah	8	Mr. Kifayat Ullah Jan	9	Mr. Ghulam Rabbani
10	Mr. Muhammad Yaqoob	11	Mr. Muqarrab Khan	12	Mr. Abdur Rashid
13	Mr. Mir Haider	14	Mr. Ismail	15	Mr. Abdur Rehman
16	Mr. Nizakat-ur-Rehman	17	Mr. Iqbal Munir	18	Mr. Muhammad Siraj
19	Mr. Naeem Jan	20	Mr. Muhammad Pervez	21	Mr. Abdullah Shah
22	Mr. Hakim Khan	23	Mr. Gul Ambar Khan	24	Muhammad Idrees Khan
25	Mr. Abdul Malik	26	Mr. Mustafa Khan	27	Mr. Abbas Gul
28	Muhammad Zareen Khan	29	Muhammad Khurshid	30	Mr. Mehboob Ilahi
31	Mr. Fazal Rehman	32	Mr. Sherzada	33	Mr. Suhrab Khan
34	Mr. Akhtar Hussain	35	Mr. Abdul Qayyum	36	Mr. Inayatullah
37	Mr. Muhammad Sadia	38	Mr. Hidayatullah Khan	39	Mr. Fida Muhammad
40	Mr. Ghazi Marjan	41	Muhammad Sher Ali Khan	42	Mr. Fazal Muhammad
43	Mr. Riaz Hussain	44	Mr. Barzand Ali	45	Mr. Sharif ullah Khan
46	Mr. Abdul Qadir	47	Mr. Zaid Hussain	48	Mr. Husn-ul-Jaq
49	Mr. Muhammad Jamsheid	50	Mr. Hidayat-ur-Rehman	51	Mr. Gul Aslan
52	Mr. Inshad Ahmad	53	Mr. Aliqas Khan	54	Mr. Muhammad Ali
55	Mr. Abdulkar Khan	56	Mr. Muhammad Shafaq	57	Mr. Khulid Ahmad
58	Mr. Ifkhar Ahmad	59	Mr. Saeed Ahmad	60	Mr. Muhammad Mubushir
61	Mr. Shah-e-Room	62	Mr. Zulfqar Ali	63	Mr. Zafur Javed Qureshi

ATTESTED

 OFFICIAL SEAL

29
39

16/4/2015

ATTESTED

ATTESTED



**DIRECTORATE ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR.**

AUTHORITY LETTER

I Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar do hereby authorize Mr. M. Tufail Assistant (Litigation) of this Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar to attend the Khyber Pakhtunkhwa Service Tribunal in connection with filing of para wise comments in Service Appeal No. 1464/2022 Titled M. Faisal Abbasi VS Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department.

Dated 20/4 /2023


20/4/2023
Director

Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.