

20th Dec. 2022 Counsel for the appellant present.

Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Qayum Khan, ADO for the respondents present.

Reply/comments on behalf of the respondents submitted which are placed on file and a copy whereof handed over to learned counsel for the appellant. To come up for rejoinder/arguments on 21.03.2023 before the D.B.



(FAREEHA PAUL)
Member(E)



(ROZINA REHMAN)
Member (J)

21.03.2023 Junior to counsel for the appellant present.

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

Former made a request for adjournment as senior counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 05.06.2023 before D.B. Parcha Peshi given to the parties.


(Muhammad Akbar Khan)
Member (E)


(Rozina Rehman)
Member (J)

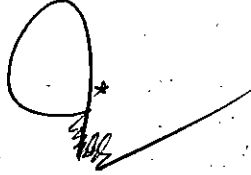
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Peshawar

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IT
Peshawar

30th May, 2022

Learned counsel for the appellant present. Mr. Naseer ud Din Shah, Assistant AG for the respondents present.

Learned counsel for the appellant seeks adjournment in order to properly assist the Court. To come up for arguments on 02.08.2022 before the D.B.



(Mian Muhammad)
Member(E)



(Kalim Arshad Khan)
Chairman

2-8-2022

Proper DB not available the case is
adjourned to 31-10-2022


Reader

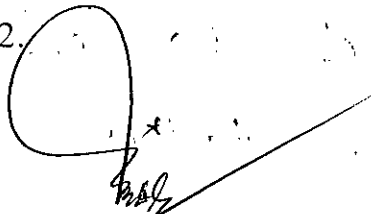
31.10.2022

Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

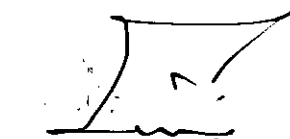
Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments.

Adjourned. To come up for arguments before the D.B on

20.12.2022.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)


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2022-10-31

11015/20

P.S

22.06.2021

Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.


Chairman

P

02.11.2021


Clerk of counsel for the appellant and Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Reply of the respondents is still awaited. Last chance is given to the respondents to furnish reply/comments, otherwise their right for submission of written reply/comments shall be deemed as struck off. The learned Member (Judicial) is on leave, therefore, case is adjourned. To come up for arguments on 07.02.2022 before the D.B.


Chairman

7-02-2022

Due to retirement of the Hon.ble Chairman the case is adjourned to come up for the same as before on 30-05-2022


Reader.

21.01.2021

Appellant present through counsel. Preliminary arguments heard. File perused.

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 15.04.2021 before S.B.

Appellant Deposited
Security & Process Fee


(Rozina Rehman)
Member (J)

15.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 10.06.2021 for the same as before.


Reader

10.06.2021

Junior to counsel and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Written reply not submitted. Learned AAG is required to contact the respondents. The respondents are directed to submit written reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 02.11.2021 before the D.B.

Stipulated period has passed and reply has not been submitted.



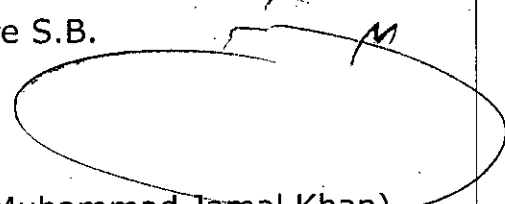

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 11015 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/09/2020	<p>The appeal of Mr. Kabir Khan presented today by Mr. Noor Muhammad Khattak 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</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>05/11/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
05.11.2020		<p>Junior counsel for appellant is present.</p> <p>Since the Members of the High Court as well as of the District Bar Association, Peshawar, are observing strike today, therefore, learned senior counsel for appellant is not available today. Adjourned to 21.01.2021 on which date to come up for preliminary hearing before S.B.</p> <p style="text-align: right;"> (Muhammad Jamal Khan) Member (Judicial)</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 11015 /2020

KABEER KHAN

VS

HEALTH DEPTT:

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6	Disable Candidates Merit List	E	13.
7	Judgment dated 05.03.2015	F	14- 17.
8	Appointment order	G	18.
9	Judgment dated 13.05.2015	H	19- 22.
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11	Vakalat nama	24.

APPELLANT

THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2020

Mr. KABEER KHAN, CT (BPS-15),
R/O Qaum Taz Khel Payyan Jogi, Sub-Division Kohat.

.....**APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Civil Secretariat, Peshawar.
- 2- The Director (E&SE), Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer, Sub-Division Kohat.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT GRANTING SENIORITY TO THE APPELLANT W.E.F. 27-08-2015 I.E. FROM THE DATE WHEN OTHER COLLEAGUES ARE GIVEN APPOINTMENT ORDER AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL DATED 02-06-2020 OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the inaction of the respondents by not granting seniority to the appellant w.e.f. 27/08/2015 i.e. from the date of other colleagues have been appointed. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

- 1- That appellant is the employee of respondent Department as is working as Certified Teacher (CT) (BPS-15) since from the date of appointment.
- 2- That in the year 2012 the respondent no. 3 floated an advertisement in daily newspaper "AAJ" dated 04/12/2012 for filling up of various post of teachers including the post of CT (BPS-09) now (BPS-15) at serial no. 04 of the advertisement falling vacant under the control of respondent no. 3 in which last date for submission of the application was mentioned as 18-12-

2012. Copy of the advertisement is attached as **Annexure**
..... **A.**

3- That appellant is a disable and highly qualified person have bachelor Degree from University of Peshawar as well as Certificate of Teaching from Allama Iqbal Open University Islamabad. Copy of Disability Certificate & Educational Testimonials is attached as **Annexure** **B & C.**

4- That appellant being eligible in all respect applied for the post of Certified Teacher (BPS-09) now (BPS-15) and after successfully gone through the selection and stood at serial no. 13 of the Final Merit List prepared for the post of CT of Sub-Division Kohat and as such stood at top of merit list prepared for Disable persons. Copy of Merit List & Disable Merit List is attached as **Annexure**
..... **D & E.**

5- That some of the colleagues of the appellant who were not issued appointment order filed writ petition no. 2629-P/2013 which was decided in favour of the petitioners with the direction to "... ISSUE APPOINTMENT LETTER IN THE NAMES OF THE PETITIONERS FOR THEIR RESPECTIVE POSTS WITHIN THIS MONTH" vide judgment dated 05-03-2015 and accordingly those petitioners were issued appointment order dated 07/08/2015. Copy of the judgment dated 05/03/2015 & appointment order is attached as **Annexure** **F & G.**

6- That appellant along with other colleagues filed writ petition No. 1446-P/2015 by following Principal of Consistency which was also decide vide judgment dated 13-05-2015 with the direction "Accordingly, for the reason stated hereinabove, this petition is allowed in the above terms and the respondent are directed tot treated the petitioners in accordance with the prevailing law and grant them all benefits, which others 'similarly place' have been granted by the respondents in W.P. No. 2629-P/2013 decided on 05-03-2015." Copy of the judgment dated 13/05/2015 is attached as **Annexure** **H.**

7- That the respondent while implementing the judgment passed by Peshawar High Court vide dated 05/03/2015 issued appointment order dated 11/10/2018 with immediate effect and not from the date when the other colleagues are issued appointment order dated 07/08/2015. Copy of appointment order date 11/10/2018 is attached as **Annexure** **I.**

8- That the appellant feeling aggrieved from the inaction of the respondents by not granting seniority w.e.f. 07/08/2015 i.e. from the date when the other colleagues were issued appointment order on passing of decision in High Court, filed Departmental

Appeal dated 02-06-2020 which was not responded till date.
Copy of Departmental Appeal is attached as **Annexure**
..... **J.**

9- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the inaction of the respondents by not granting seniority to the appellant w.e.f. 07/08/2015 i.e. the date of appointment of other colleagues is against the Law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan-1973.
- C- That the respondents acted in arbitrary and malafide manner while by not granting seniority to the appellant w.e.f. 07/08/2015 i.e. the date of appointment of other colleagues is also against norms of Natural Justice.
- D- That act of the respondents by not granting seniority to the appellant w.e.f. 07/08/2015 i.e. the date of appointment of other colleagues against the principle of natural justice, hence not tenable and liable to be set aside.
- E- That the appellant has been highly discriminated with the act of the respondents by not granting seniority to the appellant w.e.f. 07/08/2015 i.e. the date of appointment of other colleagues.
- F- That the act of the respondent by not granting seniority to the appellant w.e.f. 07/08/2015 i.e. the date of appointment of other colleagues is also against the spirit of the judgment passed by writ petitions filed by the colleagues and the appellant wherein clear directions has been issued to the respondent to issued appointment order in this month but the appellant is issued appointment order on 11/10/2018 with immediate effect.
- G- That, act of the respondents by not granting seniority to the appellant w.e.f. 07/08/2015 i.e. the date of appointment of other colleagues is against various judgments passed by this Honourable Court which was properly been annotated by the

petitioner in its representation before respondent no. 2 and the especially the judgment dated 16/10/2017 passed by Peshawar High Court, Mingora Bench (Darul Qaza), Swat in writ petition no. 228-M/2014 & Writ Petition No. 227-M/2014. Copy of the judgment dated 16/10/2017 is attached as **Annexure** **K.**

H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 06-08-2020

APPELLANT


KABEER KHAN

THROUGH:


NOOR MOHAMMAD KHATTAK

&


**MUHAMMAD MAAZ MADNI
ADVOCATES**

DISTRICT GOVERNMENT
DISTRICT OFFICE of SOCIAL WELFARE & WOMEN DEVELOPMENT
DEPARTMENT KOHAT
DISTRICT COUNCIL FOR REHABILITATION OF DISABLED PERSONS
(DCRDP)



Dated 10.05.2010

Reg: No. 656/DAB/SW

Disability Certificate
Disability Assessment Board For Disabled Persons
94109

B - (6)

Name: Kabir Khan

Father's Name: Khan Samand

Married/ Un-Married: Un-Married

Spouse: Nil

Date Of Birth: 10.03.1980

N.I.C #: 14301-1968602-9

Qualification: BA

Nature of Disability: Physically Physically

Present Address: Govt. High School Akhorwal Dara Adam Khel FR Kohat

Permanent Address: As Above

Recommendation of the Board: Disability Certificate

[Signature]
District Officer/Secretary (DABDP)
Society of WDD
Kohat

REGISTERED

S. No. PBR- 020921



Roll No. 154072

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Peshawar N.W.F.P. Pakistan
Secondary School Certificate Examination

SESSION 1997 (ANNUAL)
(HUMANITIES GROUP)

THIS IS TO CERTIFY THAT Kabir Khan

Son/Daughter of Khan Samand

and a student of Govt High School Akhurwal F.R. Kohat

has passed the Secondary School Certificate Examination
of the Board of Intermediate and Secondary Education, Peshawar held in April 1997
as a *Regular candidate*. He/She obtained 432 Marks out of 850

and has been placed in Grade C Representing Good

The Candidate passed in the following subjects.

- | | | | |
|------------|---------------------|---------------------|-----------------|
| 1. English | 3. Islamiyat | 5. Gen: Science | 7. Isl: Studies |
| 2. Urdu | 4. Pakistan Studies | 6. Gen: Mathematics | 8. Pashto |

He/She has been awarded Grade - on the basis of internal
assessment by the Institution concerned.

Date of birth according to admission form is Tenth March
one thousand nine hundred and Eighty Only (10-03-1980)

Asstt Secretary
28/1/1997

Secretary

This certificate is issued without alteration or erasure.

ATTESTED

الجامعة الإسلامية

29

University of Peshawar (Pakistan)

Session ANNUAL 2004

KADIE KHAN

Son / Daughter of

KHAD SAHAB

DISTRICT KOHAT

and a student/private candidate of

having passed the prescribed examination held in JUNE 2004

is this day admitted by the University of Peshawar to the Degree of

Bachelor of Arts

in SECOND Division

The examination was taken as ~~whole~~ in parts

ATTESTED

Masud Ahmad

Registrar

Countersigned

Masud Ahmad

Vice-Chancellor

Serial No 113682

Registration No. 2001-PC-2007

Roll No. 01542

Result declared on 19TH NOVEMBER, 2004



Ulama Qabul Open University
Islamabad

9



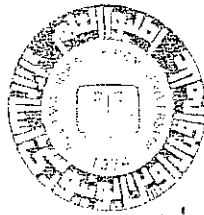
Serial No. 132897

Certified that *Mr/Ms* KABIR KHAN
Son/Daughter of KHAN SAMAND
Registration No 05NKT0711 *Roll No* W692107
Semester AUTUMN 2007 *having met all the requirements under*
the semester system is this day awarded the

Certificate of Teaching

He/She has secured 73 % *marks*
and placed in A *grade*

ATTESTED



Brayan

Result declared on: September 29, 2008

Controller of Examinations

Date of issue: June 19, 2018

(10)

Allama Iqbal Open University Islamabad



Serial No. 14236

Certified that Mr. / Ms. KABIR KHAN

Son / Daughter of KHAN SAMAND

Registration No: 05NKT0711 Roll No: AD590024

having completed the prescribed requirements in semester

AUTUMN 2011 is awarded the degree of:

Master of Science

PAKISTAN STUDIES

He/She has secured 58 % marks and has been placed in C grade.

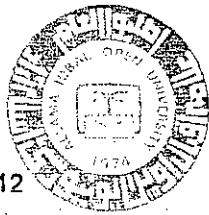
M. Khan

ATTESTED

CONTROLLER OF EXAMINATIONS

Result declared on: September 10, 2012

ISLAMABAD. DATED: March 26, 2018



S. M. Khan
VICE-CHANCELLOR

THIS DEGREE IS TO BE READ IN CONJUNCTION WITH THE TRANSCRIPT, ISSUED SEPARATELY

OFFICE OF THE AGENCY EDUCATION OFFICER F.R KOHAT
Final Merit List of CT Local Candidates in R/O F.R Kohat

(4)

D-11

SNO	RNO	Name of Candidate	Fathers Name	D.O.B	SSC	Score	F.A/ F.Sc	Score	B.A/ B.Sc	Score	M.A/ M.Sc	Score	Profesinal	Score	Sc: Mark	Total Score	Remarks
1	9	Ashgar Khan	Mir Rehman	15/5/1984	569/850	13.388	721/1100	13.109	340/550	12.364	2.72/4	10.200	589/900	13.089	15	77.150	
2	12	Muhammad Islam	Khan Samand	27/1/1986	519/850	12.212	637/1100	11.582	291/550	10.582	1589/2100	11.350	591/900	13.133	15	73.859	
3	51	Muhammad Hussain	Zar Gül	12/11/1979	457/850	10.753	706/1100	12.836	311/550	11.309	3.33/4	12.488	571/900	12.689	5	65.075	
4	13	Anwar Khan	Dilawar Khan	16/4/1971	578/850	13.600	538/1100	9.782	268/550	9.745	624/1100	8.509	765/1200	12.750	10	64.386	
5	47	Ajmaeen Khan	Zar Maeen Khan	30/8/1986	624/850	14.682	557/1100	10.127	310/550	11.273	1090/1850	8.838	610/900	13.556	5	63.476	
6	56	Manzoor Khan	Zahir Khan	12/3/1985	591/850	13.906	624/1100	11.345	308/550	11.200	588/1100	8.018	622/900	13.822	5	63.292	
7	91	Muhammad Tahir	Muhammad Raziq	9/1/1982	451/850	10.612	589/1100	10.709	286/550	10.400	755/1200	9.438	721/1200	12.017	10	63.175	
8	39	Nasir Khan	Races Khan	17/5/1976	604/850	14.212	553/1100	10.055	264/550	9.600	641/1100	8.741	769/900	10.422	10	63.029	
9	77	Mallitullah	Manawar Khan	12/01/177	543/850	12.776	641/1100	11.745	305/550	11.091	618/1100	8.427	790/1200	13.167	5	62.207	
10	96	Hamidullah	Khan Badin	1/5/1980	634/850	14.918	784/1100	14.255	264/550	9.600	646/1100	8.809	614/900	13.644		61.226	
11	14	Ahmad Khan	Dilawar Khan	1/3/1982	580/850	13.647	656/1100	11.927	305/550	11.091	608/1000	9.120	892/1200	14.867		60.652	
12	24	Mohammad Riaz	Jehangir Khan	15/9/1987	474/850	11.153	652/1100	11.855	286/550	10.400	596/1100	8.127	607/900	13.489	5	60.024	
13	17	Kabir Khan	Khan Samand	10/3/1980	432/850	10.165	535/1100	9.727	292/550	10.618	1169/2000	8.768	653/900	14.511	5	55.789	Disabe
14	25	Mujeeb Alam	Sahib Alam	8/4/1973	440/850	10.353	514/1100	9.345	249/550	9.055	700/1200	8.750	491/900	10.911	10	58.414	
15	84	Muhammad Shoail Khan	Ayub Khan	25/02/1976	583/850	13.718	650/1100	11.818	264/550	9.600	0	0.000	775/1200	12.917	10	56.052	
16	90	Noor Zadin	Sharaf Dia	11/10/1975	563/850	13.247	540/1100	9.818	312/550	11.345	556/1100	7.582	495/900	11.000	5	57.993	
17	44	Gul Anwar	Dilawar Khan	16/6/1974	460/850	10.965	495/1100	9.000	590/900	13.111	691/1100	9.423	637/900	14.156		55.654	
18	62	Renmat Salam	Zareen Khan	15/01/1975	495/850	11.647	442/1100	8.036	248/550	9.018	558/1100	7.609	609/1200	10.150	10	56.461	
19	8	Mohammad Zahir	Saif ur Rehman	20/11/1973	521/850	12.259	504/1100	9.164	278/550	10.109	580/1100	7.909	687/1200	11.450	5	55.891	
20	95	Muhammad Farooq	Muhammad Sadiq	12/4/1976	573/850	13.482	520/1100	9.455	251/550	9.127	562/1100	7.664	501/900	11.133	5	55.861	

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Final Merit List of CT Local Candidates in R/O.F.R Kohat

(5)

SNO	RNO	Name of Candidate	Fathers Name	D.O.B	SSC	Score	F.A/ F.Sc	Score	B.A/ B.Sc	Score	M.A/ M.Sc	Score	Profesinal	Score	Sc: Mark	Total Score	Remarks
21	94	Shahab ud Din	Nizam ud Din	20/04/1988	470/850	11.059	573/1100	10.418	320/550	11.636	0	0.000	953/1500	12.707	10	55.820	
22	60	Shahidullah	Ashraf Noor	17/1/1984	572/850	13.459	554/1100	10.073	277/550	10.073	597/1100	8.141	629/900	13.978		55.723	
23	7	Abdur Rehman	Fazal e Rahim	16/8/1980	553/850	13.012	534/1100	9.709	305/550	11.091	570/1100	7.773	635/900	14.111		55.696	
24	85	Jan Sher	Ashiq Noor	22/12/1989	686/1050	13.067	581/1100	10.564	658/1000	13.160	0	0.000	590/900	13.111	5	54.901	
25	20	Usmar Din	Gulab din	13/8/1972	572/850	13.459	472/1100	8.582	255/550	9.273	498/1100	6.791	668/1200	11.133	5	54.238	
26	22	Muhammad Tariq	Hikmat Shah	8/1/1976	485/850	11.412	620/1400	8.857	247/550	8.982	615/1100	8.385	520/900	11.556	5	54.193	
27	92	Muhammad Akram	Khan Khel	2/1/1981	483/850	11.365	407/1100	7.400	254/550	9.236	553/1100	7.541	604/900	13.422	5	53.964	
28	18	Rehman Gul	Zarin Khan	25/2/1971	618/850	14.541	685/1100	12.455	309/550	11.236	0	0.000	929/1200	15.483		53.715	
29	3	Gul Zamir	Zar Mir Khan	14/3/1978	518/850	12.188	549/1100	9.982	247/550	8.982	696/1100	9.491	587/900	13.044		53.687	
30	42	Eid Muhammad	Shah Jehan	17/5/1970	508/850	11.953	511/1100	9.291	617/900	13.711	0	0.000	683/1000	13.660	5	53.615	
31	65	Muhammad Khorshid	Abdul Rashid	14/04/1985	488/850	11.482	489/1100	8.891	312/550	11.345	556/1100	7.582	637/900	14.156		53.456	
32	55	Falak Naz	Naeem Gul	15/08/1983	458/850	10.776	552/1100	10.036	276/550	10.036	654/1100	8.918	611/900	13.578		53.345	
33	30	Umar Baz	Sar Baz Khan	10/5/1977	519/850	12.212	511/1100	9.291	264/550	9.600	576/1100	7.855	637/900	14.156		53.113	
34	38	Nisar Khan	Mir Haidar	12/3/1976	476/850	11.247	508/1100	9.236	310/550	11.273	576/1100	7.855	563/900	12.511		52.122	

1. Member
Agency Education Officer
FR Kohat

2. Member
Principal GHS Akhurwal FR Kohat

3. Member
Headmistress GGHS Pirwal Khel FR Kohat

4. Member
Assistant Political Agent, FR Kohat

Chairman
Deputy Commissioner
Kohat/ Political Agent FR Kohat

OFFICE
SECRETARY

6

OFFICE OF THE AGENCY EDUCATION OFFICER F.R. KOHAT
Final Merit List of CT Local Candidates (Disable) in R/O F.R Kohat

SNO	RNO	Name of Candidate	Fathers Name	D.O.B	SSC	Score	F./A/ F.Sc	Score	B./A/ B.Sc	Score	M./A/ M.Sc	Score	Profesinal	Score	Sc: Mark	Total Score	Remarks
1	17	Kabir Khan	Khan Samand	10/3/1980	432/850	10.165	535/1100	9.727	292/550	10.618	1169/2000	8.768	653/900	14.511	5	58.789	Disabe
2	4	Zahidullah	Mir Aslam	5/6/1978	458/850	10.776	534/1100	9.709	249/550	9.055	570/1100	7.773	610/1200	10.167		47.480	Disabe
3	10	Yar Mast	Sar Mast	1/5/1984	401/850	9.435	444/1100	8.073	-608/900	13.511	0	0.000	527/900	11.711		42.730	Disabc
4	23	Gul Asghar	Gul Akbar	3/1/1985	349/850	8.212	584/900	12.978	0	0.000	0	0.000	1032/1500	13.760		34.950	Disabe

1. Member
Agency Education Officer
FR Kohat

2. Member
Principal GHS Akhurwal FR Kohat

3. Member
Headmistress GGHS Pirwal Khel FR Kohat

4. Member
Assistant Political Agent, FR Kohat

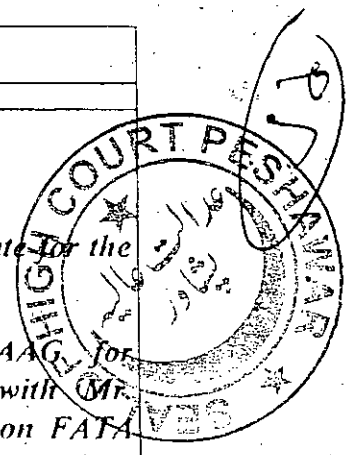
Chairman
Deputy Commissioner
Kohat/ Political Agent FR Kohat

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F-149

PESHAWAR HIGH COURT, PESHAWAR
FORM OF ORDER SHEET

Date of Order or Proceedings	Order of other Proceedings with Signature of Judge.
1	2
05.03.2015	<p><u>WP No. 2629-P/2013.</u></p> <p><i>Present: Mr. Muhammad Ijaz Sabi, Advocate for the petitioners.</i></p> <p><i>Syed Sikandar Hayat Shah, AAG for respondents No.1 and 2 alongwith Mr. Hamidullah Jan Director Education FATA and Abdul Malik Assistant Director (CIT) Directorate of Education FATA Peshawar.</i></p> <p><i>Mr. F.M. Sabar, Advocate for respondent No.3 alongwith Mr. Muhammad Ashraf Agency Education Officer F.R. Kohat.</i></p> <p style="text-align: center;">***</p> <p><u>QAISER RASHID KHAN, J.</u> Through the petition in hand, the petitioners are aggrieved of the inaction on the part of the respondents in not issuing the appointment letters to them.</p> <p>2. As per facts spelt out from the petition, consequent to an advertisement dated 4.2.2012 whereby applications for various posts of T.T/ A.T/ P.E.T/ D.M/ P.T.C etc were invited, the petitioners offered their candidature for the same and after the entire process was carried out the petitioners were subjected to scrutiny process as well as interview. A merit list was prepared by the respondents wherein the names of the petitioners appeared on a higher</p>



ATTESTED
[Signature]
EXAMINER
Peshawar High Court

15


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merit order but despite the passage of such a long time, the appointment orders have not been issued to them.

3. Comments were accordingly called for from the respondents wherein besides other contentions, it is averred that there were some errors in the merit list and moreover the APA (FR) Kohat refused to be signatory to the merit list.

4. The petition was argued at a certain length before this court on 17.2.2015 when the learned AAG sought time to consult the Agency Education Officer (FR) Kohat regarding the matter and the case was put off for 19.2.2015. On the date fixed, Mr. Muhammad Ashraf Agency Education Officer (FR) Kohat appeared before the court but since he was not in possession of the record, therefore, he was directed to submit a better statement which he did through a concise report and finally on 3.3.2015 it was again directed that the Director Education FATA shall appear in person to present a proper account regarding the matter.

5. Today, Mr. Hamidullah Jan Director Education FATA alongwith Mr. Muhammad Ashraf Agency

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EXAMINER
Peshawar High Court

Education Officer (FR) Kohat appeared and stated that consequent to the advertisement, interviews were conducted with effect from 13.1.2013 till 20.1.2013 but finally through a letter of the APA (FR) Kohat dated 15.7.2013 the entire process came to a standstill when the APA (FR) Kohat refused to sign the merit list being a member of the selection committee. During the course of arguments, Mr. Muhammad Ashraf AEO (FR) Kohat came up with two merit lists, one by their estimate to be an old one and the second as presented before us has been termed as the latest and a fresh one. When questioned by this court as to whether the petitioners were in any manner at fault or were responsible for some alleged irregularities or that they had some hand in delaying the process, there was no answer by both the responsible officials of the Education Department. The final merit list of T.T (Male) in respect of FR Kohat as presented before us in the court today (Mark-A) shows the names of the petitioners No. 1 to 7 in the top merit order from S.No. 1 to 7. Similarly, in the merit list of A.T (Male) in respect of FR Kohat (Mark-B), the name of petitioner No.8, Shahidullah appears at

(16)

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S.No.5 and resultantly falls in the top merit order keeping in view the number of vacancies as available for the A.T (Male) posts.

6. In view of such background of the case and the record so furnished by the concerned representatives of the Education Department, we understand that the petitioners have been highly discriminated against for the last two years and have not been given an even-handed treatment. We thus allow this writ petition and direct the respondents to issue appointment letters in the names of the petitioners for their respective posts within this month.

Ent - Jagan Rasmit
Dr. Anand Kumar

JUDGE

Assoc. Judge
JUDGE

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
the Constitution of Pakistan 1973
11 AUG 2020

No. 4349
Date of Presentation of Petition 11/8/2020
No of Pages 13
Copying Fee 500
Total 500
Date of Preparation of Copy 11/8/2020
Date of Delivery of Copy 11/8/2020
Received by [Signature]



OFFICE OF THE AGENT EDUCATION OFFICER
 PESHAWAR
 Gen. No. 210-D-100-11
 Phone / Fax No. 0922-926032
 No. 114
 Dated 23/10/2015

APPOINTMENT

Consequent upon the High Court decision vide writ petition No. 2629-P-2013 Dated 09/03/2015 & W.P. 1446-P/2015 Dated 18/05/2015 & W.P. No. 1994-P/2015 Dated 25/06/2015 & Director Education FATA Peshawar letter No. 4571 dated 17/4/2015 and also approval by Deputy Commissioner Political Agent FR Kohat (Chairman Selection Committee) & interviewed by the Selection Committee, the following Male Candidates of FR Kohat Domicile holders are hereby appointed as CT teachers in BPS-9 (Rs. 8015-495-22865) PM plus usual Allowances with effect from the date of their taking over charge in the following schools in the interest of public service on the following terms and conditions:

S.No.	Name	Design	Posted at	Remarks
1.	Aeghar Khan	CT	GHS Aari Khel FR Kohat	Against Vacant C.T post
2.	Mansoor Khan	CT	GHS Suni Khel FR Kohat	Do
3.	Muhammad Tahir	CT	GHS Sheendhand FR K.T.	Do

TERMS AND CONDITIONS

- 1) Charge report should be submitted to all concerned.
- 2) If a candidate wishes to resign his post he will give one month prior notice and one month will be forfeited in lieu thereof.
- 3) They should produce their original Certificates/documents for verification entry in S. Book
- 4) They should produce their health and age Certificate from the Medical Superintendent concerned.
- 5) They may not be handed over charge if their age is below 18 years or above 33 years age
- 6) If they fails to report within 15 days then appointment will be treated as cancelled automatically
- 7) If any technical/legal flaw is pointed out the appointment will stand as cancelled
- 8) Their pay will be drawn after the completion of verification process.

AGENCY EDUCATION OFFICER
 FR KOHAT

Copy for information and access to:

- 1) Director Education FATA
- 2) Deputy Commissioner Political Agency
- 3) Assistant Political Agent FR Kohat
- 4) District Education Officer Peshawar
- 5) Provincial Director of Technical Education
- 6) P.A.
- 7) F.A.S.T.
- 8) Candidates

ATTESTED

AGENCY EDUCATION OFFICER
 FR KOHAT

5-246-02

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BEFORE THE PESHAWAR HIGH COURT PESHAWAR

W.P.No. 1446-P/2015



1. Sahib Zaman s/o Jan Muhammad
R/o Qaum Tor Chappar, Sarwarkhel,
PO Darra Adamkhel, F.R Kohat
Candidate for the post of PET.
2. Muhammad Khurshid s/o Abdur Rasheed,
R/o Qaum Zarghunkhel, Zor Kalay,
PO Darra Bazar, F.R Kohat.
Candidate for the post of PST.
3. Hazrat Ali s/o Raees Khan,
R/o Qaum Akhorwal, Pinval Khel,
PO Akhorwal, F.R Kohat
Candidate for the post of PET/PST
4. Manzoor Khan s/o Zahir Khan
R/o Qaum Akhorwal, Qambarkhel,
PO Darra Adamkhel, F.R. Kohat.
Candidate for the post of PST & CT.
5. Kabeer Khan s/o Khan Samand
R/o Kot.Mela, PO Akhorwal, F.R. Kohat
Candidate for the post of CT.
6. Muhammad Tufail s/o Muhammad Akbar
R/o Qaum Taz Khel Payyan Jogi P/O Bili
Tehsil and District Kohat
Candidate for the post of PST/ Qari/ Pesh Imam
7. Ehsanullah s/o Shafiur Rehman
R/o Zor Kalay, Qaum Zarghunkhel,
PO Darra Adamkhel, F.R. Kohat.
Candidate for the post of PST.
8. Shah Nawaz s/o Shéhzada Khan
R/o Feroz Khan Mela,
PO Darra Adamkhel, F.R. Kohat
Candidate for the post of PET

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Authorised Signatory
The Registrar, Peshawar High Court

10 AUG 2015

FILED TODAY
Deputy Registrar

29 APR 2015

ATTESTED

EXAMINER
Peshawar High Court

Judgment Sheet

IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

J U D G M E N T

WP No. 1446-P of 2015 with CMs 606, 607-P/15.
Date of hearing...13.05.2015



Sahib Zaman & others

Vs

Secretary Education FATA Secretariat, Peshawar & others.

Petitioner(s) by *M. M. Muhammad Waqar Khan Sabir, Advocate*

Respondent(s) by *Syed. Qaiser Ali Shah, AM...*

YAHYA AFRIDI, J:- Through instant petition, the

petitioners Sahib Zaman and 21 others seek to invoke the

Constitutional jurisdiction of this Court, praying that:

"On acceptance of this petition:

i. a writ of certiorari may be issued to declare the impugned refusal of the respondents to issue appointment letters to the petitioners as illegal, unlawful and thus ineffective upon the right of petitioners.

ii. a writ of mandamus may be issued to respondents to act as required from them by law to act by directing them to issue appointment letters to the petitioners.

iii. Identical relief as granted to the writ petitioners of WP 2629-P/2013 may be allowed to the present petitioners.

ATTESTED

[Signature]
EXAMINER
Peshawar High Court

(21)

Or any other relief deem fit and appropriate in the circumstances of the case may be passed."

2. At the very outset, worthy counsel for petitioners stated that this Court has already decide the same issue in Writ Petition No.2629-P/2013, wherein it was held that:

"In view of such background of the case and the record so furnished by the concerned representatives of the Education Department, we understand that the petitioners have been highly discriminated against for the last two years and have not been given an even-handed treatment. We thus allow this writ petition and direct the respondents to issue appointment letters in the names of the petitioners for their respective posts within this month."

3. The worthy AAG present in Court was put to notice who after going through the record, submitted that the decision so referred was relevant to the issue in hand.

4. CM No.606-P/2015 has been filed by the petitioners for placing on record certain important documents, which are essential for just decision of the case whereas, CM No.607-P/2015 has been filed by applicants Muhammad Saood and four others, for their impleadment in the panel of petitioners in the instant Writ petition. Both the CMs are allowed and office is directed to make necessary entries in the instant petition as well as in the relevant register.

ATTESTED

EXAMINER
Peshawar High Court

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SA

5. Accordingly, for the reasons stated hereinabove, this petition is allowed in the above terms and the respondents are directed to treat the petitioners in accordance with the prevailing law and grant them all benefits, which others 'similarly placed' have been granted by the respondents in W.P.No.2629-P/2013 decided on

05.03.2015.
Announced.
13.05.2015.

Sh. Sayya Afzali
Dr. Roomeh

[Signature]

JUDGE

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EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 167 of
the Qanun-e-Shahadat Order, 1984

10 AUG 2020

"A.Qayum"

No. 4342

Date of Presentation of Application 10/8/2020

No of Pages 40

Copying fee 16/2

Total 16/2

Date of Preparation of Copy 10/8/2020

Date of Delivery of Copy 10/8/2020

Received by Kabir

14/5/11



OFFICE OF THE DISTRICT EDUCATION OFFICER
TSD DARRA KOHAT.
Gate No.2 K.D.A Kohat.
Phone & Fax No. 0922-9260321.

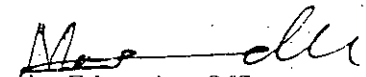
Letter No: 405 / Dated: 11/10/2018.

APPOINTMENT

Consequent upon the decision of Peshawar High Court No. 276 dated: 02/10/2018 Mr. Kabir Khan S/O Khan Samand is hereby appointed against vacant CT Post at GHS Toor Chapper F.R Kohat in BPS-15 @ (Rs-16120-1330-56020) PM plus usual allowances as admissible under the rules with effect from taking over charge in the best interest of public service.

TERMS & CONDITIONS:-

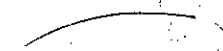
1. Charge report should be submitted to all concerned.
2. If the candidates wish to resign from his post. He will given one-month prior notice or his pay for one month will be forfeited in lieu thereof.
3. He should produce his original, academic, professional Certificates, Domicile and NIC copy before proper verification from the quarters concerned.
4. He should produce his Health and age Certificates from the Medical Superintendent concerned.
5. He may not be handed over charge if he is below 18 years or above 45 years.
6. If she fails to report within 15 days then his appointment order will be treated as cancelled automatically.
7. No salary may be drawn before the verification of all the testimonials from the quarter concerned.
8. If any technical legal flaw is pointed out the appointment will stand as cancelled.


District Education Officer
TSD Darra Kohat. 2

CC:

1. Director Education FATA, K.P.K Peshawar.
2. Assistant Political Agent, F.R Kohat.
3. District Account officer Kohat.
4. AAEO (Male) F.R Kohat.
5. Candidate Concerned.

ATTESTED


District Education Officer
TSD Darra Kohat.

23/A

مقامی حکومت کے افسران سے مل کر، کمزور / سہل و سہوار
تاریخ 07-8-2015 = لیٹا کر کے اہلیت کے
دیکھ کر اہلیت کے لئے سہارا دینے کے اہلیت کے
مقررہ ضوابط

الرحمہ
20/5/2020

اللہ

CT (BPS-15) کے لئے
مقررہ ضوابط کے تحت

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VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

Kabeer Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Kabeer Khan

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. _____/_____/2020

Kabeer Khan

CLIENT

Accepted
NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

MIR ZAMAN SAFI
&

AFRASIAB KHAN WAZIR
ADVOCATES

OFFICE:
Flat No.4, 2nd Floor, Juma Khan
Plaza, near FATA Secretariat,
Warsak Road, Peshawar.
Mobile No.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

S.A No. 11015/2020

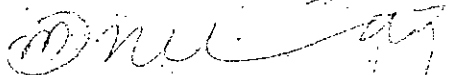
Mr. Kabeer Khan, CT (BPS-15), R/O Qaum Taz Khel Payyan Jogi, Sub-Division
Kohat.....**Appellant**

VERSUS

1. The Government of Khyber Pakhtunkhwa, through Secretary (E&SE) Department, Civil Secretariat, Peshawar.
2. The Director, (E&SE) Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (male), Sub Division Darra Adam Khel,
Kohat.....**Respondent**

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District Education Officer (M)
TSD Darra Kohat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

S.A No. 11015 /2020

Mr. Kabeer Khan, CT (BPS-15), R/O Qaum Taz Khel Payyan Jogi, Sub-Division Kohat.....**Appellant**

VERSUS

- 1. The Government of Khyber Pakhtunkhwa, through Secretary (E&SE) Department, Civil Secretariat, Peshawar.
- 2. The Director, (E&SE) Khyber Pakhtunkhwa, Peshawar.
- 3. The District Education Officer (male), Sub Division Darra Adam Khel, Kohat.....**Respondent**

PARA WISE COMMENTS ON THE BEHALF OF RESPONDENT NO. 1 to 3.

Respectfully Sheweth

- i. That the Appellant has got no cause of action, locus standi to file the instant Appeal.
- ii. That the Appellant has concealed material facts from honorable Tribunal.
- iii. That the Appellant has not come to this honorable Tribunal with clean hands.
- iv. That the Appellant case is not maintainable.
- v. That the Appellant is based upon malicious/vexatious and frivolous ground.
- vi. That the Appellant is estopped by his own conduct.
- vii. That the Appeal of the appellant is badly time barred.
- viii. That the Appeal is bad for misjoinder and non-joinder of necessary parties.

FACTS:

- 1. Para No. 1 pertains to record.
- 2. Para No. 2 pertains to record.
- 3. Para No. 3 pertains to record.
- 4. Para No. 4 is incorrect that the appellant was called for interview to appear before the Departmental Selection Committee, but the appellant was failed to do so and reminded absent. Copy of attendance Sheet is attached as **Annexure A**.
- 5. Para No. 5 pertains to record.
- 6. Para No. 6 is incorrect the said WP No. 2629-P/2013 was decided on 05-03-2015, the judgment is "In the view of such background of the case and the record so furnished by the concern representative of the Education Department, we understand that the Petitioner have been highly discriminated against for the last two year and have not been given an even-handed treatment. We thus allow this writ petition and direct the Respondents to issue appointment letters in the names of the petitioners for their respective posts with in this month".

7. Para No. 7 is incorrect the judgment of Honorable Peshawar High Court was announced on 25-09-2018 with the directions that "In the light of above we allow this petition and direct the respondent to issue appointment letter to the petitioner of CT Teacher against 2% quota of disable person against 136 posts of CT teaches (Male) within 15 days from the date of receipt of the order of this Court".

Hence the Honorable Peshawar High Court Judgment was announced in favor of Petitioner on 25-09-2018 and was implemented wide appointment order on dated 11-10-2018. Copy of appointment order and Judgment is attached as **Annexure B & C**.

As per Agency/ FR wise number of vacant posts actual position of total vacant posts of CT are only 03 out of 90 whole CT posts in TSD Darra Kohat and it was also mentioned/ stated in the Para wise Comments of the Respondent No. 1 & 2 before the Honorable Peshawar High Court against the appellat writ petition No. 276-P/2018 that there are total number of 90 posts of CT and 02 candidates have already been appointed against the 2% disable quota while 136 vacant posts of CT is the grand total of all agencies/FR wise number of vacant posts. Copy of agency/ FR wise vacant posts and Para wise comments is attached as **Annexure D & E**.

8. Para No. 8 is incorrect as stated in above Para.6.

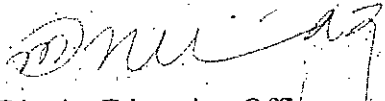
9. No Comments.

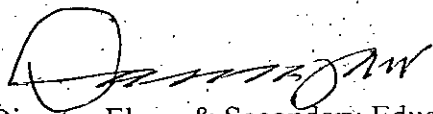
Grounds

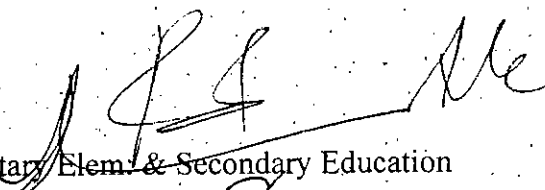
- A. Ground Para No. A is incorrect that the act of respondent is according with rule and policy.
- B. Ground Para No. B is incorrect the respondent implemented the Judgment of Peshawar High Court.
- C. Ground Para No. C is incorrect as stated in above Para B.
- D. Ground Para No. D is incorrect as stated in above Para B.
- E. Ground Para No. E is incorrect that no discrimination was made by the Respondent.
- F. Ground Para No. F is incorrect as stated in above Para B.
- G. Ground Para No. G is incorrect as stated in above Para B.
- H. The Respondent sick leave to raise additional ground at the time of arguments.

PRAY.

In the light of above legal and factual position, it is humbly requested that the instant appeal is baseless and may please be dismissed with cost.

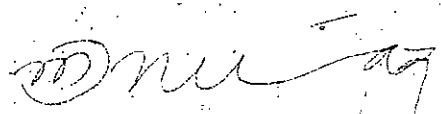

District Education Officer
TSD Darra Kohat
Respondent No. 3


Director Elem. & Secondary Education
Khyber Pakhtunkhwa Peshawar
Respondent No. 2

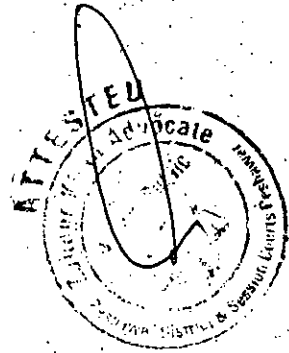

Secretary Elem. & Secondary Education
Khyber Pakhtunkhwa Peshawar
Respondent No. 1

AFFIDAVIT

I Mr. Muhammad Sheraz DEO TSD Dara Kohat, do here by affirm and declared that the contents of para wise comments regarding the service appeal No. 11015/2020 are true, correct and nothing has been concealed from this Honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar.


DEPONENT
Mr. Muhammad Sheraz
District Education Officer (M)
TSD Darra Kohat

CNIC# 14203-2057044-7
Mobil # 0300-5325372



20 DEC 2022

Annex A

4

12-08-20

FAIA

OFFICE OF THE AGENCY EDUCATION OFF
 F.R KOHAT.
 Gate No.2 K.D.A Kohat
 Phone & Fax No. 0922-9260321

ATTENDANCE SHEET FOR THE INTERVIEW ON DATED 12-08-20

CT MALE

S.No.	Roll No	NAME OF CANDIDATE	SIGNATURE
1 ✓	38400180	Ihsan Mumtaz	
2 ✓	38400583	Shahid Ullah	
3 ✓	38400725	Noor Asghar	
4 ✓	38400176	Wajid Niaz	
5 ✓	38400510	Inyat Ur Rehman	
6 ✓	38400677	Sanobar Khan	
7 ✓	23400826	Muhammad Irshad	
8 ✓	38400057	Aamir Mehmood	
9 ✓	38400596	Naseeb Hussain	
10 ✓	38400302	Nasir Jamal	
11 ✓	60401161	Luqman	
12 ✓	38400013	Adil Muhammad	
13 ✓	38400344	Naeem Khan	
14 ✓	38400570	Arif Noor	
15 ✓	38400117	Ihsan Ullah	
16 ✓	38400461	Qamar Abbas	
17 ✓	60401937	Muhammad Umer	
18 ✓	38400690	Aziz-ur Rehman	
19 ✓	38400515	Akhtar Ayub	
20 ✓	38400063	Kamran Adil	
21 ✓	60400395	Muhammad Kashif	
22 ✓	38400072	Umer Nawaz	
23 ✓	38400463	Nasir Khan	
24 ✓	60400207	Muhammad Rabib	

25. ✓	38400286	Muhammad Ijaz	
26.	38400631	Dil Nawaz	
27. ✓	60402077	Zeeshan Ullah	Absent
28. ✓	30400007	Farman Ullah	Absent
29.	38400493	Samiullah	Absent
30.	38400696	Muhammad Shafiq	Absent
31.	60400424	Muhammad Nawaz	
32.	38400480	Khaliq Aqbar	
33.	30400146	Muhammad Kamran	Absent
34.	38400757	Shair Nawaz	
35.	38400611	Yar Mast	
36. ✓	38400123	Hikmat Khan	
37.	38400306	Fazal Khaqim	
38. ✓	38400124	Noor Zaman	Absent
39.	60401261	Awal Noor	Absent
40.	38400729	Muhammad Khalil	
41. ✓	38400559	Khawass Khan	Absent
42. ✓	38400394	Abdul Wahid	Absent
43.	38400417	Muhammad Shuaib Khan	
44. ✓	60401517	Muhammad Nawaz	
45.	38400257	Jan Shiar	
46. ✓	38400062	Zahid Hussin	
47.	38400721	Akhtar Munir	
48.	38400365	Kabir Khan	
49.	38400733	Mir Hassan	
50.	60400777	Muhammad Kabir	
51. ✓	38400018	Riaz Wali Khan	
52.	38400222	Shabir Ahmad	
53.	60400009	Muhammad Asghar	
54.	38400442	Muhammad Riaz	
55.	38400458	Sakhi Gul	
56.	38400080	Umer Baz	
57. ✓	38400334	Gul Asghar (Disable)	

(4) (6)

58.	384000357	Abu Bakar Sadq	
59.	38400717	Umar Farooq	Abu Bakar
60.	38400057	Haji Muhammad	
61.	60400041	Wajid Khan	

Mae olu
Agency Education Officer
F.R Kohat



Annex B

7

[Handwritten signature]

OFFICE OF THE DISTRICT EDUCATION OFFICER
TSD DARRA KOHAT.
Gate No. 2 K.D.A Kohat.
Phone & Fax No. 0922-9260321.
Letter No: 405 / Dated: 11/10/2018.

APPOINTMENT

Consequent upon the decision of Peshawar High Court No. 276 dated: 02/10/2018 Mr. Kabir Khan S/O Khan Samand is hereby appointed against vacant CT Post at GHS Fort Chamber, F.R Kohat, in BPS-15 @ (Rs-16120-1330-56020) PM plus usual allowances as admissible under the rules with effect from taking over charge in the best interest of public service.

TERMS & CONDITIONS:-

1. Charge report should be submitted to all concerned.
2. If the candidates wish to resign from his post. He will give one-month prior notice or his pay for one month will be forfeited in lieu thereof.
3. He should produce his original academic, professional Certificates, Domicile and NIC copy before proper verification from the quarters concerned.
4. He should produce his Health and age Certificates from the Medical Superintendent concerned.
5. He may not be landed over charge if he is below 18 years or above 45 years.
6. If he fails to report within 15 days then his appointment order will be treated as cancelled automatically.
7. His salary may be drawn before the verification of all the testimonials from the quarter concerned.
8. If any technical/legal flaw is pointed out the appointment will stand as cancelled.

- CC:
1. Director Education FATA, K.P.K Peshawar.
 2. Assistant Political Agent, F.R Kohat.
 3. District Account Officer Kohat.
 4. AAO (Matric), F.R Kohat.
 5. Candidate Concerned.

ATTESTED

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District Education Officer
TSD Darra Kohat.

District Education Officer
TSD Darra Kohat.

Annex C

W.P. 2629-P/2013

8

S.No.5 and resultantly falls in the top merit order keeping in view the number of vacancies as available for the A.T (Male) posts.

6. In view of such background of the case and the record so furnished by the concerned representatives of the Education Department, we understand that the petitioners have been highly discriminated against for the last two years and have not been given an even-handed treatment. We thus allow this writ petition and direct the respondents to issue appointment letters in the names of the petitioners for their respective posts within this month.

JUDGE

56859

10.8 31-10-22

Associate
JUDGE

40
31-10-22
31-10-22

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5. As hinted hereinabove that the annexure which respondents have annexed themselves with their comments is clearly showing that there were 136 vacant posts for the appointment of C.T Teacher (male) and furthermore respondents have miserably failed to bring on record any interview letter which might have been sent to the petitioner for his interview for certain specified date. All that hinted hereinabove clearly demonstrates that respondents have unjustly and unfairly refused the petitioner for appointment against 2% disable quota against 136 C.T Teacher (male) who was better placed in terms of merit than the respondent No.4.

6. In the light of above, we allow this petition and direct the respondents to issue appointment letter to the petitioner of C.T Teacher against 2% quota of disable person against 136 posts of C.T Teacher (male) within 15 days from the date of receipt of the order of this court.

[Signature]
 CHIEF JUSTICE
 (A)
 JUDGE

Announced.
 Dt. 25/09/2018.

HON'BLE MR. JUSTICE WAQAR AHMAD SETH, C.J. &
HON'BLE MR. JUSTICE ABDUL SHAKOOR,
 (AKKHAH, C.S)

CERTIFIED TO BE TRUE COPY

[Signature]
 Registrar
 Registrar High Court, Faisalabad
 Authorised Under Article 87 of
 The Constitution of Pakistan

Name of Agency / FR	Name of Tehsil	SST					AT						CT			PET			Qari			PST			Total			
		Male		Female		Total	High			Middle			M	F	T	M	F	T	M	F	T	M	F	T		M	F	T
		Bio/Chem	Phy/Math	Bio/Chem	Phy/Maths		M	F	T	M	F	T																
Orakzai Agency	Lower	1	2	2	1	6	0	0	0						0	1	1	0	1	0	0	0	0	14	0	14	22	
	Central	1	1	0	1	3	0	0	0				0	1	0	1	1	0	1	0	0	0	0	0	5	0	5	9
	Upper	0	0	1	1	2	0	0	0				0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0
	Ismailzai	1	1	1	0	3	0	0	0				0	0	0	0	0	0	0	0	0	0	0	0	5	0	5	9
FR Bannu	FR Bannu	0	0	1	0	1	0	0	0				0	1	0	1	1	0	1	0	0	0	0	0	4	0	4	6
FR Peshawar	FR Peshawar	1	0	1	1	3	0	0	0	5	5	10	5	4	10	0	0	0	0	0	0	0	0	0	22	13	35	56
FR Kohat	FR Kohat			1	1	2	0	0	0			0	2	3	5	2	1	3	0	2	2	11	3	14	27			
FR Lakki	FR Lakki	0	0	1	1	2	0	0	0			0	3	6	1	2	3	0	2	2	20	15	35	50				
FR D.I.Khan	FR D.I.Khan	1	1	1	0	3	0	0	0			0	1	4	5	0	0	0	1	0	1	1	0	1	9			
FR Tank	FR Tank	2	2	2	2	8	0	0	0			0	6	3	9	3	0	3	2	0	2	19	1	20	37			
G.Total		34	28	27	23	112	4	0	4	6	10	16	136	96	232	55	26	81	25	21	46	472	98	570	1060			

Writ Petition: NO 276/2018

Annex E

13

Handwritten notes and signatures in the top right corner.

Mr. Kabir KhanPetitioner

VERSUS.

Director Education FATA & Others.....Respondents.

Comments on behalf of Respondents No.1 & 2.

PRELIMINARY OBJECTIONS.

- 1. That the petitioner has no cause of action, locus standi to file the instant petition.
- 2. That the petitioner has concealed material facts from the Honorable court.
- 3. That the matter is badly time barred.
- 4. That the instant petition is not maintainable in the present form being service matter.
- 5. That the conduct of the petitioner estopped themselves to bring the instant petition.
- 6. That the instant petition is not maintainable before the honorable court, the matter being relating to affairs of FATA under Article-247(7) of the constitution.

ON FACTS.

- 1. The petitioner was appointed as PST in FR Kohat on disable quota Endst No. 8138-40 dated: 20/10/2005.
- 2. In correct. The petitioner, applied for the post of (CT) Teacher vide advertisement dated: 22/01/2016 followed by corrigendum copy attached as. (Annexure-A).
The no of vacant position of CT posts were three in total 90 copy of breakup of post attached as (Annexure-B).
It is pertinent to mentioned over here that there was only one vacant post of disable available at the time of advertisement whereas the other vacant post of disable have already been occupied by disable candidate namely Kalim Ullah CT at GMS Landi Khel F.R Kohat where as the petitioner along with respondent No. 3 had applied against disable quota.
- 3. Incorrect. As mentioned above there were in total 90 CT Male Post at the time of advertisement only one post reserved for disable quota as per 2 % share could be limited to 1 % only.
- 4. Subject to record.
- 5. The petitioner along with other candidates were called for interview to be held on 12/08/2017, whereas on the target date the petitioner did not appear for viva test/interview and remained absent. Photo copy of attendance sheet is attached as, (Annexure-C) Consequently respondent No. 3 appointed next on merit who attended viva test/interview therefore the petitioner negligent in his own cause could not be entitled for any relief under the law.
- 6. Incorrect. All the candidates who were on merit appeared before the committee on respective date of interview as the attendance sheet reflect the attendance of 61 candidates who appeared except the petitioner who did not appear and remained absent. It is sufficient proof of the fact that the candidates were properly inform through one way or the other and strong presumption can be drawn in respect of the petitioner that he was well aware about the date of interview but could not attend the same therefore pretending before the court that he was not so called by the department.

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(10)

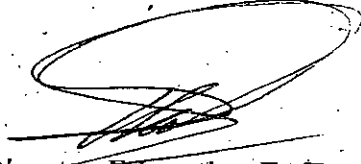
GROUNDS.

- A) Incorrect. As elucidated under para 6 above.
- B) Incorrect. Respondent no.3 was on merit and was appointed accordingly as per policy. Petitioner did not appear in viva/interview could not be appointment being negligent in his own cause.
- C) Incorrect as elucidated in para 6 above.
- D) Incorrect. The minimum eligibility criteria has already full filled. ^{by} The respondent No.3 who attended viva/interview and the petitioner did not appear for interview nor submitted his documents for scrutiny, therefore could not be entitled for appointment.
- E) Incorrect. Respondent department have acted as per law / policy and adopted a procedure of fairness and transparency in the process of appointment.
- F) Petitioner has been treated as per law/ policy and no right of petitioner have been violated by respondents.

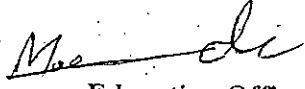
PRAY.

In the light of above stated legal factual position it is humbly requested that the instant petition being devoid of merit may kindly be order as dismissed.

Respondent No.1


Director Education FATA,
Peshawar.

Respondent No.2


Agency Education Officer
F.R Kohat.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2020

M. ABEER KHAN, CT (BPS-15),
C/O Gaum Taz Khel Payyan Jogi, Sub-Division Kohat.

.....APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Civil Secretariat, Peshawar.
- 2- The Director (E&SE), Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer, Sub-Division Kohat.

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE INACTION OF THE RESPONDENTS BY NOT GRANTING
SENIORITY TO THE APPELLANT W.E.F. 27-08-2015 I.E.
FROM THE DATE WHEN OTHER COLLEAGUES ARE GIVEN
APPOINTMENT ORDER AND AGAINST NO ACTION TAKEN
ON THE DEPARTMENTAL APPEAL DATED 02-06-2020 OF
APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY
DAYS.

PRAYER:

That on acceptance of this appeal the inaction of the respondents by not granting seniority to the appellant w.e.f. 27/08/2015 i.e. from the date of other colleagues have been appointed. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWATH:

ON FACTS:

- 1- That appellant is the employee of respondent Department as is working as Certified Teacher (CT) (BPS-15) since from the date of appointment.
- 2- That in the year 2012 the respondent no. 3 floated an advertisement in daily newspaper "AAJ" dated 04/12/2012 for filling up of various post of teachers including the post of CT (BPS-09) now (BPS-15) at serial no. 04 of the advertisement falling vacant under the control of respondent no. 3 in which last mentioned as 18-12-

2012. Copy of the advertisement is attached as **Annexure** **A.**

3- That appellant is a disable and highly qualified person have bachelor Degree from University of Peshawar as well as Certificate of Teaching from Allama Iqbal Open University Islamabad. Copy of Disability Certificate & Educational Testimonials is attached as **Annexure** **B & C.**

4- That appellant being eligible in all respect applied for the post of Certified Teacher (BPS-09) now (BPS-15) and after successfully gone through the selection and stood at serial no. 13 of the Final Merit List prepared for the post of CT of Sub-Division Kohat and as such stood at top of merit list prepared for Disable persons. Copy of Merit List & Disable Merit List is attached as **Annexure** **D & E.**

5- That some of the colleagues of the appellant who were not issued appointment order filed writ petition no. 2629-P/2013 which was decided in favour of the petitioners with the direction to "... ISSUE APPOINTMENT LETTER IN THE NAMES OF THE PETITIONERS FOR THEIR RESPECTIVE POSTS WITHIN THIS MONTH" vide judgment dated 05-03-2015 and accordingly those petitioners were issued appointment order dated 07/08/2015. Copy of the judgment dated 05/03/2015 & appointment order is attached as **Annexure** **F & G.**

6- That appellant along with other colleagues filed writ petition No. 1446-P/2015 by following Principal of Consistency which was also decide vide judgment dated 13-05-2015 with the direction "Accordingly, for the reason stated hereinabove, this petition is allowed in the above terms and the respondent are directed to treat the petitioners in accordance with the prevailing law and grant them all benefits, which others 'similarly place' have been granted by the respondents in W.P. No. 2629-P/2013 decided on 05-03-2015." Copy of the judgment dated 13/05/2015 is attached as **Annexure** **H.**

7- That the respondent while implementing the judgment passed by Peshawar High Court vide dated 05/03/2015 issued appointment order dated 11/10/2018 with immediate effect and not from the date when the other colleagues are issued appointment order dated 07/08/2015. Copy of appointment order date 11/10/2018 is attached as **Annexure** **I.**

8- That the appellant feeling aggrieved from the inaction of the respondents by not granting seniority w.e.f. 07/08/2015 i.e. from the date when the other colleagues were issued appointment order dated 07/08/2015. Copy of Departmental

Appeal dated 02-06-2020 which was not responded till date.
Copy of Departmental Appeal is attached as **Annexure**
..... J.

9- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the inaction of the respondents by not granting seniority to the appellant w.e.f. 07/08/2015 i.e. the date of appointment of other colleagues is against the Law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan-1973.
- C- That the respondents acted in arbitrary and malafide manner while by not granting seniority to the appellant w.e.f. 07/08/2015 i.e. the date of appointment of other colleagues is also against norms of Natural Justice.
- D- That act of the respondents by not granting seniority to the appellant w.e.f. 07/08/2015 i.e. the date of appointment of other colleagues against the principle of natural justice, hence not tenable and liable to be set aside.
- E- That the appellant has been highly discriminated with the act of the respondents by not granting seniority to the appellant w.e.f. 07/08/2015 i.e. the date of appointment of other colleagues.
- F- That the act of the respondent by not granting seniority to the appellant w.e.f. 07/08/2015 i.e. the date of appointment of other colleagues is also against the spirit of the judgment passed by writ petitions filed by the colleagues and the appellant wherein clear directions has been issued to the respondent to issued appointment order in this month but the appellant is issued appointment order on 11/10/2018 with immediate effect.
- G- That, act of the respondents by not granting seniority to the appellant w.e.f. 07/08/2015 i.e. the date of appointment of other colleagues is against various judgments passed by this court as annotated by the

petitioner in its representation before respondent no. 2 and the especially the judgment dated 16/10/2017 passed by Peshawar High Court, Mingora Bench (Darul Qaza), Swat in writ petition no. 228-M/2014 & Writ Petition No. 227-M/2014. Copy of the judgment dated 16/10/2017 is attached as Annexure
..... K.

H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 06-08-2020

APPELLANT


KABEER KHAN

THROUGH:


NOOR MOHAMMAD KHATTAK

&


MUHAMMAD MAAZ MADNI
ADVOCATES