

30th March, 2023

Junior to learned counsel for the appellant present.

Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.

Junior to learned counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy in the Hon'ble Peshawar High Court, Peshawar. To come up for arguments on 12.06.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
K. 03T
Peshawar



(Salah-ud-Din)
Member (J)





(Kalim Arshad Khan)
Chairman

21st Nov, 2022

Lawyers on general strike today.

To come up for arguments on 6.1.2023 before D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.

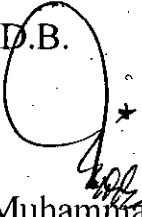

(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

06.01.2023

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant seeks time for preparation of arguments. Adjourned. To come up for arguments on 30.03.2023 before the D.B.


(Mian Muhammad)
Member (E)


(Salah-Ud-Din)
Member (J)

SCANNED
KPST
Peshawar

4.6.22

Proper D.B is an issue, therefore the case is adjourned to 29.8.22 for some time.



29.08.2022

Clerk of learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

The Lawyers are on strike and Learned Member (Judicial) Ms. Rozina Rehman is also on leave, therefore, arguments could not be heard. Adjourned. To come up arguments on 21.11.2022 before the D.B.
Lawyers on general strike today.

21st Nov, 2022



To come up for arguments on 6.1.2023 before D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.

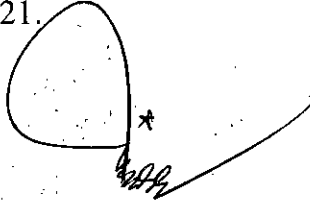
(Fareeha Paul)
Member (E)

(Kalim Arshad Khan)
Chairman

23.08.2021

Appellant with counsel present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Touseef Ur Rehman, ADEO for respondents present.

Learned AAG sought time for arguments. Adjourned. To come up for arguments before the D.B on 22.11.2021.



(MIAN MUHAMMAD)
Member(E)



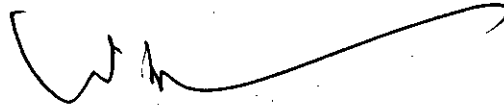
(SALAH-UD-DIN)
Member(J)

22.11.2021

Learned counsel for the appellant present.

Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment as he has not prepared the brief. Adjourned. To come up for arguments on 14.03.2022 before D.B.



(Atiq-Ur-Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

14.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 09.06.2022 for the same as before.

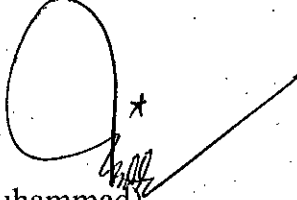



Reader.

26.11.2020

Appellant in person present. Addl: AG for respondents present.

Once again the request for adjournment is made on account of indisposition of learned counsel. As a last chance adjourned to 25.01.2021 for arguments before D.B.



(Mian Muhammad)
Member (E)


Chairman

25.01.2021

Appellant in person and Addl. AG for the respondents present.

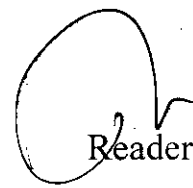
Former requests for adjournment due to engagement of his counsel in a family bereavement. On the last date of hearing, the proceedings in the instant case were adjourned but as a last chance. The request of appellant is, therefore, acceded to ~~but~~ on payment of costs of Rs. 1000/- (One thousand only). Adjourned to 27.04.2021 for hearing before the D.B.


(Atiqur Rehman Wazir)
Member(E)


Chairman

27.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 23.08.2021 for the same as before.


Reader

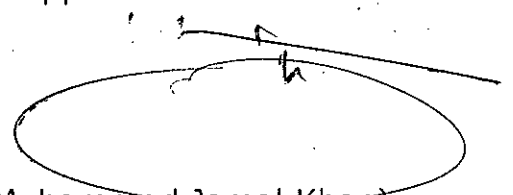
07.09.2020

Mr. Imran Khan, junior to his senior counsel Mr. Ibad-ur-Rehman, is present for the appellant. Mr. Usman Ghani, District Attorney for the respondents is also present.

Junior counsel submitted that a connected appeal bearing No. 594/2018 captioned Hayat-ur-Rehman Versus Secretary Education, is pending adjudication in this Tribunal in which next date of hearing, is fixed as 24.09.2020, therefore, it would be appropriate to hear the instant appeal alongwith above referred appeal, the request is proper hence, the appeal is adjourned to 24.09.2020 and it has to be fixed with the connected appeal before D.B.



(Mian Muhammad)
Member (Executive)



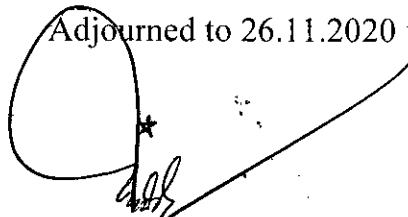
(Muhammad Jamal Khan)
Member (Judicial)

24.09.2020

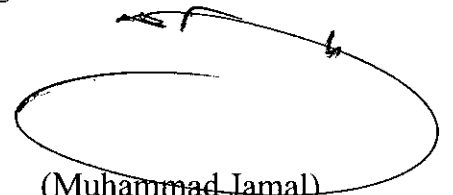
Mr Imran Khan, Advocate junior to his senior counsel Mr. Ibad-ur-Rehman, Advocate is present for the appellant. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Arshad Ali, ADEO for respondents is present.

Junior to counsel for the appellant submitted that his senior counsel has indisposed of today and requested for adjournment.

Adjourned to 26.11.2020 for arguments before D.B.



(Mian Muhammad)
Member (E)



(Muhammad Jamal)
Member(J)

04.02.2020

Appellant in person present. Addl: AG alongwith Mr. Muhammad Arshad, ADEO for respondents present. Representative of the respondents submitted written reply which is placed on file. To come up for rejoinder and arguments on 31.03.2020 before D.B-I.


Member

31.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 23.06.2020 before D.B.

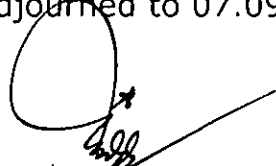

Reader

23.06.2020

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for the respondents present.

Former requests for adjournment as he is not in possession of the brief today.

Adjourned to 07.09.2020 before D.B.


Member


Chairman

20.09.2019

Counsel for the appellant present.

On the strength of admitting note dated 04.12.2018 recorded in appeal No. 594/2018, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 18.11.2019 before S.B.

Appellant Deposited
Security & Process Fee

20/9/19



Chairman

18.11.2019

Appellant in person and Addl. AG for the respondents present.

Learned AAG seeks time to contact the respondents and furnish the requisite reply/comments. Adjourned to 20.12.2019 on which date the reply/comments shall positively be furnished.



Chairman

20.12.2019

Junior to counsel for the appellant and Addl. AG alongwith Muhammad Arshad, ADEO for the respondents present.

Representative of respondents seeks time to furnish reply/comments. Adjourned to 04.02.2020 on which date the requisite reply/comments shall positively be furnished.



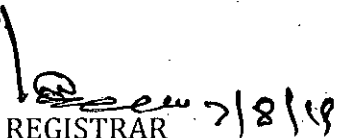


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 1039/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/08/2019	<p>The appeal of Mr. Aurang Zeb resubmitted today by Mr. Ibad-ur-Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please</p> <p style="text-align: right;"> REGISTRAR 7/8/19</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20-8-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>20.08.2019</p> <p>Counsel for the appellant present.</p> <p>Requests for adjournment as learned senior counsel is away from Peshawar to attend a bereavement. Adjourned to 20.09.2019 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

248/54

The appeal of Mr. Aurang Zeb CT Teacher GMS Sufaid Dheri Peshawar received today i.e. on 29.07.2019 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be flagged.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- Annexures of the appeal are illegible which may be replaced by legible/better one.

No. 1356 /S.T,

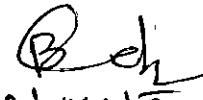
Dt. 31-7- /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ibad-ur-Rehman Adv. Pesh.

R/sir

The objections have been Removed, please
Re-submitted.


Advocate dt: 7/8/2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

Appeal No. 1039 /2019

AURANGZEB..... APPELLANT

VERSUS

EDUCATION RESPONDENT

INDEX

S.No	Description	Annexure	Pages
1.	Memo of Appeal		1-4
2.	Copy of Appointment Order dated: 04-04-1996	A	5
3.	Copy of Federal Ordinance 2010	B	6-8
4.	Khyber Pakhtunkhwa Sacked Employees Act, 2012	C	9-12
5.	Copy of Merit List	D	13-14
6.	Copy of Judgment / Decree dated: 13-05-2014	E	15-23
7.	Copy of Appellate Court Order dated: 15-06-2015	F	24-38
8.	Copy of High Court Judgment dated: 30-06-2017	G	39-48
9.	Copy of Minutes of Meeting dated: 18-07-2017	H	49
10.	Copy of appointment order dated: 21-09-2019	I	50-51
11.	Copy of order dated: 23-10-2017	J	52-56
12.	Copy of Departmental Appeal	K	57
13.	Copy of Reminder	L	58
14.	Copy of Regret Letter dated: 28-06-2018	M	59
15.	Wakalat Nama		

DATED: 29-07-2019


IBAD UR RAHMAN

Advocate, High Court, Peshawar
Office: 127, 3rd Floor Sarhad
Mansion Hashtnagri G.T Road
Peshawar.
Mobile# 0312-5932939

①

BEFORE THE HONOURABLE KP SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. _____/2019.

Aurang Zeb CT Teacher, Government middle
School Sufaid Dheri Peshawar Cantt:

Appellant

Versus

- 1- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.
- 2- Director, Elementary & Secondary Education, Peshawar.
- 3- District Education Officer (Male) Elementary & Education Peshawar.

Respondents

APPEAL U/S 4 OF KP SERVICE TRIBUNAL ACT, 1974 FOR DIRECTING THE RESPONDENTS TO ISSUE APPOINTMENT ORDER OF THE APPELLANT WEF 10/10/2012 OR FROM THE DATE WHEN THE APPELLANT WAS ELIGIBLE BUT WRONGLY BEEN DEPRIVED FROM APPOINTMENT BY THE RESPONDENTS AGAINST WHICH THE APPELLANT FILED A PROPER DEPARTMENTAL APPEAL DATED 21.12.2017 AND REMINDER DATED 12.3.2019 BUT THE SAME WAS REGRETTED VIDE LETTER DATED 28-6-2019 RECEIVED ON 08-07-2019.

Respectfully sheweth,

Appellant submits as under :-

- 1 That after completion of all the codal formalities, the appellant was appointed as SV Teacher, vide Endst: No. 3102-3107 Dated 04/04/1998. (Annex:-A). The post of SV was later on renamed as CT Teacher.
- 2 That the appellant was performing his duties so efficiently and dedicatedly and to the entire satisfaction of his superiors but due to change of political government, unfortunately, the appellant's service along with many other employees, were dispensed with by the newly government.

- 3- That the appellant made so many efforts for the re-instatement of his service but in vain.
- 4- That in 2010, the Federal government issued an Ordinance vide which all the sacked employees appointed during 1994-96 and terminated from service during 1996-1998 were re-instated with many other facilities, similarly, the provincial government were also requested to make legislation for the re-instatement of such employees. (Copy of the Ordinance is attached as Annex:-B)
- 5- That the Federal government issued the Ordinance for the re-instatement of sacked employees in the year 2010 and the Sindh government re-instated all the sacked employees through an administrative order. The matter of re-instatement of sacked employees was lingering on in the Province of Khyber Pakhtunkhwa and at last the Provincial Government of Khyber Pakhtunkhwa passed an Act in 2012 namely Sacked Employees Act, 2012. (Copy attached as Annex:- C)
- 6- That here another injustice was made with the employees of war affected province of Khyber Pakhtunkhwa as the employees of Khyber Pakhtunkhwa were to be re-appointed instead of re-instatement as was order by the Federal Government.
- 7- That even then, soon after getting the knowledge of the said Act, the appellant duly filed an application which was duly processed and was placed before the Committee constituted for the said purpose.
- 8- That the said committee on mala fide basis and without any legal justification rejected the application of the appellant. (Copy of the merit list is attached as Annex:- D).
- 9- That being aggrieved by the conduct of the Respondents, the appellant approached a court of law who was kind enough to declare that the appellant is duly qualified to be appointed as per sacked employees Act, of 2012. (Kindly peruse Annex: -E)
- 10- That the Respondents challenged the said judgment/Decree in appeal and the appellant court set aside the judgment/decree of the trial court. (Attached as Annex:- F).
- 11- That appellant challenged the said order of the appellate court before the Peshawar High Court through a Revision Petition and the Learned

aside the appellate order and restoring the judgment/decree of the trial court.
(Kindly peruse Annex:- G).

12- That besides judgment of the Honourable Peshawar High Court was placed before the Committee for filing of CPLA before the Supreme Court of Pakistan but in the said meeting it was decided that it is not a fit case for filing of CPLA before the Supreme Court of Pakistan. (Annex:-H).

13- That besides the clear cut orders of the honourable Peshawar High court Peshawar, the respondents were reluctant to appoint the appellant therefore, the appellant filed a CoC Petition before the trial court and during the course of proceedings, the Respondents produced appointment order of the appellant. (Annex:-I).

14- That after production of the appointment order of the appellant, the learned trial court filed the Contempt application with the addition that the time spent in proceedings may be compensated through proper forum.
(Kindly peruse Annex:- J).

15- That the appellant filed a proper departmental appeal to the Respondents but the same was not responded therefore, the appellant submitted a reminder dated 12-03-2019 but the same was regretted which was communicated through letter dated 28/06/2019 received on 08-07-2019,
(Kindly peruse Annex:- K, L & M).

16- That the appellant now has left with no option but to approach this honourable Tribunal on the following grounds amongst others :-

GROUND:

A- That the conduct of the respondents is illegal, biased, based on mala fide and unjustified.

B- That the issuance of the appointment order with immediate effect is tantamount to penalizing the appellant without any fault on the part of the appellant.

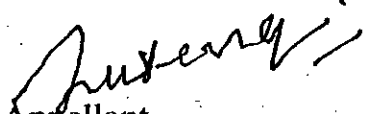
C- That that the appellant has been deprived from his due right as enshrined in the Constitution of Islamic Republic of Pakistan.

(4)


- D- That the appellant has been deprived from his livelihood without any justification.
- E- That the conduct of the respondents is highly discriminatory as many employees of the same nature were duly appointed during this period but the same was denied to the appellant.
- F- That the conduct/act of the respondents towards the appellant is harsh, arbitrary and bad in law and on facts.
- G- That the appellant be allowed to add any other ground(s) at the time of arguments.

It is, therefore, humbly prayed that on acceptance of the appellant the respondents are directed to issue appointment order of the appellant with effect from the date when the Act for re-appointment of sacked employees was passed or from the date when the selection committee illegally rejected the application of the appellant.

Any other remedy deem proper in the matter, not specifically asked for, may also please be given with costs.


Appellant

Through:


IBADUR RAHMAN
Advocate High Court
127-Sarhad Mansion
Peshawar.

Dated. 29 /07/2019

APPOINTMENT
Appointment of the following person(s) is hereby ordered against the post of CT at Rs; 16k 7p fixed plus usual allowances as admissible under the rules in BPS (5) (Rs;) at the Institution noted against each name...

S/No	Qualification & Address	Posted at	Remarks
	<u>Arvany Kib (M.S/O)</u> <u>Muslim College</u> <u>Rawal</u>	<u>CT, Maryangui</u>	<u>A. V. P.</u>

TERMS & CONDITIONS

1. His/Her appointment is purely temporary & liable to termination at any time without assigning reasons OR notice.
2. In case of resignation he/she will have to submit one month's prior notice to the Deptt; OR forfeit one month's pay in lieu thereof to the Govt;.
3. He/she is required to produce health & age certificate from the medical authority concerned before taking over charge provide he/she is not in Govt service.
4. He/she should not be allowed to take over charge if his/her age is less than 16 years OR above 30 + 2 years (years).
5. His/her appointment is subject to further condition that he/she is domiciled of NWFP.
6. All original Educational character & domicile certificates should be thoroughly checked before handing over charge, if necessary it should be verified from the Institutions concerned.
7. If he/she fails to take over charge of the post within 15 days of the receipt of this order the offer of appointment shall stand cancelled.
8. Charge reports should be submitted to all concerned.
9. No TA/DA etc is allowed.
10. He/she should be given test in Nazim Quran & Pakistan studies & result intimated to this office.

(MOHAMMAD ZAMAN KHAN)
DIVL. DIRECTOR OF EDUCATION (S)
RAWALPINDI
Date: 14/11/2006

1. Copy to the
2. D.O (M/A) Deptt. Rawal
3. DAO
4. Principal/Headmaster/Headmistress
5. Candidate concerned.
6. Supt. E/ Branch

Jafarzeb
Mousoofai

Attested

Musang

Attested

Better copy

S-A

OFFICE OF THE DIVIS: DIRECTOR OF EDU: (S) PESH DIVN: PESHAWAR

APPOINTMENT /

Appointment of the following person (s) is hereby ordered against the post of CT on temporary & adhoc basis at Rs: 1605/- fixed plus usual allowances as admsiable under the rules in BPS 9 (RS: _____) at the institution noted against each name.

<u>S/No</u>	<u>Name, qualification & Address</u>	<u>Posted at</u>	<u>Remarks</u>
1)	Aurangzeb Khan S/o Mushtaq Ahmad Regi	GHS Maryam Zai	Against the vacant post

TERMS & CONDITIONS

1. His/ her appointment is purely temporary and liable to termination any time without assigning reasons or notice.
2. In case of resignation he/ she will have to submit one month's prior notice to the Department of forefect one month's pay in lieu thereof to the Govt:
3. He /she is required to produce health and age certificate from the medical authority concerned before taking over charge provide he/she is not in Govt Service.
4. He/she should not be allowed to take over charge if his/her age is less than 18 years r above 25 years.
5. His /her apptt; is subject to further condition that he/she is domiciled of NWFP.
6. His/her antecedents forms should be obtained duly verified by the local Police authorities and submit to this office together with application for apptt: on prescribed form and under taking declaration of moveable and immoveable property for record in this office.
7. All original educational, character and domicile certificate should be thoroughly checked before handing over charge. if necessary it should be verified from the institution concerned.
8. If he/she fails to take over charge of the post within a week of the receipt of this order the offer of appointment shall stand cancelled.
9. Charge reports should be submitted to all concerned.
10. No TA/DA ets; is allowed.
11. He/she should be given test in Nazira Quran and Pakistan studies and result intimated to this office.

(MOHAMMAD SAEED)

DIVL:DIRECTOR EDUCATION
(S). PESHAWAR DIVISION
PESHAWAR

Endst No. 810-14/

Dated Peshawar the 4/4/1996

ms
Attested

The Sacked Employees' (Reinstatement) Ordinance, 2010.

An Ordinance to provide relief to persons in corporation service or autonomous or semi-autonomous bodies or in Government service who were dismissed, removed or terminated from service

[Gazette of Pakistan, Extraordinary, Part I,
5th February, 2010]

No.2(I)/2009-Pub., dated 5-2-2010.--The following Ordinance promulgated by the President is hereby published for general information:--

Whereas it is expedient for the purpose of providing relief to persons who were appointed in a corporation service or autonomous or semi-autonomous bodies or in Government service during the period from the 1st day of November, 1993 to the 30th day of November, 1996 and were dismissed, removed or terminated from service during the period from the 1st day of November, 1996, to the 31st day of December, 1998;

And, whereas the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:--

1. Short title, extent and commencement.--(1) This Ordinance may be called the Sacked Employees' (Reinstatement) Ordinance, 2010.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.--In this Ordinance unless there is anything repugnant in the subject Or context,--

(a) "person in corporation service" means a person who was appointed in a corporation, organization or autonomous or semi-autonomous body, established by or under a Federal law or owned or controlled by the Federal Government, during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed or terminated from service or given forced golden handshake during the period from the 1st day of November, 1996 to the 31st day of December, 1998 (both days inclusive);

(b) "person in Government service" means a person who was appointed and was a member of the civil service of the Federation or held a civil post in connection with affairs of the Federation in a Ministry, Division or department during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed or terminated from service or given forced golden handshake during the period from the 1st day of November, 1996 to the 31st day of December, 1998 (both days inclusive);

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(c) "Review Board" means the Review Board established under section 4; and

(d) "Secretary" includes an Additional Secretary.

3. Reinstatement of employees.--Notwithstanding anything contained in any law for the time being in force, judgment of any Tribunal or a Court including the Supreme Court and the High Court, contract or terms and conditions of service, all persons appointed in corporation or Government service, during the period from the 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and dismissed, removed or terminated or given forced golden handshake during the period from the 1st day of November, 1996 to 31st day of December, 1998 (both days inclusive) shall be reinstated immediately in service on one scale higher to their substantive scale of the post at the time of termination of service and report for duty to the appropriate respective departments or organizations:

Provided that in case of change in scale or structure of any post or cadre by the competent authority after the 31st day of December, 1998, the persons in corporation or Government service on reinstatement shall be placed on, one scale higher than the revised or existing scale of the post:

Provided further that any person in corporation or Government service who was dismissed, removed or terminated from service on account of closure of organization or whose organization ceased to exist before the 13th February, 2009, or absence from duty, misappropriation, of Government money or stock or medical unfitness may prefer petition to the Review Board as provided in section 5.

4. Establishment of Review Board.--There is hereby established a Review Board to review the cases of persons in corporation or Government service who were dismissed, removed or terminated from service on account of closure of organization, absence from duty, misappropriation of Government money or stock or medical unfitness. The Review Board shall consist of Secretary, Law and Justice Division and Secretary, Establishment Division to be headed by a retired Judge of the Supreme Court or of a High Court to be appointed by the Federal Government.

5. Petition to the Review Board.--(1) Any person in corporation or Government Service who was dismissed, removed or terminated from service on account of closure of organization, absence from duty, misappropriation of Government money or stock or medical unfitness may within sixty days of the commencement of this Ordinance, prefer petition for review of the order of dismissal, removal or termination from service to the Review Board which shall decide the case within thirty days of its first hearing. The Review Board may, on consideration of review petition and any other relevant material, confirm, set aside, vary or modify the order.

(2) The order of the Review Board passed on the review petition shall be final and shall not be called in question in any Court, Authority or Tribunal.

(3) In dealing with cases under this Ordinance the Board shall have power to regulate its own procedure.

6. Reinstatement of contract employees.--(1) A person in corporation or Government service who held the post on contract against a regular post and his

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contract was extended at least once and he was subsequently dismissed, removed or terminated from service shall be reinstated immediately and adjusted against regular post.

(2) person in corporation or Government service appointed on contract against a temporary post and who was dismissed, removed or terminated before the completion of his contract period shall be reinstated immediately for the remaining portion of his contract.

7. Reinstatement of golden handshake employees.--Persons in corporation or Government Service who were given forced golden hand shake shall be reinstated immediately subject to reimbursement of all monetary benefits received by them as a result of forced golden handshake.

8. Creation of supernumerary post.--Where due to non-availability of sanctioned posts or an equivalent scale post in corporation or Government service, the Secretary of the respective Ministry, Division, head of the department or corporation or organization shall immediately create supernumerary posts to accommodate the reinstated employees and such arrangement shall continue till the availability of regular posts are made available.

9. Manner and mode of payment of compensation on reinstatement.-On reinstatement in service each employee in corporation or Government service shall be paid compensation equal to three years emoluments of the pay scale in which he would be placed and the emoluments shall be paid to him in the following manner, namely:--

(a) first installment equal to twelve months emoluments on reinstatement;

(b) second installment equal to twelve months emoluments on the 1st day of January, 2010; and

(c) third installment equal to twelve months emoluments on the 1st day of January, 2011.

10. Reinstated employees not to claim other service benefits.--Any person in corporation or Government service who is reinstated under this Ordinance shall not be entitled to claim seniority or arrears of pay or other service benefits save as provided in this Ordinance and shall be required on reinstatement to submit a surety bond in the form specified for the purpose.

11. Ordinance to override other laws.--The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in any judgment of any Tribunal or Court including Supreme Court and High Court.

12. Power to make rules.--The Federal Government may make rules to carry out the purposes of this Ordinance.

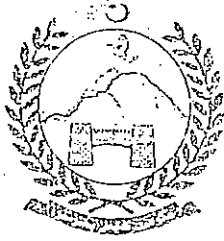
13. Repeal.-The Sacked Employees (Reinstatement) Ordinance, 2009 (XXIII) of 2009 is hereby repealed.

Attest

(Sd) P.

Muram
Attested

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. P.III.
GAZETTE

(9)
Amex

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 20TH SEPTEMBER, 2012.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 20th September, 2012.

No. PA/Khyber Pakhtunkhwa/Bills/2012/6077.—The Khyber Pakhtunkhwa Sacked Employees (Appointment) Bill, 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 10th September, 2012 and assented to by the Governor of the Khyber Pakhtunkhwa on 17th September, 2012 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA SACKED EMPLOYEES (APPOINTMENT) ACT, 2012

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

(first published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa (Extraordinary), dated the 20th September, 2012).

AN
ACT

to provide relief to those sacked employees in the Government service, who were dismissed, removed or terminated from service, by appointing them into the Government service

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on various grounds;

WHEREAS the Federal Government has also given relief to the sacked employees by enactment;

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146 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 20th SEPTEMBER, 2012.

AND WHEREAS the Government of the Khyber Pakhtunkhwa has also decided to appoint these sacked employees on regular basis in the public interest;

It is hereby enacted as follows:

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.

(2) It shall apply to all those sacked employees, who were holding various civil posts during the period from 1st day of November, 1993 to 30th day of November, 1996 (both days inclusive).

(3) It shall come into force at once.

2. Definitions.--- In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,-

- (a) "civil post" means a post created by the Finance Department of Government for the members of civil service of the Province;
- (b) "Department" means the Department and the Attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, including the Divisional and District offices working thereunder;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "Prescribed" means prescribed by rules;
- (e) "Province" means the Province of the Khyber Pakhtunkhwa;
- (f) "rules" means the rules made under this Act; and
- (g) "sacked employee" means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on the ground of irregular appointments.

3. Appointment of sacked employees.---Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

Provided further that the appointment of sacked employees shall be subject to the medical fitness and verification of their character antecedents to the satisfaction of the concerned competent authority.

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4. Age relaxation.--- The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.

5. Sacked employees shall not be entitled to claim seniority and other back benefits.--- A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

6. Preference on the basis of age.--- On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.

7. Procedure for appointment.---(1) A sacked employee, may file an application, to the concerned Department within a period of thirty days from the date of commencement of this Act, for his appointment in the said Department:

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted in the prescribed manner, for appointment:

Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(4) The concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. Removal of difficulties.--- If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act, as may appear to him to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.

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9. Act to override other laws.--- Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.

10. Power to make rules.--- Government may make rules for carrying out the purpose of this Act.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar.

The Sindh Sacked Employees (Reinstatement)

Bill, 2016

Handwritten notes and signatures:
- A large signature at the bottom left: *Mutaz*
- Below it: *Attested*
- Various other signatures and initials scattered in the bottom right area, including *Pti* and *Pti*.

Annex D

FINAL SENIORITY/MERIT LIST OF SACRED EMPLOYEES (MALES) DOMESTIC 1993-1995

1	2	3	4	5	6	7	8	9	10	11	12	13	14
S.No	Name of Sacked Employee	Father's Name	ENIC No.	District/ Agency of Domicile	Designation or the post with BPS	Acad. Exam	Post Qual.	Date of Issuing Prof. Qual.	1993	Date of Appointment	Date of Termination	School	Remarks
1	Illias	Abdul Malik	17301-7370816-9	Peshawar	C.T 03	MA	CT	31/03/2001	01/10/1996	10/03/1995	26/06/1997	GHS Yousaf Khel	سدریوان
2	Latif Ahmad	Shah Wali	17301-0182358-7	Peshawar	C.T 09	MA	CT	05/11/1993	15/05/1993	20/03/1995	13/02/1997	GHS Muhammad Noor Kalay	سدریوان
3	Qaiser Khan	Khushal Khan	17301-0182653-7	Peshawar	C.T 09	BA	CT	31/03/1993	01/06/1997	31/03/1995	13/02/1997	GHS Hasan Gari	
4	Iltaf Hussain	Ali Akbar	17301-1503721-1	Peshawar	S.V 09	MA	CT	07/10/1998	05/02/1993	03/05/1995	25/05/1997	GHS Regi	
5	Shakeel Ahmad	Irlikhar Ahmad	17301-1575300-3	Peshawar	CT 03	BSC	CT	07/10/1998	29/09/1993	25/04/1995	13/02/1997	GHS Gul Bahar	
6	Abdul Wahid	Mughal Khan	17301-4200209-5	Peshawar	C.T 09	MA	CT	13/05/1997	01/03/1993	01/11/1995	25/03/1997	GHS Chaghar Matti	
3	Muhamad Shoaib Khan	Mah Sajjad Khan	17301-1509295-9	Peshawar	C.T 03	BA	CT	05/11/1993	01/01/1970	15/02/1995	03/02/1995	GHS Regi	
9	Aurangir Khan	Abdul Hanan	17301-8501812-3	Peshawar	C.T 09	MA	CT	05/11/1993	13/01/1970	05/07/1995	06/12/1997	GHS Tehkal GHS Gulshan Rahman Col.	سدریوان
10	Ghulam Murtaza	Gul Rehman	17301-7564493-3	Peshawar	C.T 03	MA	CT	25/04/2000	01/05/1970	11/12/1995	13/02/1997	GHS NO.1 City	
11	Fazal Malik	Rahim Jan	17301-7142024-5	Peshawar	C.T 03	BA	CT	27/02/1993	12/10/1970	11/02/1995	13/02/1997	GHS Badaber	سدریوان
12	Muhamad Ishaq	Moh Umer	17301-1303679-7	Peshawar	C.T 09	BA	CT	31/03/1993	15/11/1970	15/10/1995	30/05/1997	GHS Badaber	سدریوان
13	Hayat ur Rehman	Mazb	17101-6139732-9	Peshawar	C.T 09	MA	CT	05/11/1993	15/03/1971	31/03/1995	13/02/1997	GHS Urmay Payan	
14	Abdul Shahi	Moh Karim	17301-4983091-9	Peshawar	C.T 03	BA	CT		02/02/1972	25/10/1995	23/04/1997	GHS Shahi Bala	
15	Aftab Ahmad Khan	Mushtaq Ahmad	17301-1572010-7	Peshawar	C.T 09	MA	CT	13-5-97	12/07/1972	19/11/1994	30/09/1995	GHS Sherdad GHS Mali Khel Nowshetra	
16	Sherad U Rehman	Habib U Rehman	17301-1624239-3	Peshawar	C.T 03	BA	CT	13-5-97	03/10/1972	23/05/1995	03/01/1997	GHS Maryam Zai	سدریوان
17	Aurangzeb Khan	Mushtaq Ahmad	17301-1630474-5	Peshawar	C.T 03	MA	CT	31/12/2000	03/01/1973	04/04/1996	13/02/1997	GHS Maryam Zai	سدریوان
18	Muhammad Hassan Khan	Saida Khan	17301-9255516-1	Peshawar	C.T 03	MA	CT		07/01/1973	23/07/1994	15/05/1997	GHS Tehkal	

Merit list (copy)

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Annex D

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FINAL SENIORITY/MERIT LIST OF SACKED EMPLOYEES C.T (MALE) DURING 1996-1998

1	2	3	4	5	6	7	8	9	10	11	12	13	
S/No	Name of Sacked Employee	Father's Name	CNIC No.	District / Agency of Domicile	Nomenclature of the post with BPS	Acad: Quali:	Prof: Quali:	Date of Passing- Prof: Quali:	DOB	Date of Ist Appointment	Date of termination	School	Rt
19	Jan Muhammad	Haji Gul Baz	17301-1522451-3	Peshawar	C.T 09	MA	CT	27/02/1993	07/01/1973	17/11/1994	13/2/1997	GHS GulBahar	
20	Fathuminullah	Umar Darez	17301-1351240-7	Peshawar	C.T 09	MA	CT	31/03/2003	11/12/1973	23/03/1995	19/06/1997	GHS Ade Zai	L
21	S Ziaullah shah	S Noor Ali		Peshawar	C.T 09	MA	CT	31/01/1997	01/01/1974	31/3/1995		GMS Hasan Gari	
22	Bakhtar Khan	Yara Khan	17301-1359550-1	Peshawar	C.T 09	BA	CT	06/06/2011	14/3/1974	27/10/1996	13/2/1997	GMS Regi Lama	
23	Noor-ul-Amin	Rooh -ul-Amin	17301-08235322-1	Peshawar	C.T 09	MA	CT	25/04/2000	12/04/1974	27/10/1996		GHS Daag	
24	Ibrar Ahmad	Moh Chaman	17301-1310903-5	Peshawar	C.T 09	BSC	CT	31/03/2001	15/04/1974	11/09/1995	26/8/1997	GHS Barbar	
25	Shebir Ahmad	Ghulam Khan	17301-2243131-9	Peshawar	C.T 09	MA	CT	31/12/2009	15/2/1975	22/04/1997	23/06/1997	GMS Pajagi	
26	Iftikhar Hussain	Habib Jan	17301-6312676-5	Peshawar	C.T 09	MA	CT	31/05/2003	03/03/1975	31/10/1995	15/05/1997	GHS Rasheed Gari	
27	Sardar Hussain	Najam Ud Din	17301-12443437-0	Peshawar	C.T 09	BSC	CT	31/03/1993	04/04/1975	12/11/1995	13/2/1997	GHS Kaga Wala GHS Bela Baramad Khal	
29	Nas-ro-Minllah	Inyat Ullah	17301-0473983-1	Peshawar	C.T 09	FA	CT	13/05/1997	20/1/1975	23/03/96	13/05/1997		
30	Zawar Hussain	Habib Ullah	17301-7120925-1	Peshawar	C.T 09	M.SC	CT	31/03/2002	14/01/1976	31/10/1995	13/02/1997	GMS Asia Park GHS AzaKhel	
31	S. Abdul Qahar	H. Hashtam Khan		Peshawar	C.T 09	FA	CT		22/01/1977	31/10/1996	30/12/1997	Mattani	US
32	Zai Ullah Jan	Liqat Ullah Jan	17301-3244143-3	Peshawar	C.T 09	BSC	CT	03/04/2003	04/04/1976	14/11/1995	26/5/1997	GMS Landi Arbab	

All the candidates from S No. 1 to S No. 32 not eligible for appointment due to late acquisition of their professional qualification certificates as per employer letter 2013.

[Signature]
Attested
16/4/13

Abdullah
Zahara
Ahmad Khan
Muhammad
Rahman
Ab Khan
Abd Hassan

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FINAL SENIORITY/MERIT LIST OF SACKED EMPLOYEES OF (MALE) DURING 1996-1998													
1	2	3	4	5	6	7	8	9	10	11	12	13	14
S/No	Name of Sacked Employee	Father Name	CNIC No.	District/ Agency of Domicile	Nomenclature of the post & BPS	Acad: Quali	Prof: Qual	Date of passing Prof: qual:	DOB	Date of 1 st appointment	Date of termination	School	Rmk
1	Ilyas	Abdul Malik	17301-7370816-9	Peshawar	C.T 09	MA	CT	31/3/2001	1/10/1996	10/3/1996	26/6/1997	GMS Yousaf Khel	
2	Latif Ahmad	Shah Wali	17301-0182658-7	Peshawar	C.T 09	MA	CT	5/11/1999	15/6/1966	20/9/1995	12/2/1997	GMS Muhammad	
3	Qasir Khan	Khushal Khan	17301-0182658-7	Peshawar	C.T 09	BA	CT	31/3/1998	1/6/1967	31/3/1995	13/2/1997	GHS Hasan	
4	Iltaf Hussain	Ali Akber	17301-1503721-1	Peshawar	S.V 09	MA	C.T	7/10/1998	5/2/1968	3/5/1995	26/6/1997	GHS Regi	
5	Shakeel Ahmad	Iftikhar Ahmad	17301-1575300-3	Peshawar	C.T 09	BSC	CT	7/10/1998	29/9/1968	24/4/1996	13/2/1997	GHS Gul Bahar	
6	Abdul Wahid	Mugal Khan	17301-4200209-5	Peshawar	C.T 09	MA	CT	13/5/1997	1/3/1969	4/11/1996	26/6/1997	GHS Chahar	
8	Muhammad Shoaib Khan	Moh Saifur Khan	17301-1500295-9	Peshawar	C.T 09	BA	CT	5/11/1999	1/1/1970	15/2/1995	8/2/1995	GHS Regi	
9	Jhangir Khan	Abdul Hanan	17301-8501812-3	Peshawar	C.T 09	MA	CT	5/11/1999	13/1/1970	5/7/1996	6/12/1997	GHS Tehkal	
10	Ghulam Murtaza	Gul Rehman	17301-76644993-3	Peshawar	C.T 09	MA	CT	25/4/2000	1/6/1970	13/12/1995	13/2/1997	GHS Gulshan	
11	Fazli Malik	Rahim Jan	17301-7142024-5	Peshawar	C.T 09	BA	CT	27/2/1998	12/10/1970	13/2/1995	13/2/1997	GHS NO.1 City	
12	Muhammad Ishaq	Moh Umer	17301-1303679-7	Peshawar	C.T 09	BA	CT	31/3/1998	15/11/1977	19/10/1995	30/6/1997	GHS Badaber	
13	Hayat ur Rahman	Maab	17301-6139732-9	Peshawar	C.T 09	MA	CT	5/11/1999	15/8/1971	31/8/1995	13/2/1997	GHS Urmar Pyan	

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FINAL SENIORITY/MERIT LIST OF SACKED EMPLOYEES OF (MALE) DURING 1996-1998													
1	2	3	4	5	6	7	8	9	10	11	12	13	14
S/No	Name of Sacked Employee	Father Name	CNIC No.	District/ Agency of Domicile	Nomenclature of the post & BPS	Acad: Quali	Prof: Qual	Date of passing Prof: qual:	DOB	Date of 1 st appointment	Date of termination	School	Rmk
14	Abdul Shafi	Moh Karim	17301-4988093-9	Peshawar	C.T 09	BA	CT		2/2/1972	25/10/1996	22/4/1997	GHS Shahi Bala	
15	Altaf Ahmad Khan	Mushtaq Ahmad	17301-1572010-7	Peshawar	C.T 09	MA	CT	13-5-1997	12-7-1982	19-11-1994	30-9-1996	GHS Sherdad	
16	Saeed ur Rahman	Habib U Rehman	17301-1624289	Peshawar	C.T 09	BA	CT	13-5-97	8-10-1972	23-5-1996	3-1-1997	GHS Mali Khel	
17	Aurangzeb Khan	Mushtaq Ahmad	17301-1630474-5	Peshawar	S.V 09	MA	CT	31-12-09	3-1-1973	4-4-1996	13-2-1997	GHS Maryam Zai	
18	Muhammad Hassan Khan	Saidra Khan	17301-9265616-1	Peshawar	C.T 09	MA	CT		7-1-1973	26-7-1994	15-6-1997	GHS Tehkal	
19	Jan Muhammad	Haji Gul Baz	17301-1522451-3	Peshawar	C.T 09	MA	CT	27-2-1998	7-1-1973	17-11-1994	12-2-1997	GHS GulBahar	
20	Fathuminullah	Umar daraz	17301-1351240-7	Peshawar	C.T 09	MA	CT	31-5-2003	11-12-73	28-3-1996	19-6-1997	GHS Ade Zai	
21	S Ziaullah Shah	S Noor Ali		Peshawar	C.T 09	MA	CT	31-1-1997	1-1-1974	31-8-1995		GMS Hasan Gari	
22	Bakhtar Khan	Yara Khan	17301-1359560-1	Peshawar	C.T 09	BA	CT	8-6-2011	14-3-1974	27-10-1996	13-2-1997	GMS Regi Lama	
23	Noor ul Amin	Rooh ul Amin	17301-08236322-1	Peshawar	C.T 09	MA	CT	25-4-2000	12-4-1974	27-10-1996		GHS Daag	
24	Ibrar Ahmad	Moh Chaman	17301-1310003-5	Peshawar	C.T 09	BSC	CT	31-3-2001	15-4-1974	11-8-1996	26-8-1997	GHS Barbar	
25	Shabir Ahmad	Ghulam Khan	17301-2243181-9	Peshawar	C.T 09	MA	CT	31-12-009	15-2-1975	22-4-1997	25-6-1997	GMS Pajagi	
26	Ifikhar Ahmad	Habib-Jan	17301-6312676-5	Peshawar	C.T 09	MA	CT	31-5-2003	3-3-1975	31-10-1996	15-5-1997	GHS Rshheed Gari	

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FINAL SENIORITY/MERIT LIST OF SACKED EMPLOYEES OF (MALE) DURING 1996-1998													
1	2	3	4	5	6	7	8	9	10	11	12	13	14
S/No	Name of Sacked Employee	Father Name	CNIC No.	District/ Agency of Domicile	Nomenclature of the post & BPS	Acad: Quali	Prof: Qual	Date of passing Prof: qual:	DOB	Date of 1 st appointment	Date of termination	School	Rmk
14	Abdul Shafi	Moh Karim	17301-4988093-9	Peshawar	C.T 09	BA	CT		2/2/1972	25/10/1996	22-4/1997	GHS Shahi Bala	
15	Altaf Ahmad Khan	Mushtaq Ahmad	17301-1572010-7	Peshawar	C.T 09	MA	CT	13-5-1997	12-7-1982	19-11-1994	30-9-1996	GHS Sherdad	
16	Saeed ur Rahman	Habib U Rehman	17301-1624289	Peshawar	C.T 09	BA	CT	13-5-97	8-10-1972	23-5-1996	3-1-1997	GHS Mali Khel	
17	Aurangzeb Khan	Mushtaq Ahmad	17301-1630474-5	Peshawar	S.V 09	MA	CT	31-12-09	3-1-1973	4-4-1996	13-2-1997	GHS Maryam Zai	
18	Muhammad Hassan Khan	Saidra Khan	17301-9265616-1	Peshawar	C.T 09	MA	CT		7-1-1973	26-7-1994	15-6-1997	GHS Tehkal	
19	Jan Muhammad	Haji Gul Baz	17301-1522451-3	Peshawar	C.T 09	MA	CT	27-2-1998	7-1-1973	17-11-1994	12-2-1997	GHS GulBahar	
20	Fathuminullah	Umar daraz	17301-1351240-7	Peshawar	C.T 09	MA	CT	31-5-2003	11-12-73	28-3-1996	19-6-1997	GHS Ade Zai	
21	S Ziaullah Shah	S Noor Ali		Peshawar	C.T 09	MA	CT	31-1-1197	1-1-1974	31-8-1995		GMS Hasan Gari	
22	Bakhtar Khan	Yara Khan	17301-1359560-1	Peshawar	C.T 09	BA	CT	8-6-2011	14-3-1974	27-10-1996	13-2-1997	GMS Regi Lama	
23	Noor ul Amin	Rooh ul Amin	17301-08236322-1	Peshawar	C.T 09	MA	CT	25-4-2000	12-4-1974	27-10-1996		GHS Daag	
24	Ibrar Ahmad	Moh Chaman	17301-1310003-5	Peshawar	C.T 09	BSC	CT	31-3-2001	15-4-1974	11-8-1996	26-8-1997	GHS Barbar	
25	Shabir Ahmad	Ghulam Khan	17301-2243181-9	Peshawar	C.T 09	MA	CT	31-12-009	15-2-1975	22-4-1997	25-6-1997	GMS Pajagi	
26	Iftikhar Ahmad	Habib Jan	17301-6312676-5	Peshawar	C.T 09	MA	CT	31-5-2003	3-3-1975	31-10-1996	15-5-1997	GHS Rshedd Gari	

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FINAL SENIORITY/MERIT LIST OF SACKED EMPLOYEES OF (MALE) DURING 1996-1998													
1	2	3	4	5	6	7	8	9	10	11	12	13	14
S/N	Name of Sacked Employee	Father Name	CNIC No.	District/ Agency of Domicile	Nomenclature of the post & BPS	Acad: Quali	Prof: Qual	Date of passing Prof: qual:	DOB	Date of 1 st appointment	Date of termination	School	Rmk
27	Sardar Hussain	Najam ud Din	17301-1244347-0	Peshawar	C.T 09	BSC	CT	31-3-1998	4-4-1975	12-11-1995	13-2-1997	GHS Kaga Wala	
29	Nas-ro-Minllah	Inayatullah	17301-0479083-1	Peshawar	C.T 09	FA	CT	13-5-1997	30-4-1975	28-3-96	13-5-1997	GHS Bela Baramad	
30	Zawar Hussain	Habib Ullah	17301-7120825-1	Peshawar	C.T 09	MSC	CT	31-3-2002	14-1-1976	31-10-1996	13-2-1997	GMS Asia Park	
31	S. Abdul Qahar	H. Hastam Khan		Peshawar	C.T 09	FA	C.T		22-1-1977	31-10-1996	30-12-1997	GHS Aza Khel Mattni	
32	Zia Ullah Jan	Liaqat Ullah jan	17301-8244143-3	Peshawar	C.T 09	BSC	CT	3-4-2009	4-4-1976	14-11-1996	26-6-1997	GMS Landi Arbab	

All the candidates from S.No.1 to S.No.32 not eligible for appointment due to late acquirement of their professional qualification certificates as per Sacked Emplacement Act 2012.

Sd/-
Dt:16-4-2013

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Attested

FOR THE SENIOR CIVIL JUDGE PESHAWAR.

16/7/13 s/o 157/11 s/o Annex (15)

1- Fazli Maalik (SV/CT) S/O Rahim Jan, R/o Sardar Colony, Charsadda Road, Peshawar.

2- Hayat ur Rahim (CT), s/o Maab Khan, R/o Wazir Bagh Peshawar

3- Aurangzeb (CT), s/o Mushtaq Ahmad R/o Mirkin Abad R/o Peshawar.

4- Shakil Ahmad(CT), s/o Ifikhar Ahmad, R/o Mohallah Qazi Khailan, Peshawar.

5- Aziz ul Haq (CT), s/o Muhammad Naim, Aabshar Colony, Wazir Road Peshawar.

6- Srwat Qayyum (CT), D/o Abdul Qayyum, R/o Chagar Matti, Peshawar.

7- Safia Begum (PET) D/o Miamar Khan, R/o Chankani, Peshawar.

8- Noor Ullah Shah (Qari), s/o Saif Ullah Shah, Vill: Chaghar Matti, Peshawar

9- Nawaz Khan (Junior Clerk), R/o Deh Bahadar, Peshawar.

10- Hayat Khan (Junior Clerk), s/o Alamzeb Khan, R/o Phase-V, Hayatabad, Peshawar.

11- Nawab Ali (Junior Clerk), s/o Mustaqeem, R/o Vill: Sarband, Peshawar.

12- Asghar Ali (Junior Clerk) S/o Abdul Sattar, R/o Nahaqi Peshawar.

Plaintiffs

Versus

1- Secretary, Elementary and Secondary Education, Government of KPK Peshawar.

2- Director, Elementary & Secondary Education, Govt: of KPK Peshawar.

District Education Officer, Peshawar.

Defendants.

Handwritten signature and stamp: "Arrested" and "STILL".

Handwritten notes on the left margin: "13/5", "15", "2508", "14/5/13", "15/5/13".

Stamp: "SOLICITORS" and "15 JUL 2013".

IT FOR :-

(16)

A- DECLARATION TO THE EFFECT THAT THE PLAINTIFFS ARE ENTITLED TO BE APPOINTED AGAINST THE 30% QUOTA RESERVED FOR THE SACKED EMPLOYEES AND THE DEFENDANTS HAVE NO RIGHT WHATSOEVER TO DENY THE APPOINTMENT RIGHTS OF THE PLAINTIFFS.

B. MANDATORY INJUNCTION DIRECTING THE DEFENDANTS TO APPOINT THE PLAINTIFFS AGAINST THE QUOTA RESERVED FOR THE SACKED EMPLOYEES.

C. PERPETUAL INJUNCTION AGAINST THE DEFENDANTS NOT TO DENY THE DUE APPOINTMENT RIGHTS OF THE PLAINTIFFS.

Value for the purpose of Court Fee and Jurisdiction:-

For Prayer A, B & C

Rs. 1200/-

Amount of Court Fee

=

Rs. 500/- (Attached).

Respectfully sheweth,

Plaintiffs submit as under;-

- 1- That the Plaintiffs being fully qualified and possessing the prescribed qualification at that time, were appointed against their respective posts during the period 1993-1996.
- 2- That the Plaintiffs were performing their duties with full devotion and zeal & zest, to the entire satisfaction of their superiors and there was nothing adverse on the service career of the plaintiffs.
- 3- That during their service career on many occasions, the services of the plaintiffs were duly acknowledged by the high ups of the education department.

5/7/16

Murthy
Attested

- 4- That besides all the out standing achievement and good performance, the plaintiffs services were terminated in 1997 illegally and on mala fide basis due to the change of government. (17)
- 5- That since then, the Plaintiffs raised their voice against this gross illegality and approached to different forums but with no positive results. 6
- 6- That in the year 2010 the president of Pakistan issued an Ordinance vide which all the government employees who were appointed during the period from 01-11-1993 to 30-11-1996 and their services were terminated during the period from 01-11-1996 to 31-12-1998, have been order to be re-instated into service with one step promotion and payment of arrears. (Attached). (12)
- 7- That in the said Ordinance, the president of Pakistan also issued instructions to all the provincial governments to issue such likes orders for the re-instatement of the provincial government employees.
- 8- That the matter regarding the re-instatement of the sacked employees remained under consideration before the provincial authorities and at last the Provincial government of Khyber Pakhtunkhwa passed an Act No. XVII in 2012 vide which it was ordered that all sacked employees be appointed in their respective cadre of their concerned Department, in which they occupied posts before their dismissal, removal and termination from service.
- 9- That a quota of 30% was reserved for these sacked employees of the available vacancies in the concerned departments.
- 10- That in the light of the directions/instructions contained in the said Act, the plaintiffs duly submitted their written requests to the

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576-104
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Defendants which were duly entertained in their office and were duly processed.

(18)

- 11- That in the light of the said Act, many employees have been appointed in different departments of Provincial government even also in the Education Department.
- 12- That the issue regarding the appointment of the Plaintiff under the Sacked Employees Act, 2012, remained under consideration in the Education Department and at last the Petitioners were informed that the Petitioners are not eligible to be appointment under the said Act.
- 13- That the said interpretation/refusal is neither logical nor justified as the Plaintiffs are fully qualified to be appointed in the light of the said Act and the said fact has also been clarified by the Honourable Supreme Court of Pakistan and Peshawar High Court, in their respective judgments.
- 14- That in this response, the Plaintiffs time and again requested the defendants to implement the said Act of the Provincial government and to re-appoint the Petitioners but with no response from their side.
- 15- That in the light of the judgment and decree passed by the honourable Civil Judge - III, Peshawar, some of the employees have been re-appointed in education department but the defendants are still reluctant to appoint the plaintiffs against the quota reserved for sacked employees.
- 16- That being aggrieved by the refusal/conduct of the respondents and finding no other adequate remedy, the Plaintiff have left with no

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option but to approach this honourable court through the suit in hand.

17- That the offices of the Defendants are in Peshawar and Cause of action also arose at Peshawar, therefore this honourable court has got the jurisdiction to entertain the suit in hand.

18- That value for the purpose of court fee and jurisdiction has duly been mentioned in the heading of the plaint and the court fee has also been annexed.

It is, therefore, prayed that the suit s prayed for may kindly be decreed in favour of the plaintiffs and against the defendants.

Any other remedy deem proper in the matter and not asked for may also please be given with costs.

Plaintiffs

Through:

IBADUR RAHMAN
Advocate High Court
127-128 Sarhad Mansion
Hashtnagri, GT Road,
Peshawar.

Dated 16 / 17 / 2013.

VERIFICATION.

Verified on oath that the above contents are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this honourable court.

Deponent

ATTESTED

Mubanghi

Attested

IN THE COURT OF MS. SAIMA IRFAN, CIVIL JUDGE-II, PESHAWAR.

Suit # 157/1 of 2013.
Case Institution Date: 16.07.2013
Case Decision Date : 13.05.2014

(20)

Fazl-e-Malik and eleven others
.....(Plaintiffs)

VERSUS

Secretary Elementary and Secondary Education, Govt of KPK and two others
.....(Defendants)

(Suit for declaration cum perpetual injunction)

JUDGMENT

Through this judgment of mine, I am going to dispose of a civil suit filed by Fazl-e-Malik and others (plaintiffs) against Govt of KPK and two others (defendants) for declaration cum perpetual injunction to the effect that plaintiffs are entitled to be reinstated in accordance of the Sacked Employees Act, 2012 and act of the defendants by denying to reinstate the plaintiff is illegal, void, ab-initio ineffective upon the rights of the plaintiffs.

(17)

Brief but leading facts averred in plaint are these that plaintiffs were appointed against their respective posts during the period of years 1993 to 1995 and were terminated in year 1997. In year 2012, the Khyber Pakhtunkhwa Assembly passed an Act called, Khyber Pakhtunkhwa Sacked Employees Act, 2012, for which plaintiffs became entitled to be reinstated as per Act. Plaintiffs approached to the competent authority for reinstatement through applications and order in this respect issued to the all EDOs with the directions to do as per the said act. In sequence of the same, EDOs wrote a letter to the Director KPK for guidance in appointment and thus, competent authority issued an order for reserving 30% quota for Sack employees but defendants in clear violation of the order of competent authority, refused to do so for which they time and again contact, but they refused, hence the present suit.

Miss SAIMA IRFAN
Civil Judge II, Peshawar

13/5/14

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Defendants were properly served whose on appearance by submitting their written statement raised many legal as well as factual objections and requested for rejection of suit.

From divergent pleadings of both the parties, following issues were framed for adjudication of real controversy between them which are as follow:-

1. Whether pliffs have got a cause of action?
2. Whether this court has got jurisdiction to entertain the present suit?
3. Whether the suit is maintainable in its present form?
4. Whether the suit of the plaintiffs is bad for mis-joinder and non-joinder of necessary parties?
5. Whether in case of dismissal, defendants would be entitled for special compensatory cost?
6. Whether plaintiffs are entitled to be reinstated in accordance with "Sacked" Employees Act, 2012?
7. Whether pliffs are entitled to the decree as prayed for?
8. Relief

Both the parties were given full opportunity to led their pro and contra evidence which was availed them as they wished.

I have heard both the counsel at length and gone through the available record with their valuable assistance.

In the light of adduced evidence and arguments, my issuewise findings are as

Mrs. SAJJAD IRFAN
Civil Judge Peshawar

below:

ISSUES NO.2,3 & 6

All of these issues are interconnected to each other, therefore, going to decide by me collectively.

In support of their respective contentions, plaintiffs produced TWO (02) while defendant produced only ONE (01) witness.

Fazl-e-Malik, (plaintiff No.1) & Noor Ullah Shah (plaintiff No.8) appeared as PW.1 & PW.2 and narrated the same story as per plaint by producing their appointment letters, newspaper cutting, DEO Batagram order dated 15.02.2013, Finance Department letter dated 30.10.2009, Establishment Department Letter dated 15.02.2013, letter regarding in-service training dated 27.10.1996, Seniority List dated 14.01.2013, copy of

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letter regarding un-trained training dated 10.04.1997, copy of judgement of August Supreme Court of Pakistan, copy of Ordinance 2010 and copy of Khyber Pakhtunkhwa Sacked Act NO.XVII OF 2012 and requested for grant of decree in their favour.

In contrary, Fakhr-e-Alam, Senior Clerk / Record Keeper on appearance as DW.1 disclosed that after enactment of Sack Employees Act, publication was issued and in this respect they received various applications and in sequence of the applications, merit list were prepared. In his cross, DW.1 admitted that they have record of plaintiffs and plaintiffs are well trained personals while merit list / seniority list exhibited as Ex.PW.1/3 prepared by their office, while all the employees after enactment of Sack Employees Act, properly moved applications to their department.

From careful perusal of the record, its very much clear that plaintiff sought relief for reinstatement / appointment by taking advantage of Sack Employees Act, 2012 through the present declaratory suit. In contrary, defendant challenged the eligibility of the plaintiffs under the Sacked Employees Act, 2012 but plaintiff throughout their evidence succeeded to prove their stance by way of producing all the relevant documents through which they sought their entitlement for the post as per the Sacked Employees Act, 2012. Interestingly, the plaintiff version was strengthened through seniority list / final list prepared by the defendant themselves and produced by the plaintiffs during their evidence as Ex.PW.1/8 while defendants failed to describe a single justification for non-considering the plaintiff inspite falling within the criteria and requisite conditions as per the Sacked Employees Act, 2012. Not a single justification given for depriving them inspite of their appearance in final merit list which prepared by their own department. Moreover, it is also pertinent to mention in here that prior to plaintiffs, two other persons Latif Ahmed and Abdul Wahid instituted a suit No.10/1 of 2013 against the same defendants under the same policy by seeking declaration in which defendants on appearance gave their consent by showing non-objection on grant of decree in those persons. In sequence of the same, a decree was passed in faovur of said person (as per the copies produced by the plaintiff) and those persons successfully entertained / appointed by the defendants and that order not bothered been challenged by the defendants. Hence, denial, refusal of all the defendants for appointment /

5/6/10

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dated

reinstatement of the present plaintiff inspite of fulfilling all the requisite criteria and mentioning of the name on their own prepared seniority list very meaningful and thus plaintiff succeeded to prove their stance.

In this scenario, it observed by the court that plaintiffs rightly approached for their appointment to this court through a declaratory suit for which civil court being a court of ultimate jurisdiction has got full jurisdiction to entertain such like controversies. Plaintiffs by fulfilling all the criteria by having the requisite qualification for the said post under the Sacked Employees Act, 2012 and most importantly the seniority list prepared by the defendant, entitled for reinstatement / reappointment as per law.

Hence, all of these issues are decided in affirmative.

ISSUES NO.4 & 5

Defendant alleged that suit in hand is bad for mis-joinder and non-joinder of necessary parties and in case of dismissal entitled for special cost. But both of these issues neither stressed nor proved, hence, be deleted as redundant.

ISSUES NO.1 & 7

From detailed discussion on above motioned issues, it becomes clear that plaintiffs have got a cause of action, therefore, entitled for decree as prayed for.

Both of these issues are, decided in affirmative.

RELIEF:-

Crux of my issue wise discussion is that plaintiffs successfully proved their case I, hereby, passed a decree in favour of the plaintiffs without any order as to cost.

File be consigned to record room after necessary completion and compilation.

Announced
13.05.2014

CERTIFICATE

Certified that my this judgment consists of FOUR (04) pages. Each page has been read over, correct and signed by me where necessary.

CERTIFIED TO BE TRUE COPY

3/6/14
Copy of Judgment Civil Court Peshawar

Ms. Saima Irfan,
Civil Judge-II,
Peshawar
Ms. SAIMA IRFAN
Civil Judge II, Peshawar

Ms. Saima Irfan,
Civil Judge-II,
Peshawar
Ms. SAIMA IRFAN
Civil Judge II, Peshawar
13/5/14

Suzang
Attested

BEFORE THE HONOURABLE DIST & SESSION JUDGE PESHAWAR.

15-6-15 ضمیمہ 2-6-15 سب سے 59/13

1. GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY
ELEMENTARY & SECONDARY EDUCATION PESHAWAR.
DIRECTOR ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA.
2. EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY
EDUCATION PESHAWAR.....APPELLANTS

(24)

Annex: F

VERSUS

1. FAZLI MAALIK (SV/CT) S/O RAHIM JAN, R/O SARDAR COLONY
CHARSADDA ROAD PESHAWAR. ✓
2. HAYAT UR REHMAN (CT), S/O MAAB KHAN, R/O WAZIR BAGH
PESHAWAR. ✓
3. AURANGZEB (CT) S/O MUSHTAQ AHMED R/O MISKIN ABAD REGI
PESHAWAR. ✓
4. SHAKEEL AHMED (CT) S/O IFITHAR AHMED R/O MOHALLAH QAZI
KHAILAN, PESHAWAR.
5. AZIZ UL HAQ (CT) S/O MUHAMMAD NAIM, AABSHAR COLONY
WARSACK ROAD PESHAWAR. ✓
6. SARWAT QAYUM (CT), D/O ABDUL QAYYUM R/O CHAGAR MATTI
PESHAWAR.
7. SAFIA BEGUM (PET) D/O MUMTAZ KHAN R/O CHAMKANI
PESHAWAR. ✓
8. NOORULLAH SHAH QARI S/O SAFIULLAH SHAH, VILLEGE
CHAGAR MATTI PESHAWAR.
9. NAWAZ KHAN (JUNIOR CLERK), R/O DEH BAHADAR, PESHAWAR.
10. HAYAT KHAN (JUNIOR CLERK), S/O ALAMZEB KHAN, R/O PHASE V
HAYATABAD PESHAWAR.
11. NAWAB ALI (JUNIOR CLERK) S/O MUSAQEEM R/O VILLEGE
SERBAND PESHAWAR.
12. ASGHAR ALI (JUNIOR CLERK) S/O ABDUS SATTAR, R/O NAHAQI
PESHAWAR (RESPONDENTS/PLAINTIFF). ✓

APPEAL AGAINST THE ORDER/ JUDGMENT/DECREE DATED 13/05/2014
PASSED BY THE LEARNED CIVIL JUDGE PESHAWAR WHEREBY SUIT OF
THE RESPONDENTS/ PLAINTIFFS WAS DECREED IN THEIR FAVOUR

PRAYER:

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EX

(25)

IN THE COURT OF MR. FAZAL SATTAR,
ADDITIONAL DISTRICT JUDGE-I, PESHAWAR

Civil Appeal # 79/13 of 2014

Date of institution: ..07/06/2014

Date of decision: ...15/06/2015

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa.
3. Executive District Officer Elementary & Secondary Education Peshawar.

.....Appellants

VERSUS

1. Fazli Maalik (SV/CT)
2. Hayat-ur-Rehman (CT)
3. Aurangzeb (CT)
4. Shakeel Ahmed (CT)
5. Aziz-ul-Haq (CT)
6. Sarwat Qayum (CT)
7. Safia Begum (PET)
8. Noor Ullah Shah (Qari)
9. Nawaz Khan (Junior Clerk)
10. Hayat Khan (Junior Clerk)
11. Nawab Ali (Junior Clerk)
12. Asghar Ali (Junior Clerk)

.....Respondents

Present: Mr..Arshad Alam, Senior Government Pleader for appellants.
Mr. Ibad ur Rehman Advocate for Respondents.

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20/6/15
Sessions Court Pesh
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(26)

J U D G M E N T :-

Appellants/defendants, Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and 02 others filed the instant civil appeal against the respondents/plaintiffs Fazli Maalik (SV/CT), Hayat ur Rehman (CT), Aurangzeb (CT), Shakeel Ahmed (CT), Aziz ul Haq (CT), Sarwat Qayum (CT), Safia Begum (PET), Noor Ullah Shah (Qari), Nawaz Khan, (Junior Clerk), Hayat Khan (Junior Clerk), Nawab Ali (Junior Clerk) and Asghar Ali (Junior Clerk),
(2) wherein, the order/judgment & decree dated 13/05/2014 passed by Ms. Saima Irfan the then learned Civil Judge-II, Peshawar has been impugned.

2. Brief facts relating to the matter in issue are that respondents/plaintiffs filed a civil suit before the learned trial court against the appellants/ defendants, wherein they sought declaration to the effect that respondents/plaintiffs are entitled to be appointed against the 30% quota reserved for the sacked employees and defendants have no right whatsoever to deny the appointment rights of the

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20/06/14
(Examiner)
Sessions Court Peshawar

respondents/plaintiffs. In addition to that, they also prayed for mandatory and perpetual injunction.

3. Defendants were summoned, who appeared through their counsel before the learned trial court and filed written statement, wherein various legal as well as factual objections were raised. From the divergent pleadings of the parties, the learned trial court framed the following issues;

ISSUES

1. Whether plaintiffs got a cause of action?
2. Whether this court has got jurisdiction to entertain the present suit?
3. Whether the suit is maintainable in its present form?
4. Whether the suit of the plaintiffs is bad for mis-joinder and non-joinder of necessary parties?
5. Whether in case of dismissal, defendants would be entitled for special compensatory costs?
6. Whether plaintiffs are entitled for reinstatement in accordance with "Sacked Employees Act, 2012"?
7. Whether plaintiffs are entitled to the decree as prayed for?
8. Relief.

15/06

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ATTESTED
20/6/15
SESSIONS COURT

4. Thereafter the parties, in line with their list of witnesses, recorded their pro & contra evidence and having heard learned counsel for the parties, the learned trial court found itself in agreement with respondents/plaintiffs' stance and so, decreed the suit in their favor as against the appellants/ defendants. Feeling aggrieved thereby, the appellants/defendants invoked the jurisdiction of this court by filing the instant appeal.

15/06

5 Learned counsel for appellants argues that, impugned judgment/decreed is the outcome of misreading and non-reading of the record available in file, and thus the same is untenable in the eyes of law. He goes on contending that respondents were deficient in qualification at the time of recruitment according to the "Sacked employees Act 2012". Moreover, the learned trial court lacked the jurisdiction to entertain such suits hence the impugned judgment is liable to be set aside. While expressing his utmost reservations vis-à-vis the impugned judgment, learned counsel concludes his arguments with the request for

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accepting the appeal and dismissal of the respondents' suit with costs.

6. To the contrary, learned counsel for the respondents views the issue with a squarely different angle. He terms the impugned judgment & decree as based on correct and true appreciation of the record as well as the law related to it, and thus requests for dismissal of the appeal.

7. Arguments heard and record perused.

15/08

8. Admittedly the plaintiffs/respondents have been given relief by the learned trial court vide the impugned judgment/decree dated 13/05/2014, through the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012. The Act at the very outset suggests that, it is an Act to provide relief to those sacked employees in the government service, who were dismissed, removed or terminated from service, by appointing them into the government service. The first para which goes into the roots of instant matter is reproduced for ready reference as under;

Muhammad Ali
Attested

ATTESTED
20/08/14
(E. A. Khan)
Sessions Judge, Peshawar

"WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the province of Khyber Pakhtunkhwa and had possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November 1993 to the 30th day of November 1996 (both days inclusive) and were dismissed, removed or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998 on various grounds."

15/08

Then as per definition in Section 2 sub section (g) a "sacked employee" means a person who was appointed on regular basis to a civil post in the Province and had possessed the prescribed qualification and experience for the said post at that time, during the period from 1st day of November 1993 to 30th day of November 1996 (both days inclusive) and was dismissed, removed or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998 on the ground of irregular appointments."

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20/11/98
(11/01/98)
Sessions Court Peshawar

9. Therefore the Act itself has defined as to who is a sacked employee and who shall be considered as such while reinstating him or her as per the quota mentioned in the first proviso of section 3 of the Act ibid along with other requirements.

10. The learned trial court while decreeing the suit in favor of the plaintiffs/respondents held that all the said respondents fell within the definition of sacked employees and were thus held entitled to their reinstatement as per the quota mentioned in the Act above.

15/08
11. Plaintiff/respondent No.1 Fazle Malik appeared as PW-1 in support of his stance followed by one Noor Ullah Shah plaintiff/ respondent No.8 who appeared as PW-2, and thereafter they closed their evidence. It is pertinent to mention here that, both the said PWs appeared on their own behalf and not as attorneys for rest of the plaintiffs/respondents, while none of the remaining plaintiffs/respondents appeared before the court for recording their evidence in order to forward their point of view. Thereafter one Fakhr-e-Alam

Fakhr-e-Alam
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ATTESTED
20/06/15
(Examiner)
Sessions Court Peshawar

representative of appellants/defendants appeared as DW-1, following which arguments were heard, resulting into the impugned judgment/decree.

12. At the very outset the learned counsel for appellants argued that, the matter in hand being a service matter, debarred civil courts from its jurisdiction and vehemently argued that the learned trial court lacked the jurisdiction to entertain the instant suit.

Undoubtedly, the restoration of employees in the light of ~~of~~ 'Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 is a civil right which comes within the ambit of section 9 of the Civil Procedure Code which can be enforced by civil courts as well. The Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012 has created specific rights with regard to the Sacked Employees and it is the civil court to determine as to whether the plaintiffs/respondents are entitled to the relief in the light of their contentions raised in the plaint and evidence brought in support thereof. Therefore, civil courts are very much competent to entertain such matter. In this connection reliance is placed on an unreported judgment passed

LS/AB

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(Notary Public)
Sessions Court

(33)

by His Lordship Mr. Justice Nisar Hussain Khan in Civil revision petition No.496-P of 2014, wherein a similar matter pertaining to the Sacked Employees Act was disposed off.

13. Now that the issue pertaining to jurisdiction is settled, we shall move on to the merits of the case and see as to whether plaintiff/respondents are entitled to be reinstated under the Act aforementioned or otherwise. Vide the said revision, a yardstick was laid to the civil court, which was to determine as to whether the plaintiff is entitled to the relief claimed in the light of his contentions raised in the plaint and evidence led in support thereof? And whether he fulfils the criteria provided in the Act?

CS/08

14. Careful perusal of the paras of the said act reproduced above for ready reference would transpire that, the sacked employees seeking relief from the said Act need to have possessed their requisite/prescribed qualification and experience for the said post at that time when they were appointed way back during the period from 1st November 1993 to 30th November 1996

Nisar Hussain Khan
Attested

ATTESTED
20/11/11

(34)

and unless and until they were so qualified at that time they could not be termed to fall within the meaning of a "sacked employee" and that, who should be entitled to relief under the Sacked Employees Act in accordance with the prescribed quota. Having acquired the prescribed qualification beyond the cut off date i.e. 30th November 1996, is of no avail and such person, as per the Act Ibid, does not qualify to be a "sacked employee".

15 The statements forwarded by Fazle Malik and Noor Ullah and relevant record exhibited by them would clearly transpire that they did not possess the requisite qualification at the time of appointment, nor had they acquired it within the stipulated time. The remaining plaintiffs/ respondents never appeared in the witness box to forward their point of view and to their extent there is nothing on record to suggest as to whether they had acquired the prescribed training within the stipulated time. Similarly, no benefit could be derived through the presence of a decree in favor of other persons who were removed from service. The decree passed by the learned trial court has been

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ATTESTED
20/11/2011
15/11/2011

(35)

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appealed against, which is also pending adjudication before this court. Needless to mention here that each and every matter is to be seen on its own merits and demerits. The decree referred to has been passed on the basis of a concessional statement by the representative of the appellants and not on merits. The learned counsel for the respondent, had during the course of arguments referred to a judgment passed by their worthy lordships hon'ble Mr. Justice Lal Jan Khattak and hon'ble Mrs. Justice Musarat Hilali in writ petition No.1662-P/2013, however the instant matter pertains to district Mardan, wherein as per para 7 of the said judgment of their lordships, those persons were appointed as un-trained teachers in accordance with the policy in vogue at that time whereas in the instant situation there is no mention of any policy and while disposing of the said writ petition, their Worthy Lordships directed the defendant to consider the petitioners for their appointments in accordance with the provisions of the Act i.e. the Sacked Employees Act 2012, which clearly lays down the conditions as mentioned above. Nothing on the available record was discovered which

Musarat Hilali
Attested.

ATTESTED
Musarat Hilali
(Ex. 10/15)
Sessions Court Peshawar

(36)

could suggest that the present appellants/defendants had acted beyond the provisions of the Act while considering the plaintiffs/respondents for their appointments.

16. Summing up in the light of above I fail to agree with the findings of learned trial court, therefore, the appeal succeeds and the impugned judgment/decreed is hereby set aside. Resultantly, the suit stands dismissed with no order as to costs.

Record of this court be consigned to the record room after proper compilation and completion, while case record of the trial court be remitted to it forthwith.

(Fazal Sattar) 15/06
Additional District Judge-I,
Peshawar.

CERTIFICATE

Certified that this judgment consists of 12 pages, each page has been read, corrected wherever necessary and signed by me.

(ADJ-I, Peshawar) 15/06

Announced
15/06/2015

Dt:15/06/2015

No:	7388
Dated of Application:	20/6/15
Name of Appellant:	Sajid C. Khan
Name of Respondent:	1888
Fee:	0
Signature:	Muzamil
Date:	20-6-15

Attested
20/6/15
Muzamil

DECREE IN APPEAL

(Judgment/ decree under Order XLI Rule 35 CPC)

IN THE COURT OF FAZAL SATTAR, ADDL: DISTRICT JUDGE-I, PESHAWAR.

Case No..... 79/13 of 2014.

Date of Institution..... 07/06/2014.

Date of Decision.....15/06/2015.

Govt of KP through Secretary Education etc ...Vs... Fazli Malik & 11 others

Date of decision in Civil Court..... 13/05/2014.

Prayer:

This appeal has been directed against the order, judgment and decree dated 13/05/2014 passed by Ms. Saima Irfan, learned Civil Judge-II, Peshawar, whereby suit of the respondents-plaintiffs was decreed in their favour and against the appellants.

MEMORANDUM OF APPEAL

The appellants named above appealed to this court from the order, judgment & decree of the learned trial court mentioned in the above appeal for the reason (as detailed in the ground of appeal).

This appeal came up for hearing on 07/06/2014 before me in the presence of Mr. Arshad Alam, Senior Government Pleader for Appellants and Mr. Ibad-ur-Rahman Advocate for Respondents.

ORDERED:

Parties through their counsels present.

- 2. Vide this court's detailed judgment (consisting of 12 pages) of the even date, passed in the instant civil appeal, placed on file, I fail to agree with the findings of the learned trial court, therefore, the appeal succeeds and the impugned judgment/

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20/11/15
(Signature)
Sessions Court Peshawar

(38)

decree is hereby set aside. Resultantly, the suit stands dismissed with no order as to costs.

File be consigned to record room after completion.

(FAZAL SATTAR)
Add: District Judge-I,
Peshawar.

COST OF APPEAL

	Appellant	Respondent
1) Stamp for memorandum of appeal	Nil	Nil
2) Stamp of power	Nil	Nil
3) Service of process	Nil	Nil
4) Pleading of the Pleaders fees.	Nil	Nil
5) Miscellaneous.	Nil	Nil
	Nil	Nil

Given under my hand and the seal of the court, this 15th day of June, 2015.

Add: District Judge-I,
Peshawar.

No: 7380
 Date of Application: 20-6-15
 Name of Applicant: *Sugraib Khan*
 Word: 800
 Fee: *7*
 Signature: *Muhammad*
 Date: 20-6-15
 Date: 20-6-15

20/6/15

20/6/15
Muhammad
Attested

P 2

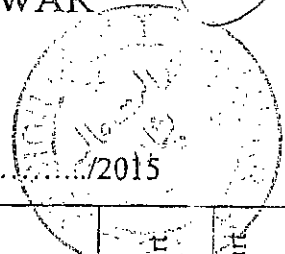
Opening Sheet for Civil Revision

Amr. G (39)
7-A

IN THE PESHAWAR HIGH COURT PESHAWAR

JUDICIAL DEPARTMENT
CIVIL REVISIONAL SIDE

Revision Petition No. 543 - P



ORIGINAL SUIT				FIRST APPEAL				Date of filing appeal in the High Court	Value for the purpose of Jurisdiction	Value for the purpose of court fee	Amount of court fee on the appeal.
Instituted		Decided		Instituted		Decided					
Court	Date	Court	Date	Court	Date	Court	Date				
Civil Judge-II, Peshawar	16.07.2013	Civil Judge-II, Peshawar	13.05.2014	ADJ-I, Peshawar	07.06.2014	ADJ-I, Peshawar	15.06.2015	01.08.2015	Rs.1700/-	Rs.1700/-	Exempted

Presented by:	Khaled Rahman, Advocate, Supreme Court
Petitioner (Plaintiff or Defendant)	Plaintiffs (Aurangzeb and others)
Respondent (Plaintiff or defendants)	Respondent's No.1-3 defendants (The Govt. of Khyber Pakhtunkhwa through Chief Secretary etc.) and Respondents No.4-12 Plaintiffs
Order of First Court and date:	The learned Trial Court vide Judgment and decree dated 13.05.2014 decreed the suit of the petitioners and Respondents No.4-12.
Appellate Court and Date:	The learned Lower Appellate Court vide impugned Judgment and decree dated 15.06.2015 allowed the Appeal of Respondents No.1-3
Confirming/Reversing/Modifying.	Reversing.

Original Claim as given in the Plaint:	<p>a. Suit for declaration to the effect that petitioners and Respondents No.4-12/Plaintiffs are entitled to be appointed against 9% quota reserved for the Sacked Employees and the defendants had got no right to deny their appointment rights.</p> <p>b. Mandatory Injunction directing the defendants/Respondents No.1-3 to appoint Petitioners/Respondents No.4-12/Plaintiffs against the quota reserved for the Sacked Employees.</p> <p>c. Perpetual injunction against the defendants/Respondents No.1-3 not to deny the due appointment rights of the Petitioners/Respondents No.4-12/Plaintiffs.</p>
--	---

Claim to Revision:	On acceptance of the instant Revision Petition, the impugned judgment and decree dated 15.06.2015 passed by the learned Additional District Judge-I, Peshawar may graciously be set aside by restoring the Judgment and decree dated 13.05.2014 passed by the learned Civil Judge-II, Peshawar with costs.
--------------------	--

Enactment and Section under which the Revision lies *Section-115 of the Civil Procedure Code, 1908.*

Suzan
Attested
FILED TODAY
Deputy Registrar
G-CR-543-2015 2015

Khaled Rahman,
Advocate, Peshawar.

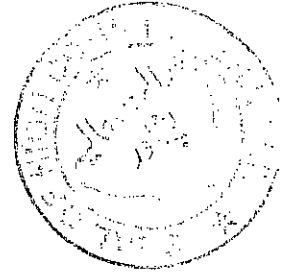
RE FILED TODAY
Deputy Registrar
26 AUG 2015

FILED TODAY
Deputy Registrar
PESHAWAR HIGH COURT

IN THE PESHAWAR HIGH COURT PESHAWAR

(40)

C.R. No. 543 P/2015



1. Aurangzeb S/o Mushtaq Ahmad,
R/o Miskeen Abad, Regi, District Peshawar
2. Fazi Malik S/o Raheem Jan
R/o Sardar Colony, Charsadda Road, Peshawar.
3. Aziz-ul-Haq S/o Muhammad Naeem,
R/o Abshaar Colony, Warsak Road, Peshawar..... *Petitioners*

VERSUS

1. The Govt. of Khyber Pakhtunkhwa
through Secretary Elementary & Secondary Education
Civil Secretariat, Peshawar.
2. The Director,
Elementary & Secondary Education
Khyber Pakhtunkhwa, Dabgari Garden, Peshawar
3. The District Education Officer (E&SE)
District, Peshawar.
4. Hayat-ur-Rahman S/o Ma'ab Khan,
R/o Wazir Bagh, Peshawar.
5. Shakeel Ahmad S/o Iftikhar Ahmad
R/o Mohallah Qazi Khelan, Peshawar.
6. Mst. Sarwat Qayum D/o Abdul Qayum
R/o Chaghar Matti, Peshawar
7. Mst. Safia Begum D/o Mumtaz Khan,
R/o Chamkani, Tehsil and District Peshawar
8. Noorullah Shah S/o Safiullah Shah
R/o Chaghar Matti, Peshawar
9. Nawaz Khan, Ex-Junior Clerk,
R/o Deh Bahadar, Tehsil and District Peshawar
10. Hayat Khan S/o Alamzeb Khan,
Ex-Junior Clerk,
R/o Phase-V, Hayatabad, Peshawar
11. Nawab Ali S/o Mustaqeem
Ex-Junior Clerk, R/o Village Sarband, Peshawar

R.P. 493-B
2015

FILED
07 MAY 2015

FILED TODAY
Deputy Registrar

08 AUG 2015

Attested

(41)

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
PESHAWAR
(Judicial Department)

C.R No. 544-P/2015

JUDGMENT

Date of hearing: 30.06.2017



Petitioners:-----

By Mr. Khalid Rehman Advocate

Respondents:-----

By Mr. Mujahid Ali

MUSARRAT HILALI, J.- Through this single judgment, I intend to decide the instant revision petition as well as the connected petitions bearing C.R No. 543-P, 579-P, 600-P, 613-P of 2015 and C.R No. 290-P/2016 as all these petitions emanate from judgment and decree of the same date i.e 15.06.2015 of the learned Additional District Judge-I, Peshawar whereby appeals preferred by respondents were allowed and the judgments and decrees dated

Law

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EXAMINER
Peshawar High Court
15 MAR 2018

Musarrat Hilali
Attested

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12.02.2014 and 13.05.2014 passed in different suits by learned Civil Judge-II, were set aside:

2. Brief facts of the cases are that petitioners in all the revision petitions are sacked employees. While seeking their reinstatement under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, petitioners in the instant revision petition namely Saeed-ur-Rehman and others filed Civil Suit No. 137/1 of 2013, petitioners Aurangzeb and others in the connected C.R No. 543-P, 579-P & 600-P of 2015 filed Civil Suit No. 157/1 of 2013, petitioner Hashmat Ali in C.R No. 613/2015 filed Civil Suit No. 118/1 of 2013 while petitioners Rooh-ul-Amin and another in C.R No. 290-P/2016 filed Civil Suit No. 54/1 of 2013, seeking declaration to the effect that they be reinstated in accordance with the Act *ibid*. Suit of the petitioners in the instant petition was decreed by the learned trial Court vide judgment and decree dated 12.02.2014 against which the respondents preferred Civil Appeal No. 80/13 of 2014. The remaining suits

Law

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 EXAMINER
 Peshawar High Court
 13 MAR 2015

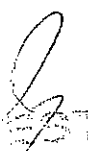
Murad Ali
 Attested

were also decreed by the same trial Court vide judgments and decrees dated 13.05.2014 against which three separate appeals i.e Civil Appeal No. 79/13, 82/13 & 83/13 of 2014 were filed by respondents. All the above mentioned appeals were accepted by the learned appellate Court through separate judgments on 15.06.2015 and the judgments and decrees passed by the learned trial Court were set aside. Being aggrieved, the petitioners have filed the revision petition in hand as well as the connected petitions which are being decided through this single judgment.

3. Arguments heard and record perused.

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4. Before dilating upon the merits of the case, I would first like to deal with the preliminary objection raised by learned A.A.G. to the maintainability of the civil suit in service matters. Section 9 of the Civil Procedure Code deals with jurisdiction of the Courts to try the suit, however, for institution of a civil suit, two

ATTESTED

 JUDGE
 High Court

15 MAR 2015

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(44)

pre-requisites must be fulfilled. The first requirement to the maintainability of a civil Suit is the existence of a cause of action and the other requirement is that the plaintiff must have a right to sue. The said section of the Code confers jurisdiction over the civil Courts to adjudicate upon all suits of civil nature except such suits, the cognizance of which is either expressly or impliedly barred. In other words, the civil Court would have the jurisdiction to entertain civil suit unless the cognizance of the same is barred through a legislative instrument. On perusal of the record it appears that the petitioners after two years of their service were terminated from service in an unceremonial manner in the year 1997. In the year 2012, the Provincial Government enacted the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012. The petitioners approached the official respondents for their reinstatement on the posts, however, they were denied reinstatement, hence, a specific right was accrued to the petitioners under the

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 EXAMINER
 Peshawar High Court
 15 MAR 2018

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Act and it is the civil Court to determine as to whether the petitioners are entitled to the relief under the provisions of the Act.

5. Moving to the merits of the case, the learned appellate Court, while entertaining the appeals of respondents, concurred with the findings of the trial Court on the point of jurisdiction, however, held that the petitioners/plaintiffs having acquired the prescribed qualification beyond the cut off dated i.e 30th November, 1996, do not qualify to be sacked employees under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, hence, the judgments and decrees of the trial Court were set aside. The moot question which needs resolution by this Court is whether or not the petitioners can be benefitted by the Act *ibid*. While facing similar situation, this Court in judgment dated 24.05.2016 rendered in W.P No. 516-A/2013 has already held that the employees who were not in possession of the training certificate at the time of their appointment should be

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EXAMINER
Deshawal High Court

15 MAR 2016

[Handwritten Signature]
Attested

(46)

provided opportunity to complete their training within three years as has been done by the Education Department itself while reinstating a number of sacked employees. The learned appellate Court has non-suited the petitioners mainly on the ground that they acquired the requisite qualification beyond the cut off date, however, this Court does not feel itself in agreement with the above observations of the learned appellate Court because the petitioners are at par with those employees who have been reinstated on their posts by affording them an opportunity for acquiring the prescribed qualification within a period of three years. So far as the findings of the learned appellate Court are concerned that some of the petitioners/plaintiffs appeared in the witness box at trial stage whereas the remaining recorded no statement in support of their stance, in this regard I would refer the judgment of the august Supreme Court titled "*Government of Punjab through Secretary Education and others*

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Vs. Sameena Parveen and others" reported

ATTESTED
 EXAMINED
 Peshawar High Court

Judicial
 Attested

(47)

2009 SCMR 01 (already referred by this Court in the above referred unreported judgment) wherein it has been held that:

“If a Tribunal or this Court, decides a point of law relating to the terms and conditions of a civil servant, who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the same decision be extended to other civil servants also, who may not be parties to that litigation instead of compelling them to approach the Tribunal or any other legal forum”.

Although the petitioners have acquired the prescribed qualification after their removal from service, however, other employees who were not in possession of the prescribed qualification, were given a chance to acquire the same after their reinstatement, therefore, the petitioners being at par with them, are also entitled to the like treatment.

Law

6. In light of the foregoing discussion, the instant revision petition as well as the connected petitions are allowed, the impugned judgments of the appellate Court are

ATTESTED
EXAMINER
District High Court

15 MAR 2018

Jhangir Khan
Attested



set aside and the judgments and decrees passed by the learned trial Court are restored with directions to respondents to consider those petitioners eligible for their reinstatement who have obtained their professional qualification after their removal from service and provide three years time for acquiring the prescribed qualification to those petitioners who have not acquired the same yet.

Announced
30.06.2017

JUDGE

Dr. Muhammad Hameed

CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Under Article 23 of
The Qanun-e-Shahadat Order 1988
13 MAR 2018

No. 142535
Date of Filing 14/3/18
No of P. 16
Cogn. 64
Total 157375
Date 15/3/18
Recd. 20



Office 17/3

Mustang
Attested

Annex H

(49)

-8-

CR NO.600-P/2015 ASGHAR ALI AND OTHERS VS GOVT. OF KHYBER PAKHTUNKHWA AND OTHERS ALONGWITH CR NOS. 543-P, 544-P, 579-P, 615-P OF 2015 AND CR NO.290-P OF 2016.

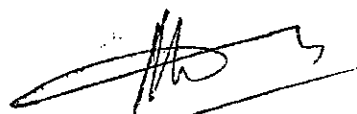
A meeting of the Scrutiny Committee was held on 18-08-2017 at 14:00 hours in the office of Secretary Law Department under his Chairmanship being Convener of the Committee in order to determine the fitness of the subject case for filing of appeal / CPLA in the proper forum. Additional Advocate General (Mr Rab Nawaz Khan) was also present during the meeting being representative of Advocate General Khyber Pakhtunkhwa. List of participants is annexed.

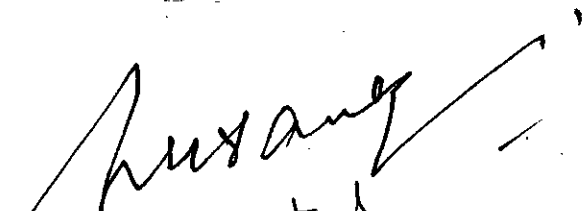
2. The meeting started with the recitation from the Holy Quran and thereafter Convener of the Committee invited the representative of E&SE Department to apprise the Committee about the background of the case which he did accordingly.

3. During discussion it was noticed by the committee that Revision Petition and connected Petitions are allowed, the impugned judgments of the appellate Court are set aside and the judgments and decrees passed by the learned trial Court are restored with directions to respondents to consider those petitioners eligible for their reinstatement who have obtained their professional qualification after their removal from service and provide three years time for acquiring the prescribed qualification to those petitioners who have not acquired the same yet.

DECISION:-

4. Hence in view of above explained legal and factual position of the case it was decided with consensus that the subject case is a not fit case for filing of appeal / CPLA in the Supreme Court of Pakistan.


(Deputy Solicitor)


Attested

District Education Officer (Male) Peshawar

PH/Fax No. 091-93319337, 9225397.
E-mail deomalepeshawar@gmail.com



APPOINTMENT

Annex I (50)

In compliance of judgements dated 14-03-2016 & 30-06-2017 passed by the Honorable Peshawar High Court Peshawar In C.R Nos. 493-P, 543-P, 544-P, 579-P of 2015, appointments of the following candidates under Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 iss hereby ordered on regular basis against the post of CT (General) in BPS-15 (Rs.16120-1330-56020) @ Rs. 16120/- in Teaching Cadre on terms and conditions given below with immediate effect:-

S. No	Name	Father Name	CNIC#	Name of School	Remarks
1	Aurangzeb Khan	Mushlaq Ahmad	17301-1630474-5	GMS Sufaid Dheri	Against Vacant Post
2	Fazli Malik	Rahim Jan	17301-7142024-5	GHSS No.1 Pesahwar Cantt	Against Vacant Post
3	Bakhtiar Khan	Yara Khan	17301-1359580-1	GHS Kafoor Dheri	Against Vacant Post
4	Ibrar Ahmed	Muhammad Chaman Khan	17301-1310003-5	GMS Kafoor Dheri	Against Vacant Post
5	Aziz Ul Haq	Muhammad Naeem	17301-3356600-1	GMS Pajagi	Against Vacant Post
6	Allaf Hussain	Ali Akbar Khan	17301-1503721-1	GHS Hakim Khan Kalay	Against Vacant Post
7	Hayat Ur Rahman	Maab	17301-6139732-9	GHS Din Bahar Colony	Against Vacant Post
8	Jehangir Khan	Abdul hanan	17301-8601812-3	GHSS Sufaid Sung	Against Vacant Post

Terms & Conditions

1. The candidates lacking the requisite qualification for above mentioned post shall acquire the requisite qualification within three years of the issuance of this appointment order as per court directions failing which their appointment order shall stand cancelled.
 2. No TA/DA is allowed.
 3. Charge reports should be submitted to all concerned.
 4. Appointment is subject to the condition that the certificates/documents shall be verified from the concerned authorities and anyone found producing bogus certificates or degrees his appointment shall be cancelled forthwith and he will be reported to the concerned law enforcement department for appropriate action.
 5. Their services are liable to termination on one month prior notice from either side. In case of resignation without notice their one month pay shall be forfeited to the Government treasury.
 6. Pay shall not be drawn until and unless a certificate issued by this office that his documents are verified.
- They will be on probation for period of one year extendable to another year.

[Handwritten Signature]
Attested

- (51)
9. They shall join their post within 30 days of the issuance of this notification failing which their appointment shall stand cancelled/expired automatically and no subsequent appeal etc. shall be entertained.
 10. Health & Age Certificate should be produced from the Medical Superintendent before taking over charge.
 10. They will be governed by such Rules and Regulations as may be issued from time to time by the Government.
 11. Their services shall be terminated at any time in case their performance is found unsatisfactory during their service period. In case of misconduct, they shall be proceeded under the relevant rules & regulations announced from time to time.
 12. According to section 5 of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 they shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.
 13. Errors and omissions will be acceptable within the specified period.

Note:

Appointment order shall be verified by the concerned Drawing and Disbursing Officers personally from the office of the undersigned before handing over charge to the official.

(JADDI KHAN KHALIL),
DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR.

Order No. 6067-75

Dated Peshawar the 21/9/2017.

Copy forwarded for information to:

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. PS to the Secretary to Govt. Khyber Pakhtunkhwa E&SE Department.
3. Deputy Commissioner, Peshawar.
4. PA to the Director E&SE Khyber Pakhtunkhwa, Peshawar.
5. Principals/Headmasters concerned.
6. PA to District Education Officer (Male) Peshawar.
7. Cashier Local Office.
8. Officials Concerned.
9. 1/1 File.

Attested

[Signature]
HEAD MASTER
Govt Middle School
Sufaid Dheri Peshawar

[Signature]
Deputy District Education Officer
(Male) Peshawar

[Signature]
Attested

Better Copy

So - A

District Education Officer (Male) Peshawar
PH/ Fax No. 091-93319337, 9225397
E-mail deomalepeshawar@gmail.com

APPOINTMENT:

In compliance of judgments dated 14-03-2016 & 30-06-2017 passed by the Honourable Peshawar High Court Peshawar in CR Nos. 493-P, 543-P, 544-P, 579-P of 2015 appointment of the following candidates under Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 is hereby ordered on regular basis against the post of CT (General) in BPS-15 (Rs. 16120-1330-56020) @ Rs.16120/- in Teaching Cadre on terms and conditions given below with immediate effect:-

S.No	Name	Father Name	CNIC#	Name of School	Remarks
1	Aurangzeb Khan	Mushtaq Ahmad	17301-1630474-5	GMS Sufaid Dheri	Against Vacant Post
2	Fazli Malik	Rahim Jan	17301-7142024-5	GHSS No. 1 Peshawar City	Against the Vacant Post
3	Bakhtiar Khan	Yara Khan	17301-1369580-41	GHS Kafoor Dheri	Against Vacant Post
4	Ibrar Ahmad	Muhammad Chaman Khan	17301-1310003-5	GMS Kafoor Dheri	Against Vacant Post
5	Aziz Ul Haq	Muhammad Naeem	17301-3366600-1	GMS Pajagi	Against Vacant Post
6	Altaf Hussain	Ali Akber Khan	17301-1503721-1	GHS Hakim Khan Kalay	Against Vacant Post
7	Hayat ur Rahman	Maab	17301-6139732-9	GHS Din Bahar Colony	Against Vacant Post
8	Jehangir Khan	Abdul Hanan	17301-8601812-3	GHSS Sufaid Sung	Against Vacant Post

Terms & Conditions:

1. The candidate lacking the requisite qualification for above mentioned post shall acquire the requisite qualification within three years of the issuance of this appointment order as per court directions failing which their appointment order shall stand cancelled.
2. No TA/DA is allowed.
3. Charge reports should be submitted to all concerned.
4. Appointment is subject to the condition that the certificates/documents shall be verified from the concerned authorities and anyone found producing bogus certificate or degrees his appointment shall be cancelled forthwith and he will be reported to the concerned law enforcement department for appropriate action.
5. His services are liable to termination on one month prior notice from their side. In case of resignation without notice their one month pay shall be forfeited to the Government treasury.

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Attested

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6. Pay shall not be drawn until and unless a certificate issued by this office that his documents are verified.
7. They will be probation for period of one year extendable to another year.
8. They shall join their post within 30 days of the issuance of this notification failing which their appointment shall stand cancelled/expired automatically and no subsequent appeal etc. shall be entertained.
9. Health & Age certificate should be produced from the Medical Superintendent before taking over charge.
10. They will be governed by such rules and regulations as may be issued from time to time by the Government.
11. Their services shall be terminated at any time in case their performance is found unsatisfactory during their service period. In case of misconduct, they shall be proceeded under the relevant rules & regulations announced from time to time.
12. According to section 5 of the Khyber Pakhtunkhwa Sacked (Appointment) Employee Act, 2012 they shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.
13. Errors and omissions will be acceptable within specified period.

Note:

Appointment order shall be verified by the concerned Drawing and Disbursing Officers personally from the office of the undersigned before handing over charge to the official.

(JADDI KHAN KHALIL)
DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR.

Endst: no. 6067-75

Dated Peshawar the 21/9/2017

Copy forwarded for information to:

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. Ps to Secretary to Govt: Khyber Pakhtunkhwa E&SE Department.
3. Deputy Commissioner Peshawar.
4. PA to Director E&SE Khyber Pakhtunkhwa Peshawar
5. Principal/Headmasters concerned.
6. PA to District Education Officer (Male) Peshawar.
7. Cashier Local officer
8. Official concerned.
9. M/File.

Sd/-
Deputy District Education Officer
(Male) Peshawar.

Attested
[Signature]

157/1

BEFORE THE HONOURABLE SENIOR CIVIL JUDGE PESHAWAR. (52)

23/10/17

07/09/16

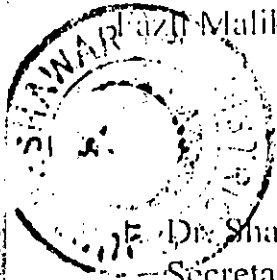
57/6

Annex: J

C.O.C No _____ /2016

IN

Suit No. 157/1 Instituted on 16/7/3013 Decided on 13.5.2014



Plaintiffs/applicants

VERSUS

1. Dr. Shahzad Bangash,
Secretary, Elementary & Secondary Education
Government of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.

2. Muhammad Rafiq Khattak,
Director, Elementary & Secondary Education
Government of Khyber Pakhtunkhwa,
G.T. Road, Peshawar.

3. Roz Wali Khattak,
District Education Officer (Male)
G.T Road Hashtnagri Peshawar.

4. Ms Ulfat Begum
District Education Officer (Female)
G.T Road Hashtnagri, Peshawar.

07 SEP 2016

Respondents

APPLICATION FOR INITIATING CONTEMPT OF COURT PROCEEDINGS AGAINST RESPDTS:

Respectfully sheweth,

Plaintiffs/Plaintiff submit as under:-

ATTESTED

30 OCT 2016

(Examiner)
Civil Court Peshawar

Annex attested

- 1- That the Plaintiffs/ petitioners are the sacked employees whose services were terminated in the year of 1997.
- 2- That for the appointment of the sacked employees, the government of Khyber Pakhtunkhwa passed an Act. In the light of the said Act, the Plaintiffs/Petitioners approached the Respondents for the appointment which was denied by the respondents.
- 3- That against the said refusal, the Plaintiffs/petitioners filed a declaratory suit before the civil court Peshawar, which was decreed in favor of Plaintiffs/plaintiffs vide order/decreed dated 13.05.2014.
- 4- That said order/decreed was challenged by the respondents/defendants and filed an appeal before the District & Session Judge Peshawar which accepted and Judgment & decreed of the trial court was set aside vide order dated 15.06.2015.
- 5- That feeling aggrieved, the Plaintiffs/petitioners filed Civil Revision before this Honorable Court and this honourable court was kind enough to allow that civil revision and the judgment of appellate court was set aside vide order dated 14.03.2016. (copy of order is annexed)
- 6- That after the said order the Plaintiffs/petitioners approached to department/respondents for there re-instatement in the light of the honorable High court order, but the department is not serious /interested in the implementation of the order of this honourable Court.
- 7- That the Plaintiffs/Petitioners filed a Contempt of Court application before the Honourble Peshawar High Court Peshawar

ATTESTED

30 OCT 2017

(Examiner)
Civil Court Peshawar

but the same was disposed off with the observations that the same be filed before the Civil Court Peshawar, therefore, the application in hand is being filed before this honourable court.

Muzang
Attested

(54)

It is, therefore, prayed that Contempt of Court proceedings may kindly be initiated against the Respondents and by implementing the judgment & Decree dated 13.05.2014 of this honourable court, the Respondents be directed to appoint the Plaintiffs/petitioners without further loss of time.

Any other remedy deemed proper in the matter may also please be given.

Pharisah
Petitioners/Plaintiffs

Through: *D. I.*

IBADUR RAHMAN
Advocate High Court
127-Sarhad Mansion
Hashtnagri, G.T. Road
Peshawar.

Dated: 07/09/2016.

AFFIDAVIT.

Stated on oath that the above contents are true and correct to the best of my knowledge and belief.

Pharisah
Deponent

[Signature]
(Examiner)
Civil Court Peshawar

[Signature]
27/09/2016

[Signature]

کتابخانه کتب خطی - کتب خطی و کتب خطی
بانی کتب خطی کتب خطی کتب خطی
13/10/17

55
06/10/17

Peshawar

2017

Petitioners present. Respondents are also present. This petition is filed by Fazle Malik and others against respondents 04 in numbers for initiating contempt of court proceedings on the ground that the Government of Khyber Pukhtunkhwa passed an Act. In the light of said act the petitioners/plaintiffs approached to respondents for the appointments which were denied by the respondents. That against the said refusal, the petitioners filed a declaratory suit before the Civil Court Peshawar, which was decreed in favor of petitioners/plaintiffs vide order/decreed dated 13.05.2014. That said order was challenged by the respondents and filed an appeal before the District & Sessions Judge Peshawar which was accepted and judgment and decree of the trial court was set aside vide order dated 15.06.2015. That feeling aggrieved, the petitioners/plaintiffs filed Civil Revision before Hon'ble Peshawar High Court Peshawar which was accepted and judgment of the appellate court was set aside vide order dated 14.03.2016. That after the said order the petitioners/plaintiffs approached to department/respondents for their re-instatement in the light of the decision of Hon'ble Peshawar High Court Peshawar but the defendant is not serious/Interested in the implementation of the order of this court and resultantly this contempt petition was filed against the respondents for implementation of the court order coupled with the fact that they are held responsible for contempt of court, respondents appeared and

Attested

ESTFD
JCT
aminer)
rt Peshawar

(56)

submitted their reply and take the ground that CPLA No. 288-P/2016 is pending in august Supreme Court of Pakistan and for the same reason the execution is awaiting for the fate of the above mentioned CPLA.

it is also pertinent to mention that the case took a new shape when respondents submitted appointments letters of petitioners and alleged that as compliance of the court order has already been made, therefore, they requested that the respondents initially waited for the decision of CPLA and when they came to know that petitioners are suffering, so on humanitarian basis they made the appointments.

Taking into consideration the whole episode wherein petitioners are aggressive on their wait for their appointments for about 07 years but fact remained admitted that the whole time spent by the petitioners was in due course of proceedings. Admittedly this court has got no power to compensate the petitioners for the time of proceedings which they spent as this court is strictly related with the right of declaration which has been declared and further when respondents were summoned in contempt proceedings they complied the court order by submitting the appointments letters of the petitioners. More, preciously the plea of respondents regarding their CPLA is an ignorant mistake rather mistake in good faith therefore, this contempt petition is hereby filed with the addition that the time of 07 years as spent in proceeding can be compensated in proper forum. As court decree has been satisfied, therefore, this petition is filed.

File be consigned to record room after necessary completion and compilation.

Announced.
23.10.2017

(Tilla Mohammad)
Civil Judge-XVI, Peshawar



[Signature]
Attested

23-10-17

ATTESTED
30 OCT 2017
(Examiner)
Civil Court Peshawar

The District Commissioner - Dera,
District of ...

Annex: K

Subject: Appeal for back benefits and
Seniority.

R/Sir,

The purpose of this appeal is to submit
that I was a c-t teacher in the year 1996 at G.H.S
Bila Baramad Khel, Peshawar city.

But I was terminated from the service in the
year 1997 due to political grounds by the Govt.
on 21-9-2017, I was reinstated due to the act
passed by the Govt.

Now I am working as c-t, teacher at G.H.S
Sofaid clare, Peshawar.

I request you to kindly consider my
service and back benefits and allow seniority
from the date of my first appointment that is
from 1996 and on ward.

Murug
Yours sub Senior
Murug Zeh c-t (Tary)
G.H.S Sofaid

3487
21-12-2017

Dated 21 Dec 2017

Murug
Attested

Better copy

57-1A

To, The District Education Officer
District Peshawar

Subject: Appeal for Back Benefit and Seniority

R/Sir

The purpose of this appeal is to submit that I was a CT teacher in the year 1996 at GHS Bīla Baramand Khel, Peshawar City. But I was terminated from the service in the year 1997 due to political grounds by the government. On 21-9-2017 I was reinstated due to the act passed by the government. Now, I am working as CT teacher at GMS Sufaid Dheri Peshawar cantt. I requested you to kindly consider my service and allow back benefit and seniority from the date of my first appointment that is 1995 please.

Diary no.3927
Dated:21-12-2017

Sd/-
Aurangzeb
C.T Teacher GMS Sufaid Dheri
Peshawar

Attested
[Signature]

Annex: L

(58)

The District Education Officer,
District Peshawar.

Text: Re. Appeal for Back Benefit and Seniority.

Kindly, Refer to the application submitted
in your good office under dairy no 3927,
dated 21.12.2017, with the subject
mentioned above.

In this connection, No progress have been
documented.

You are therefore, requested to initiate
written document please.

Enclosed: Photocopy of the previous application

1969

18/03/19

A Orangi Raib

CT Teacher GMS

Suzaid Dehai Peshawar.

Suzaid

Attested

Better copy

58-A

To, The District Education Officer
District Peshawar

Subject: Re: Appeal for Back Benefit and Seniority

R/Sir

KINDLY, REFER TO THE APPLICATION SUBMITTED IN YOUR OFFICE UNDER DAIRY No. 3928 dated 21.12.2017 with the subject mentioned above. In this connection no progress has been documented.

You are therefore, requested to please initiate written documents enclosed:- photocopy of previous application.

Dated:21-12-2017

Sd/-
Aurangzeb
C.T Teacher GMS Sufaid Dheri
Peshawar

Attested
[Signature]



OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

No. 5427 / 1

Dated: 28/06 /2019

Annex: M

(59)

To

1. Mr. Fazal Malik CT, Govt: Shaheed Mubeen Shah Afridi H.S.S No.1 Peshawar Cantt:
- ✓ 2. Aorangzaib CT, GMS Sufaid Dheri Peshawar
3. Aziz Ul Haq CT, GMS Pajaggi Peshawar.

Subject: **APPEAL FOR BACK BENEFITS AND SENIORITY**

With reference to your appeal, dated 12-03-2019 on the above noted subject you are informed that your appeal has been regretted.

DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

Ends: No. _____ / Dated: _____ /2019

Copy of the above forwarded to the:

1. Director, E&SE Khyber Pakhtunkhwa Peshawar.

DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

Aurang
Attested

قیمت
50 روپے

265



ایڈوکیٹ: عباد الرحمن

بار کونسل / ایسوسی ایشن نمبر:

رابطہ نمبر: 08005982939

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: KP سروس ٹریڈنگ کمپنی

دعویٰ:	منجانب: ایسٹرنٹ
علت نمبر:	اور سبزیب
مورخہ:	بنام
جرم:	ایجوکیشن
تھانہ:	

باعث تحریر آنگہ

Justice
AP/Client

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ کارروائی کے لئے
آن مقام کے قریب عباد الرحمن کے لئے عباد الرحمن کے لئے عباد الرحمن کے لئے عباد الرحمن کے لئے
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

27-7-2018

المرقوم:

العبد _____ گواہ شد _____ العبد

مقام _____ کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔

Handwritten signatures and text at the bottom of the page.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

SERVICE APPEAL NO.1039/2019

Aurangzeb

V/S

Education

REPLY ON BEHALF OF RESPONDENTS 1, 2, & 3.

Respectively Sheweth:

The Respondents submits bellow:

PRELIMINARY OBJECTIONS:

1. That the Appellant has got no cause of action /locus standi.
2. That the Appellant has concealed material facts from this Hon,ble Tribunal.
3. That the Appellant has been estopped by his own conduct to file the instant appeal before this Hon'ble Tribunal.
4. That the instant Appeal is badly time barred.
5. That the instant Appeal is not maintainable in its present form.
6. That the instant Appeal is bad for mis-joinder and non-joinder for the necessary parties.
7. That the Appellant has not come with clean hands to this Hon'ble Tribunal.
8. That the instant Appeal is barred by law.
9. That the Appellant does not fall within the ambit of aggrieved person.

ON FACTS.

1. That Para No.1 is incorrect, misleading and against the facts. The Appellant has got appointment as C.T teacher without fulfilling existing codel formalities of his first appointment while rest of the Para pertains to record.
2. That in reply to Para No.2, it is submitted that the Appellant and his other colleagues were unlawfully appointed, therefore, their services were terminated accordingly.
3. That Para No.3 is misleading and incorrect. The appellant is not eligible for re-instatement in this context the Hon'ble Supreme Court of Pakistan and Hon'ble Peshawar High Court Peshawar passed the judgments 11-10-2018 and 22-10-2019. The court explained the criteria of appointment. Moreover, the Appellant did not come within the ambit of the Sacked Employee Act, 2012.

Furthermore, the Appellant was appointed as SV teacher on temporary adhoc bases & Fixed Pay where section 2 (g) of the act explains the criteria of Appointment of Sacked Employees in section 2 (g) "Sacked Employee means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that time. During the period from 1st day of November, 1993 to the 30th day of November,1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on the ground of irregular appointments". (Annex A & B)

4. That in reply to Para No.4, it is submitted that according to Sacked Employee Act-2012 of section 2 (g) the Appellant did not fulfilling the criteria for appointment.
5. That Para No.5 is incorrect and misleading the Appellant did not come within the ambit Sacked Employees Act of 2012. The Appellant was appointment on temporary, Adhoc bases & Fixed Pay in 13-12-1995. The order has already annexure as Annexed (A) of the instant Appeal. While Sacked Employee Act, 2012 Section 2 (g) defines a Sacked Employee "Sacked Employee means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that time. During the period from 1st day of November, 1993 to the 30th day of November,1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on the ground of irregular appointments".
Therefore, in light of the above definition, the Appellant is wrongly occupies the present post as CT Teacher. The Supreme Court and Peshawar High Court Peshawar have already issued Judgments against Fixed Pay employees. The judgments are already annexed as Annex: A &B of the reply.
6. That Para No.6 is incorrect. The Department is bound to act upon the existing law and policy while the Appellant appointment is against the existing law. Furthermore, the Supreme Court and High Court also issued Judgments against such employee which did not come within the ambit of Sacked Employee Act 2012 Section 2 (g).
7. That Para No.7 is pertains to record.
8. That in reply to Para No.8, it is submitted that the Appellant did not come within the ambit of the said Act.
9. That in reply to Para No.9, it is submitted that the Respondent Department appointed the Appellant on the order of the Court. furthermore, the Supreme Court of Pakistan and High Court also gave findings in favour of the stance of the Respondent Department.
10. That Para No.10 is pertains to record.
11. That Para No.11 is also pertains to record.
12. That Para No.12 is incorrect & misleading. The Appellant was not fulfilled the recruitment of appointment according to Act 2012 Section 2 (g).
13. That Para No.13 is incorrect and misleading the Respondent Department appointed the Appellant on the order of the court.
14. That Para No.14 pertains to record.
15. That Para No.15 is incorrect, misleading and against the facts the appeals of the Appellant was regretted according to law.
16. That Para No.16 is misleading and against the facts. The appellant has no cause of action to file the instant appeal in this Hon'ble Service Tribunal.

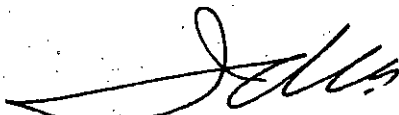
GROUND

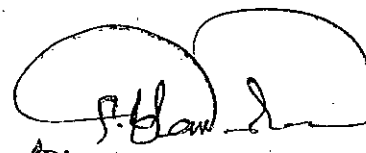
- A. That Ground-A is incorrect and misleading. The Respondent Department is bound to act upon the existing law and rules.
- B. That Ground-B is incorrect and misleading. The Respondent Department appointed the Appellant on the order of the court although he was not eligible

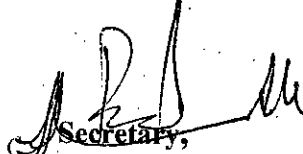
for the said appointment according to the Sacked Employee Act 2012 section 2 (g). Now the Supreme Court and High Court issued Judgment dated 11-10-2018 & 22-10-2019 which are self explanatory and annexed as Annexure A & B of the reply.

- C. That Ground -C is incorrect. The Appellant has already occupied the CT post illegally according to Sacked Employee Act 2012 definition.
- D. That Ground-D is incorrect and misleading. The detail reply has been given in the above Para.
- E. That Ground-E is also incorrect & misleading the Appellant appointment order, term and condition No.12 is cleared " According to Section 5 of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act,2012 they shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment" . Appointment order is already attached as Annexed-I with the instant Appeal.
- F. That Ground -F is incorrect, misleading and against the facts. Although the Appellant was appointed as Fixed Pay Employee, therefore, does not come within the ambit of the Act 2012 but Respondent Department appointed him on the directions of the court.
- G. That the Respondents also seek permission of this Hon'ble Tribunal to submit further / Additional Grounds at the time argument.

It is therefore, very humbly prayed that on acceptance of this reply, the instant appeal may very kindly be dismissed with cost.


District Education Officer
(Male) Peshawar


Director,
(E & SE) KPK Peshawar


Secretary,
(E & SE) KPK Peshawar
Elementary and Secondary Education
Govt. of Khyber Pakhtunkhwa

24/11
2/1052

SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:
Mr. Justice Gulzar Ahmed
Mr. Justice Qazi Faez Isa
Mr. Justice Mazhar Alam Khan Miankhel

C.P.Nos. 210 & 300 of 2017

{On appeal against common judgment dated 28.11.2016
passed by the Peshawar High Court, Mingora Bench (Dar-
ul-Qaza), Swat, in W.P.Nos.145-M/2015 & 176-M/2013}

Muhammad Azam Khan (CT) & others [In CP.210] Petitioner(s)
Faisal Khan & others [In CP.300]

VERSUS

Government of Khyber Pakhtunkhwa through Secretary [In CP.210]
Elementary & Secondary Education, Peshawar & others

Government of Khyber Pakhtunkhwa through Chief [In CP.300]
Secretary, Civil Secretariat, Peshawar Respondent(s)

For the Petitioner(s)
[In C.P.No.210]
[In C.P.No.300]

: Mr. Zulfiqar Ahmed Bhutta, ASC
: Mr. Muhammad Ameen K. Jan, ASC

For Govt. of KPK

: Barrister Qasim Wadood, Addl.A.G. KPK

Date of Hearing

: 11.10.2018

ORDER

GULZAR AHMED, J. — We have heard learned ASC for the petitioners. It was admitted before us that the petitioners are seeking relief under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012. It was also admitted by the learned ASC for the petitioners that none of the petitioners was regular employee and that they have been appointed on temporary basis by the Education Minister Nawabzada Muhammad Khan Hoti. The sacked employee, as defined in the Act, required that the employee has to be regular employee to avail its benefit. Admittedly such being not the position of the petitioners, thus their case does not fall within the ambit of the said Act. The

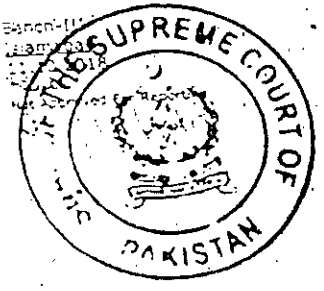
ATTESTED

Court Associate

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High Court, in the impugned judgment dated 28.11.2016, has adverted to all the aspects of the matter and we find no reason to interfere with the same. These petitions are, therefore, dismissed and leave refused.

(Sd/-)
(Sd/-)
(Sd/-)



Certified to be True Copy

[Signature]
Supreme Court of Pakistan
Islamabad

RECEIVED
16/11/18

GR No: 24642/18 Civil/Cr
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Court Fee Stamps: 8/-
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Compared by/Prepared by: _____
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IN THE PESHAWAR HIGH COURT,
PESHAWAR,
[Judicial Department],

COC No.434-P/2019
in WP No.499-P/2018

Raham Dad Khan and others.

Petitioner (s)

VERSUS

The Director,
 Elementary & Secondary Education,
 Khyber Pakhtunkhwa, Peshawar and others.

Respondent (s)

For Petitioners :- Mr. Kabir Imam, Advocate.
 For Respondents :- Mr. Mujahid Ali AAG.

Date of hearing: 22.10.2019

ORDER

ROOH-UL-AMIN KHAN, J:- Through this common order, we, propose to decide the instant as well as the following connected petitions under the law of contempt as all arise out from one and the same judgment dated 14.03.2019, of this Court, rendered in Writ Petition No.499-P/2018.

1. **COC No.704-P/2019 in WP No.499-P/2018**
 Titled, "Mst. Shahnaz Bibi etc vs Arshad Khan, Secretary to Govt of Khyber Pakhtunkhwa E&SE Department and others.
2. **COC No.745-P/2019 in WP No.499-P/2019**
 Titled, "Mst. Samia Begum etc vs Arshad Khan, Secretary to Govt of Khyber Pakhtunkhwa E&SE Department and others.
3. **COC No.750-P/2019 in WP No.499-P/2019**
 Titled, "Sajjad Ali etc vs Arshad Malik, Secretary to Govt of Khyber Pakhtunkhwa E&SE Department and others.

2. Through their respective petitions, the petitioners seek initiation of contempt proceedings against the

Kashif Sami

respondents on the ground that respondents are reluctant to implement the judgment (supra) of this Court.

3. Facts in brief forming the background of the petitions in hand are that Mst. Shahnaz Bibi and others, the petitioners, serving in the Education Departments as CT/SV, PET, SET, DMs, TT and Naib Qasid/Peons in various Districts of the Province of the Khyber Pakhtunkhwa filed Writ Petition No.499-P/2018, to the effect that during the period since 1993 to 1996, after observing all legal and codal formalities, they were appointed in the respondents' department against the aforesaid posts but with the change of Government, their services were terminated on the pretext of irregularities allegedly committed in their appointments. In the year 2010, the Federal Government enacted 'the Sacked Employees (Re-Instatement) Act, 2010' (the Act of 2010) to provide relief to persons in corporation service or autonomous or semi autonomous bodies or in the Government service who were dismissed, removed or terminated from service. The Provincial Government of Khyber Pakhtunkhwa while following the Act of 2010, enacted 'the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012' (the Act of 2012) so as to provide relief to those sacked employees who were appointed on regular basis to civil posts in the Province of

qualification and experience required for the posts, during the period from 1st day of November 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on various grounds. The writ petition of the petitioners was decided on 14.03.2019, in the following manner:-

“In view of the above, this case is transmitted to the Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar, who shall consider case of each petitioner independently, strictly in accordance with the judgment dated 24.05.2016 passed in W.P. No.516-A/2013, upheld by the august apex Court vide judgment dated 24.05.2017”.

4. When put on notice, the respondents filed reply wherein they have asserted that judgment of this Court has been complied with in its letter and spirit.
5. Arguments of learned counsel for the parties heard and record perused.
6. In section 2(g) of the Sacked Employees Act, 2012, sacked employee has been defined as under:-

“Sacked employee” means a person who was appointed on regular basis to a civil post in the province and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1st day of November, 1993 to the 30th day of November 1996 (both days inclusive) and was

dismissed, removed or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998 on the ground of irregular appointments.”

7. It appears from record that cases of the petitioners have been considered by the respondents independently strictly in accordance with the mandate of judgment of this Court. As the petitioners' appointment was not on regular basis to civil posts, therefore, they being not fulfilling the criteria as provided under section 2 (g) of the Sacked Employees Act, 2012, could not be appointed. In this view of the matter, no contempt has been committed by the respondents. Resultantly, this and the connected COC petitions are hereby dismissed.

Announced:

22.10.2019.

M.Siraj Afridi PS

Rooh ul Arja Khan
JUDGE

Ishtiaq Ibrahim
JUDGE

DB of Hon'ble Mr. Justice Rooh ul Arja Khan; and
Hon'ble Mr. Justice Ishtiaq Ibrahim.