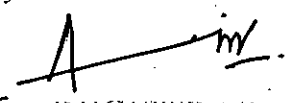


FORM OF ORDER SHEET

Court of _____

Appeal No. 1082/2023


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/05/2023	<p>The appeal of Mr. Gul Nabi resubmitted today by Syed Noman Ali Bukhari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____</p> <p>By the order of Chairman</p> <p> For REGISTRAR</p>

The appeal of Mr. Gul Nabi PTC GPS Zanawar Cheena Gul Said Ghallani District Mohmand received today i.e. on 05.05.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Annexures- A, G & H of the appeal are illegible which may be replaced by legible/better one.

No. 1353 /S.T.

Dt. 8/5 /2023.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Noman Ali Bukhari Adv.
High Court Peshawar.

① Add. objection ~~clear~~ and resubmit
② A, G and H the appeal resubmitted





15/5/23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1082/2023

Gul Nabi

V/S

EDU Deptt:

I N D E X

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-06
2.	Copy of 1 st appointment order	- A -	07-09
3.	Copy of regularization order	- B -	10-12
4.	Copy of pay slip	- C -	13
5.	Copy of writ petition	- D -	14-19
6.	Copy of judgment	- E -	20-21
7.	Copy of application	- F -	22-23
8.	Copy of rejection	- G -	24
9.	Copy of notification	- H -	25-26
10.	Vakalat Nama	-----	27


APPELLANT

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT.

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 1022 /2023

Gul Nabi, PTC,
GPS, Zanawar Cheena Gul Said, Ghallanai, District Mohmand.

APPELLANT

VERSUS

1. The Secretary Education (E&SE) Deptt: KP Civil Secretariat, Peshawar.
2. The Secretary Finance Deptt: KP Civil Secretariat, Peshawar.
3. The District Education Officer, District Mohmand At Ghalanai.

RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST INACTION AND OMISSION OF THE RESPONDENTS TO CONSIDER THE APPELLANT'S CONTRACT PERIOD FOR THE BENEFITS OF PAY PROTECTION AND PENSION W.E.F 2004 TILL REGULARIZATION AND AGAINST REJECTION ORDER DATED 06/04/2023 WHEREIN THE APPEAL OF THE APPELLANT WAS REJECTED WITHOUT SHOWING COGENT REASON.

PRAYER

ON THE ACCEPTANCE OF THIS APPEAL THE ORDER DATED 06/04/2023 MAY PLEASE BE SET-ASIDE AND RESPONDENT MAY PLEASE BE DIRECTED TO CONSIDER THE CONTRACT PERIOD W.E.FROM 2004 TILL REGULARIZATION OF THE APPELLANT FOR THE BENEFITS OF PAY PROTECTION AND PENSION TILL DATE AND ONWARD. ANY OTHER REMEDY WITH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER MAY ALSO BE AWARDED THE FAVOR OF THE APPELLANT.

(2)


RESPECTFULLY SHEWETH

FACTS

1. That the appellant was initially appointed as PST Teacher in the Project Community School Teachers in the year 2003, Since the appointment the appellant is performing their duties upto the entire satisfaction of his superior Officers. **Copy of order is attached as Annexure-A.**
2. That in meantime the worthy Governor Khyber Pakhtunkhwa, in the capacity of the competent authority, notified on 11.05.2012 a policy/guidelines for accommodating the community school teacher against the available regular post. The appellant has been regularized in the year 2013 vide notification dated 30.05.2013. Since the regular appointment the appellant are continuously performing their duties upto the entire satisfaction of their superior's officers. But the salary of the appellant was started from initial pay stage and ignore all the previous service of the appellant. Despite that the initial appointment shown as 2003 in salary slip. **Copy of regularization order and salary slip are attached as Annexure-B & C.**
3. That since the appellant has more than 10 Years temporary services at their credit which was not counted towards their pay and pension protection which cost huge financial loss to the appellant.
4. That the appellant made several request but in vain therefore he filed writ petition No. 4090-P/2020 against the inaction/omission, of the respondents and not counting the previous Service of the appellant towards pay protection may be declared as illegal, unconstitutional, unlawful and violation of fundamental right. The said writ petition was finally heard on 01/10/2020 by the august Court and august Court disposed of the writ petition and treated the same as departmental appeal and transmitted to department for decision with certain directions. **Copy of the writ petition and judgment is attached as Annexure-D & E.**
5. That thereafter obtaining copy of the judgment appellant applied to the respondents for passing appropriate order in light of the judgment of august Court, but no response but after delay more than two years the departmental appeal of the appellant was rejected vide order dated 06/04/2023 without showing any reason. **(Copy of application and rejection order is attached as annexure-F & G).**
6. That the appellant constraint to file this service in August Tribunal on the following grounds amongst others.

GROUNDS

- A. That the order dated 06/04/2023 and depriving the appellant from the legal right of benefits of pay protection and pensionary benefits as against the law rules norms of justice.
- B. That the depriving the appellant from the benefits of pay protection is the violation of the superior Court judgments and Pension Rules.
- C. That since the appellant has more than 10 Years temporary services at their credit which was not counted towards their pay and pension protection which cost huge financial loss to the appellant.
- D. That the inaction of the respondents and not counting their previous service of more than 10 years toward pay and pension protection is against the principle of justice fair play equity and equality.
- E. That in summary to the worthy Governor it was admitted by the respondents department that the appellant has rendered more than 10 years' service on contract basis and also Senate Standing Committee recommended the regularization of the appellant therefore they should be regularized. On the basis of that summary the worthy Governor KPK has issued notification dated 11.05.2012. therefore the appellant are legally entitled to benefits of previous service towards pay and pension fixation.
- F. That as per pension rules 2.3 the temporary and officiating service followed by confirmation/regularizations will be counted towards pension and pay protection.
- G. That this august Court has already decided writ petition No. 1188-P/2014 and 361-P/2013 wherein the previous service has been ordered to be counted towards pay and pension protection.
- H. That even in and other writ petition No. 3221-P/2013 this august Court as directed the respondents to count the previous service towards pay and pension fixation by allowing the writ petition.
- I. That the august Court has also decided a similar writ petition bearing No. 5585-P/2018 on 04.09.2019. thus the appellant are also entitled for the same relief.
- J. That the appellant are not treated in accordance with law and rules keeping in view the above referred judgments the appellant also deserve same treatment under the principle of equity and equality and consistency.

- 
- K. That the pay protection was given to the some colleagues of the appellant but the same was denied to the appellant which was also discriminatory attitude of the department towards the appellant.
- L. That the inaction and not counting the previous service of the appellant toward pay and pension fixation protection, is against the principle of Article-2A, 9, 25 and 38 of the Constitution.
- M. That the appellant is entitled for pensionary benefits of the period which was rendered by the appellant on contract basis under the shelter of west Pakistan Pension rules 2.3 and under finance notification dated 06/02/2014. **Copy of notification is attached as annexure-H.**
- N. That the similarly nature service appeal decided by the Federal Service Tribunal in favor of appellant and the Supreme Court Judgment maintained the same. On the principal of consistency appellant also entitle to the same relief.
- O. That the appellant was treated according to the law and rules and was depriving from his legal right in arbitrary manner.
- P. That the appellant seeks permission to advance other ground proof at the time of hearing.

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


APPELLANT

THROUGH:


(SYED NOMAN ALI BUKHRI)
ADVOCATE HIGH COURT.

5

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2023

Gul Nabi

V/S

EDU Deptt:

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.


(SYED NOMAN ALI BUKHARD)
ADVOCATE HIGH COURT

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

8

APPEAL NO. _____/2023

Gul Nabi

V/S

EDU Deptt:

AFFIDAVIT

I, Gul Nabi, (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.


DEPONENT

Better Copy

A 7

OFFICE OF THE EDUCATION OFFICER MOHMAND AGENCY AT
GHALANAI

OFFICE ORDER

Consequent upon the recommendation of the selection committee and nomination of Political Agency Mohmand Agency vide his office No. 1085-89 dated 20.12.2003 the following candidates are hereby appointed against PTC Posts in the community schools under president special development package in Khwazai,/Baizai inaccessible area in BPS-7 plus usual allowances are admissible under the rules on contract basis for the period of the school against their names with immediate effect.

S#	Name of candidate with father name	School where appointed
1.	Muhammad Shah S/o Musa Khan	C.S Bad Manai Ghafoor
2.	Munir Khan S/o Ali Rehman	C.S Sham Shah Yousaf Khan
3.	Noor Ullah S/o Mukaram Khan	Do
4.	Dawood Shah S/o Sadrux Din	C.S Shah Mir Kore Khan
5.	Qadar Khan S/o Shah Jahan	Do
6.	Sayyar Khan S/o Amir Zada Khan	C.S Badmanai, Gulzar
7.	Ajmal Khan S/o Pir Ghulam	C.S Ghair Dhand Akram
8.	Fazal-I-Subhan S/o Abdul Latif	C.S Manzari Cheena Faqir
9.	Mohammad Israr S/o Mir Zada Khan	C.S Badmanai, Gulzar
10.	Abdul Samad S/o Mohammad Rafiq	C.S Lakhkar Killi Wali
11.	Bashir Ahmad S/o Said Akram	C.S Landi Shah Zarin
12.	Bashir Ahmad S/o Said Akram	C.S Lakhkar Killi Gul Kali
13.	Shad Ali Khan S/o Hasham Khan	C.S Badmanai Gul Zar
14.	Saeed Ullah S/o Haji Dawa Jan	C.S Mama Zai Sekandar
15.	Nazir Gul S/o Nawab Khan	Do
16.	Zaota Khan S/o Khan Syed	C.S Manzari Cheena Shinwari
17.	Tajawal Khan S/o Fazal Muhammad	C.S Jarobai Fazal
18.	Ahmad Khan S/o Niaz Din	C.S Mastai Kore Gulab
19.	Hazrat Shah S/o Sahib Jamal	C.S Kujg Mehrab Gul
20.	Ali Akbar S/o Hazrat Mohammad	C.S Ocha Jawara Naik Mohd
21.	Sajjad S/o Khanzad Gul	C.S Kung Mehrab Gul
22.	Sultan Muhammad S/o Haji Mohammad Shah	C.S Khan Baig Kore Ijazai
23.	Haleem Khan S/o Zarif Khan	Do
24.	Samar Ahmad S/o Ahmad Gul	C.S Kuzu Kass Ghulam Bashir
25.	Daftar Khan S/o Mohammad Akbar	C.S Kuzu Kass Ghulam Bashir Khan Baig Kore Fazlai Manan
26.	Khaista Zar S/o Ihsan Ullah	C.S Kuzu Kass Ghulam Bashir Khan Baig Kore Fazlai Manan

A 7

OFFICE OF THE AGENCY EDUCATION OFFICER MOHALLANI AGENCY AT CHALLANAI
CHALLANAI

Consequent upon the recommendation of the selection committee and nomination of Educational Agency Mohallani Agency vide his office No.1055-89 Dated: 20/02/2003, the following candidates are hereby appointed against PTC Posts in the community schools under provision of special development package in Khwazai / Baizai inaccessible areas in L.P.S. 7 plus Usual allowances as admissible under the rules on contract base for the probation period in the schools mentioned against their names with immediate effect.

	Name of candidate with Father name	School where appointed
1	Muhammad Shah S/O Inayat Khan	C.S Bad Manai Ghafoor
2	Muhammad Khan S/O Ali Rehman	C.S Sham Shah Yousaf Khan
3	Noor Ullah Khan S/O Mukaram Khan	Do
4	Dawood Shah S/O Sadrud Din	C.S Sham Mir Kore Khan Abad
5	Qadar Khan S/O Shah Jehan	Do
6	Sygar Khan S/O Amir Zada Khan	C.S Badmanai Gulzar
7	Ajmal Khan S/O Pir Ghulam	C.S Ghair Dhand Akram
8	Fazal-I-Sabhan S/O Abdul Latif	C.S Manzari Cheena Faqir
9	Mohammad Iqbal S/O Mir Zada Khan	C.S Badmanai Ghafoor
10	Abdul Samad S/O Mohammed Rafiq	C.S Lakhkar Kili Gul Wali
11	Abdul Malik S/O Peroz Khan	C.S Landi Shah Zarin
12	Bashir Ahmad S/O Saad Akram	C.S Lakhkar Kili Gul Wali
13	Shad Ali Khan S/O Hasham Khan	C.S Bad Manai Gul Zari
14	Saadullah S/O Haji Dawa Jan	C.S Maina Zai Sekandar
15	Nazir Gul S/O Nawab Khan	Do
16	Zawta Khan S/O Khan Syed	C.S Manzari Cheena Shirwari
17	Tejawal Khan S/O Fazal Mohammad	C.S Jarobai Fazal
18	Imdad Khan S/O Niaz Din	C.S Masti Kore Gulab
19	Hazrat Shah S/O Sahib Jangal	C.S Kung Mehrab Gul
20	All Akbar S/O Hazrat Mohammad	C.S Usha Jewara Haik Mohd
21	Sajjad S/O Khanzad Gul	C.S Kung Mehrab Gul
22	Sultan Mohammad S/O Haji Mohammad Shah	C.S Khan Baig Kore Ijazat
23	Malcom Khan S/O Zarif Khan	Do
24	Samer Akhtar S/O Ahmed Gul	C.S Kuru Kass Ghulam Bashir
25	Darfar Khan S/O Mohammed Akbar	C.S Khan Baig Kore Fazlai Mannan
26	Khalista Zari S/O Hussainullah	C.S Khan Baig Kore Fazlai Mannan

S#	Name of candidate with father name	School where appointed
27	Jamal S/o Hakeem khan	C.S Nazar Kore Aslam
28.	Aslam Khan S/o Hazrat Muhammad	C.S Ucha Jawara Naik Mohd
29.	Mohammad Quraish S/o Mohammad Akbar	C.S Nazar Kore Aslam
30	Mohammad Khan S/o Ghulam Sakhi	C.S Soor Dagi Yaqub Khan
31	Raz Muhammad S/o Shah Rasool	C.S Kaka Kore Hunar Jan
32	Gul Nabi S/o Lal Said	C.S Soor Dagi Yaqab
33	Ghalzar S/o Khan Said	C.S Sam Kuzu Kass Ghulam Bashir
34	Ghalzar S/o Lal Said	C.S Soor Dagi Yaqub
35	Fida Muhammad S/o Arsala Khan	Do
36.	Raz Muhammad S/o Shah Rasol	
37.		C.S Kung Sabzali
38.	Saddi Khan S/o Maweez Khan	Do
39.	Khyali Jan S/o Joor Jan	C.S Spinki Tangi Nadar
40.	Amir Khan S/o Hamid Khan	Do
41.	Shah Nazir S/o Arsala Khan	C.S Spinki Tangi Sikandar
42	Sultan Murad S/o Gula Dad	Do
43.	Tahir Ali S/o Gul Khan	C.S Bad Manai Bakht Jamal
44.	Mawad Gul S/o Hayat Gul	C.S Toora Khwa Sherin
45.	Mohd Raz S/o Zarghun Shah	Do
46.	Siyar S/o Dost Muhammad	C.S Gulma Haji Almas
47.	Azmat Gul S/o Rahat Gul	Do
48.	Liaqat Ali S/o Mumtaz Khan	C.S Atam Killi Ghulam Sarwar
49.	Khunzair Khan S/o Noor Jamal	C.S Atam Killi Mohdi Gul
50.	Jamal Shah S/o Habib Khan	C.S Bad Manai Bakht Jamal
51.	Khanadan S/O Wazir Khan	C.S Killi Ghulam Sarwar
52.	Azaz Ullah S/o Itbar Khan	C.S Sham Shah Biland
53.	Issa Dad Khan S/o Dula Dad	C.S Atam Killi Mohdi Gul
54.	Akbar Khan S/o Sher Jan	C.S Landi Shah Zarin Khan
55.	Ijaz Ali S/o Wazir Khan	C.S Badmanai Yad Mohd
56.	Hussain Shah S/o Syed Mastan Shah	C.S Manzari Cheena Faqir
57.	Janat Gul S/o Zulfan	C.S Ghair Dhand Akram
58.	Mazullah S/o Najeem Khan	C.S Baidmani Yad Mohd
59.	Said Ahmad S/o Muhammad Afzal	C.S Manzari Cheena Shinwari
60.	Mohammad Khan S/o Mohammad Wali	C.S Toor Khel Ahmad Noor
61.	Irfan Ullah S/o Alqash Khan	Do
62.	Pazeer Khan S/o Mohammad Hanif	C.S Khanzar Killi Malik Abid
63.	Ali Gohar S/o Ajmal Khan	C.S Yara Khel Haji Madar
64.	Zahir S/o Bashir Khan	C.S Khanjar Killi Malik Abad
65.	Sakhi Jan S/o Izzat Gul	C.S Jarobi Fazal
66.	Zahid Ullah S/o Najeem Khan	C.S Sham Shah Biland
67.	Ghulam Said S/o Noor Said	C.S Jarobi Abdullah
68.	Badshah Shah Hassan S/o Ibrahim Shah	Do
69.	Shah Jahan S/o Shamroz Khan	C.S Shamrad Khel Noor Zada
70.	Liaqat Ali S/o Ikram Khan	Do
71	Asif Khan S/o Jamal Khan	C.S Mian Khel Malik Islam Bacha

	Name of Candidate with Fathers Name	School where appointed
27	Jamil Shah S/O Hakeem Khan	C.S Nazar Kore Aslam
28	Aslam Khan S/O Hazrat Mohammad	C.S Ucha Iswara Naik Mohd
29	Mohammad Quraish S/O Mohammad Akbar	C.S Nazar Kore Aslam
30	Mohammad Khan S/O Ghulam Sakhi	C.S Soor Dagi Yaqub Khan
31	Raz Mohammad S/O Shah Rasool	C.S Kaka Kore Hunar Jan
32	Gul Nabi S/O Lal Said	C.S Soor Dagi Yaqub
33	Anwar Shamim S/O Ahmad Gul	C.S Kuzu Kass Ghulam Bashir
34	Ghal Zar S/O Khan Said	C.S Sam Ghakhai Siraj Khan
35	Fida Mohammad S/O Arsala Khan	Do
36	Mohammad S/O Shah Rasool	C.S Kaka Kore Hunar Jan
37	Said Khan S/O Khan Said	C.S Kung Sabzali
38	Saddi Khan S/O Mawecz Khan	Do
39	Khyali Jan S/O Joor Jan	C.S Spinki Tangi Nadar
40	Amir Khan S/O Hamid Khan	Do
41	Shah Nazir S/O Arsala Khan	C.S Spinki Tangi Sikandar
42	Sultan Murad S/O Gula Dad	Do
43	Tahir Ali S/O Gula Khan	C.S Bad Manai Bakht Jamai
44	Mawad Gul S/O Hayat Gul	C.S Toora Khwa Sherin
45	Mohd Raz S/O Zarghun Shah	Do
46	Siyar S/O Dost Mohammad	C.S Gulma Haji Almas
47	Azmat Gul S/O Rahat Gul	Do
48	Liaqat Ali S/O Mumtaz Khan	C.S Atam Killi Ghulam Sarwar
49	Khuzair Khan S/O Noor Jamai	C.S Atam Killi Mohdi Gul
50	Jamal Shah S/O Habib Khan	C.S Bad Manai Bakht Jamai
51	Khanadan S/O Wazir Khan	C.S Atam Kili Ghulam Sarwar
52	Azaz Ullah S/O Itbar Khan	C.S Sham Shah Biland
53	Issa Dad Khan S/O Dula Dad	C.S Atam Kili Mohdi Gul
54	Akbar Khan S/O Sher Jan	C.S Landi Shah Zarin Khan
55	Ijaz Ali S/O Wazir Khan	C.S Badmanai Yad Mohd
56	Hussain Shah S/O Syed Mastan Shah	C.S Manzari Cheena Faqir
57	Janat Gul S/O Zulfan	C.S Ghair Dhand Akram
58	Mazullah S/O Najeem Khan	C.S Baidmani Yad Mohd
59	Said Ahmad S/O Mohammad Afzai	C.S Manzari Cheena Shinwari
60	Mohammad Khan S/O Mohammad Wali	C.S Toor Khel Ahmad Ncor
61	Irfan Ullah S/O Alqash Khan	Do
62	Pazeer Khan S/O Mohammad Hanif	C.S Khanjar Killi Malik Abid
63	Ali Gohar S/O Ajmir Khan	C.S Yara Khel Haji Madar
64	Zahir S/O Basir Khan	C.S Khanjar Killi Malik Abid
65	Sakhi Jan S/O Izzat Gul	C.S Jarobi Fazal
66	Zahid Ullah S/O Najeem Khan	C.S Sham Shah Biland
67	Ghulam Said S/O Noor Siad	C.S Jarobi Abdullah
68	Bad Shah Hassan S/O Ibrahim Shah	Do
69	Shah Jehan S/O Shamroz Khan	C.S Shamrad Khel Noor Zada
70	Liqat Ali S/O Ikram Khan	Do
71	Asif Khan S/O Jamal Khan	C.S Maim Khel Malik Islam Bacha

Candidate with Fathers Name	School where Appointed
75. Arif Shah S/O Mir Zaman Khan	C S Maim Khel Malik Islam Bacha
76. Sartaj S/o Mahboob Khan	C S Yara Khel Haji Madar
Mohammad Naseer S/O Ghani Khan	C.S Mula Khel Taura Tangi Ayub Do
77. Asaf Khan S/O Saidan Khan	C.S Shakar Khel Khatana Jun Do
78. Fayaz Khan S/O Badam Khan	C.S Ughazado khel Farooq Do
79. Ajmal Khan S/O Harifullah	C.S Abdul Khel Hingar M.Amin Do
80. Darwaish Khan S/o Gul Said	C.S Sana Khel Yaqub Do
81. Mustafa Khan S/O Wasil Khan	C.S Abdul Khel Saeed Ullah Do
82. Arif Shah S/O Rahil Shah	C.S Matina Malik
83. Shah Bad Shah S/O Hazrat Bad Shah	C.S kankar Killi M.Farid Ullah
84. Mohammad Hazoor S/O Hazrat Bad Shah	C.S Dag Killi Syed Qahar
85. Sulbat Shah S/O Amir Khisro	C.S Masti Kore Masahib Khan
86. Ihsan Ullah S/O Gul Alam	C.S Zoor Killi
87. Kiramat Shah S/O Musharaf Shah	C.S Lakhka Killi Faiz Ali
88. Dawood Shah S/O Sulman Shah	
89. Fazlai Dayan S/O Sadrud Din	
90. Muzafar Khan S/O Zaman Khan	
91. Fazlai Subhan S/O Mirza Hakeem Sadrud Din	
Yousaf Khan S/O Syed Rahman	
Abdul Malik S/O Said Mohammad Shah	

TERMS/CONDITIPONS:-

- 1:- The appointments of the Teachers are made on temporary basis and liable to termination without any notice/assigning any reasons.
- 2:- They should produce their Health and Age certificates from the Agency Surgeon Mohmand Agency at Ghallanai.
- 3:- Charge report should be submitted to this office in duplicate with in a specific period.
- 4:- If the candidates/Teachers failed to report of their arrival to the concerned schools within fifteen days(15) their orders will be automatically considered as cancelled.
- 5:- Academic qualification is must to be verified.

(HAJI GUL RAHMAN)
Agency Education Officer
Mohmand Agency at Ghallanai.

Enclst No. 4993- 5089 Dated. 06/02/2003.

Copy of the above is forwarded to the:-

1. Director of Education, FATA, NWFP, Peshawar.
2. Political Agent Mohmand Agency at Ghallanai w/r his office memo No. as cited.
3. Agency Surgeon Mohmand Agency at Ghallanai.
4. Asstt: Political Agent (Upper Mohmand) at Ghallanai.
5. Agency Accounts Officer, Mohmand Agency at Ghallanai.
6. Acct/Pay Clerk in local office.
- 7-97 Candidates concerned.

Hajji Gul Rahman
Agency Education Officer,
Mohmand Agency at Ghallanai.
6/3/2003

Hakim Khan (D.E.O)
Mohmand Agency at Ghallanai

B 10

OFFICE OF THE AGENCY EDUCATION OFFICER MOHMAND AGENCY AT GHALLANAI

REGULARIZATION OF COMMUNITY TEACHERS.

Consequent upon the notification No.SO(E)/SSD/CSCR 99-108, dated 11.5.2012 and on the basis of honourable High Court decision dated 06.8.2013, re-appointment order of 52 community teachers issued vide this office No.1636-42 dated 17.8.2012 and No.1643-49 dated 17/8.2012 is hereby implemented with effect from 01.9.2013 in the interest of public service, with partial modification at S.No.19 and 42 in order No.1636-42 and at S.No.3 in order No.16343-49, with the remarks that:-

1. The said appointment was made from Agency wise merit on the verbal directions of Director of Education (FATA) at that time, if Directorate of Education (FATA) declared this order against the present recruitment policy of the Govt: in response to this office letter No.1306 dated 20.8.2013, then regularization of community teacher will be made on tehsil wise merit basis.
2. If any post against which community teacher was regularized was not vacant, then the incumbent will vacate the post for the community teacher on his regularization.
3. Any Community school for which regular posts have not been sanctioned and teachers of this Community Schools got regular posts then this community school will be considered as closed, and class IVs of this school will be considered as terminated w.e.f 1.9.2013 and students of this schools will be advised by the teachers to get admission in near by regular school.
4. Documents, both Professional and academic will be verified by the committee constituted for the purpose. A single person will not carryout the verification process.

Note:- Cases regarding the scales of newly adjusted teachers will be decided individually on the basis of their qualification.

S.No	Name with Father's Name	Name of Community School	Station of posting as regular PST	Tehsil	Remarks
1	Fazle Subhan S/O Abdul Latif	CS Atam Killi	GPS Zoor Killi Aflatoon	Baizai	Against newly created post
2	Muhammad Irshad S/O Abdur Rahman	CS Manzari Cheena	MPS Abdul Jabbar	Halimzai	Against Vacant Post
3	Abdul Samad S/O Muhammad Rafiq	CS Gul Wali	GPS Lakhkar Killi Faiz Ali	Baizai	Against newly created post
4	Salim Saradar S/O Hakim Said	CS Shamir Khan Abad	GPS Babi Khel Kamali	Halimzai	Against Vacant Post
5	Sameer Ahamad S/O Ahmad Gul	CS Kuzl Kas	GPS Manzari Cheena	Khwezai	Against newly created post
6	Adil Shah S/O Gul Shah	CS Atam Killi	GPS Said Rahman Gurbaz	Halimzai	Against Vacant Post
7	Aslam Khan S/O Hazrat Muhammad	CS Naik Muhammad	GPS Bahi Dog	Khwezai	Against newly created post
8	Azizullah S/O Ibar Khan	CS Yad Muhammad	GPS Grang No.1	Halimzai	Against Vacant Post
9	Khanadan S/O Malik wazir Khan	CS Ijazat	GPS Karrer Habibzai	Halimzai	Against Vacant Post
10	Muhammad Sadiq S/O Muhammad Yar	CS Mateena Malik	GPS Zoor Killi Aflatoon	Baizai	Against newly created post
11	Ali Akbar S/O Hazrat Muhammad	CS Naik Muhammad	GPS Ashraf Abad	Khwezai	Against Vacant Post
12	Muhammad Raz Khan S/O Zarghun Shah	CS Toora Khwa	GPS Din Muhammad	Halimzai	Against Vacant Post
13	Muhammad Idrees S/O Taj Muhammad	CS Mateena Malik	GPS Chamarkand No.1	Safi	Against Vacant Post

	Muhammad Ishaq S/O Gul Said	CS Shawal	GPS Chamarkand No.2	Halimzai	Against Vacant Post
15	Akbar Khan S/O Sher Jan	CS Kanker Killi	GPS Shewa Fasir	Halimzai	Against Vacant Post
16	Ilyas Khan S/O Muhammad Shakir	CS Gulzar Baidmanai	GPS Sangar Ambar	Ambar	Against Vacant Post
17	Lal Zada S/O Sautar Khan	CS Karkana	GPS Karkana	Ambar	Against newly created post
18	Miaz Muhammad S/O Noor Muhammad	CS Masti Kore Gulab	GPS Manzari Cheena	Baizai	Against newly created post
19	Hayat Muhammad S/O Toot Muhammad	CS Lakhkar Killi	GPS Lakhkar Killi Khel Atmar	Baizai	Against newly created post
20	Sultan Muhammad S/O Muhammad Shah	CS Kung	GPS Masti Kore Gulab	Khwezai	Against newly created post
21	Daftar Khan S/O Muhammad Akbar	CS Kung	GPS Abdul Kore	Khwezai	Against Vacant Post
22	Zahir S/O Bashir	CS Khanjar Killi	GPS Chamarkand	Halimzai	Against Vacant Post
23	Jamil Shah S/O Hakim Khan	CS Khang Baig Fazle Manan	GPS Masti Kore Gulab	Khwezai	Against newly created post
24	Hazrat Shah S/O Sahib Jamal	CS Ijazat	GPS Shamsheer	Khwezai	Against Vacant Post
25	Sajjad S/O Khanzad Gul	CS Nazar Kore	GPS Gat Warsak	Khwezai	Against Vacant Post
26	Gul Nabi S/O Lal Said	CS Soor Dagi	GPS Zenawar Cheena Said Gul	Khwezai	Against newly created post Vacant
27	Bakht Zada S/O Shahzada	CS Bahlola	GPS Yousaf Baba	Prang Ghar	Against newly created post
28	Bacha Hassan S/O Ibrahim Shah	CS Faiz Ali	GPS Kharai Dara	Halimzai	Against Vacant Post
29	Sajid Ali S/O Tawas Khan	CS Faiz Ali	GPS Bacha Kandao	Halimzai	Against Vacant Post
30	Ifrikhar Khan S/O Bahadar Khan	CS Shawal	GPS Gul Rahman	Baizai	Against Vacant Post
31	Anwar Khan S/O Habib Khan	CS Gul Rahman	GPS Yaqoob Khanzadgan	Khwezai	Against Vacant Post
32	Murad Ali S/O Akhtar Jan	CS Samghakhi	GPS Ghanam Shah	Khwezai	Against Vacant Post
33	Arif Shah S/O Rehil Shah	CS Samghakhi	GPS Amrai Kore	Ekka Ghund	Against Vacant Post
34	Abdullah Shah S/O Hussain Shah	CS Masti Kore Nusaib Khan	GPS Pai Khan	Ekka Ghund	Against Vacant Post
35	Ajmal Khan S/O Pir Ghulam	CS Ghairdand	GPS Uchko Suran	Baizai	Against Vacant Post
36	Abidullah S/O Ghulam Muhammad	CS Rahman Gul	GPS Suran	Khwezai	Against Vacant Post
37	Taj Muhammad S/O Sheikh Muhammad	CS Karkana	GPS Karkana	Prang Ghar	Against newly created post
38	Amin Khan S/O Rawesh Khan	CS Sikandar	GPS Sela Dawa Jan	Khwezai	Against Vacant Post
39	Murad Ali S/O Muhammad Ali	CS Shamir Khan Abad	GPS Taraki Tangi	Halimzai	Against Vacant Post

40	Gulzar S/O Khan Said	CS Soor Dagi	GPS Bahi Dag	Khwezai	Against newly created post
41	Janat Gul S/O Zulfan Khan	CS Ghair Dand	GPS Bakhtal Shah	Halimzai	Against Vacant Post
42	Anwar Shamim S/O Ahmad Gul	CS Kuzo Kas	GPS Lakhkar Killi Faiz Ali	Khwezai	Against Vacant Post
43	Faridullah S/O Zazif Khan	CS Kankar Killi	GPS Olai Ambar	Baizai	Against Vacant Post
44	Muhammad Shafiq S/O Karim Khan	CS Manzari Cheena Malang	GPS Shati Miana	Baizai	Against Vacant Post
45	Azmat Gul S/O Rahat Gul	CS Nazar Kore Aslam	GPS Shamsheer Sra Khwa	Halimzai	Against Vacant Post
46	Niqab Khan S/O Khan Sharif	CS Kung Sabzali	GPS Had Kore Ambar	Khwezai	Against Vacant Post
47	Shahid Nasim S/O Muhammad Halim	CS Zoor Killi Aflatoon	GPS Yaqoob Khanzadgan	Halimzai	Against Vacant Post
48	Amir Khan S/O Hamid Khan	CS Dag Qilla	GPS Gumbati Ambar	Halimzai	Against Vacant Post
49	Nasira D/O Akhtar Gul	FCS Ucha Joura Rawesh	GGPS Kung Farmanullah	Baizai	Against newly created post
50	Nighat Bano D/O Jehan Zeb	FCS Samghakhi	GGPS Baghi Shah	Safi	Against newly created post
51	Falooda D/O Gul Zada	FCS Kuzo Kas	GGPS Kuzo Kas	Baizai	Against newly created post
52	Aisha Bibi D/O Ahmad Jan	FCS Umar Khel Suliman	GGPS Baghi Shah	Safi	Against newly created post

(SAID MUHAMMAD)

Agency Education Officer
Mohmand Agency at Ghallanai.

Dated 30/5/2013

Endst No. 14017 /Project/ Appointment

Copy of the above is forwarded to the:-

1. PA to Secretary to Governor KPK, Peshawar.
2. Director of Education FATA, K.P.K, Peshawar.
3. Political Agent Mohmand Agency.
4. Agency Accounts Officer Mohmand Agency at Ghallanai.
5. AAEOs concerned.
6. Accountant local office.
7. Teachers concerned.



Agency Education Officer
Mohmand Agency at Ghallanai

Wage type	Amount	Wage type	Amount
		15.1. Pension Fund	-1,200.00
		15.2. Pension Fund	-175.00
			0.00

Deductions - Loans and Advances

Loan	Principal amount	Deduction	Balance
------	------------------	-----------	---------

Deduction - Pension Fund
 Recoverable 11.07
 Net Pay (RSL) 46,276.00

He/she/it is/are Not Official

The information contained in this document is for internal use only.
 It is not to be distributed outside the organization.
 If you are not an intended recipient, please do not disseminate, distribute or take any action in reliance on the information contained herein.
 If you have received this document in error, please notify the sender immediately.

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. 4340P /2020

1. Mustafa Khan, PTC,
Government Primary School Anno Khel Ghallani District Mohmand.

2. Ghazala, PTC,
Government Primary School Bahi Dag, Ghallanai, District Mohmand.

~~3. [REDACTED]~~

3. Sabiha, PST,
Government Girls Primary School Soor Braj Ghallanai, District
Mohmand

4. Farzana Yousaf, PTC,
Government Girls Primary School Kung Farmanullah Ghallanai,
District Mohmand.

5. Nigat Bano, PST,
Government Girls Primary School Baghi Shah Ghallanai,
District Mohmand

6. Shaista, PST,
Government Girls Primary School Joura Rawesh Ghallanai,
District Mohmand

7. Janat Gul Khan, PST,
Government Primary School Ghair Dand Ghallanai,
District Mohmand

8. Sartaj, PTC,
Government Primary School Qamardin, Ghallanai,
District Mohmand

9. Adil Shah, PTC,
Government Primary School Said Rahman Gurbaz, Ghallanai,
District Mohmand

10. Muhammad Irshad, PTC,
MPS Abdul Jabbar, Ghallanai, District Mohmand.

11. Nasir Khan, PTC,
Government Primary School Shamshah Guno Ghallanai,

-FILED TODAY
Deputy Registrar
25 SEP 2020

District Mohmand

- 12. Sajid Ali, PTC
Government Primary School Bacha Kandao Ghallanai,
District Mohmand
- 13. M. Naseer, PST,
Government Primary School Tocr Khel, Ghallanai,
District Mohmand
- 14. Irfan Ullah, PTC,
Government Primary School Tocr Khel Ghallanai,
District Mohmand.
- 15. Amir Khan, PTC,
Government Primary School Gumbati Ambar Ghallani,
District Mohmand.
- 16. Shahid Nasim, PTC,
Government Primary School Yaqoob Khanzadagan Ghallanai,
District Mohmand
- 17. Ameen Khan, PTC,
Government Primary School Selai Dawad Jan Ghallanai,
District Mohmand.
- 18. Gul Nabi, PTC,
Government Primary School Zanawar Cheena Gul Said GHallanai,
District Mohmand.
- 19. Zahir, PTC,
Government Primary School Zanawar Cheena Gul Said GHallanai,
District Mohmand.
- 20. Issa Dad, PTC,
Government Primary School Spinki Tangi Ghallanai,
District Mohmand.

FILED TODAY
Deputy Registrar
25 SEP 2020

Mud S
PETITIONERS



16

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
2. The Secretary Education Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary Finance Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Additional Chief Secretary (FATA),
5. The Director Education (FATA), FATA Secretariat, Warsak FATA Secretariat, Warsak Road, Peshawar Road, Peshawar.

6. The District Education Officer District Mohmand at Ghallanai.

FILED TODAY

Deputy Registrar

25 SEP 2020

RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN
AS AMENDED UPTO DATE.

RESPECTFULLY SHEWETH:

1. That the petitioners were initially appointed as PST Teacher in the Project Community School Teachers in the year 2000, 2001, 2003, 2004, 2006, & 2007. Since the appointment the petitioners are performing their duties upto the entire satisfaction of their superior Officers. Copy of orders are attached as Annexure-A.
2. That due to some complaint by the local people of the area in some of the agencies the communities' schools were closed in the year 2010 but reopened by the Fata Secretariat soon. Copies of orders of closer and reopening of the school are attached as Annexure-B.
3. That in meantime the worthy Governor Khyber Pakhtunkhwa, in the capacity of the competent authority, notified on 11.05.2012 a policy/guidelines for accommodating the community school teacher against the available regular post. It is also worth to mention here that after the opening Communities schools the petitioners were readjusted / reappointed against their original post

(17)

in the year 2011. Copies of notification and readjustment order are attached as Annexure-C & D.

4. That the petitioners have been regularized in the year 2013 and onwards vide notification dated 30.08.2013 to the petitioners have been regularized w.e.from 01.09.2013. Since the regular appointment the petitioners are continuously performing their duties upto the entire satisfaction of their superiors officers. Copy of regularization order are attached as Annexure-E.
5. That since the petitioners have more than 10 Years temporary services at their credit which was not counted towards their pay and pension protection which cost huge financial loss to the petitioners.
6. That having no other remedy the petitioners are constrained to file the instant main writ petition on the following grounds amongst the others.

GROUND:

- A) That the inaction of the respondents and not counting their previous service of more than 10 years toward pay and pension protection is against the principle of justice fair play equity and equality.

-FILED TODAY
Deputy Registrar
25 SEP 2020

- B) That in summary to the worthy Governor it was admitted by the respondents department that the petitioners have rendered more than 10 years service on contract basis and also Senate Standing Committee recommended the regularization of the petitioners therefore they should be regularized. On the basis of that summary the worthy Governor KPK has issued notification dated 11.05.2012 (Annexure-C), therefore the petitioners are legally entitled to he benefits of previous service towards pay and pension fixation. Copy of Summary is attached as Annexure-F
- C) That as per pension rules the temporary and officiating followed by confirmation/regularizations will be counted towards pension and pay protection. Copy of the relevant rules is attached as Annexure-G.
- D) That this august Court has already decided writ petition No. 1188-P/2014 and 361-P/2013 wherein the previous service has been ordered to be counted towards pay and pension protection. Copy of Judgment is attached as Annexure-H & I

attached as Annexure-K.

- G) That the petitioners are not treated in accordance with law and rules keeping in view the above referred judgments the petitioners also deserve same treatment under the principle of equity and equality and consistency.
- H) That the inaction and not counting the previous service of the petitioners toward pay and pension fixation protection, is against the principle of Article-2A, 9, 25 and 38 of the Constitution.
- I) That the petitioner seeks permission to advance other grounds and proofs at the time hearing.


It is, therefore, most humbly prayed that on acceptance of this writ petition the inaction on the part of respondent and not counting the previous service of the petitioner towards pay protection and pensionary benefit may be declared as illegal unconstitutional arbitrary and exploitation of the past good service of the petitioners. The respondent may further please be directed to allow full pay protection and pensionary benefit of the past service to the petitioners to meet the ends of justice, principles of equity and by treating them at par with the petitioner of the above referred writ petition. Any other remedy which this august court deems appropriate may also be awarded in favour of petitioners.

FILED TODAY
Deputy Registrar
25 SEP 2020


PETITIONER

Mustafa Khan etc.

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
OF PAKISTAN.

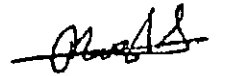
(18)

E) That even in and other writ petition No. 3221-P/2013 this august Court as directed the respondents to count the previous service towards pay and pension fixation by allowing the writ petition. Copy of Judgment is attached as Annexure-J.

F) That the august Court has also decided a similar writ petition bearing No. 5585-P/2018 on 04.09.2019 thus the petitioners are also entitled for the same relief. Copy of the Judgment is

VERIFICATION:

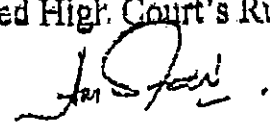
It is verified that no other Writ Petition earlier has been filed between the present parties, except the present one.


DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. Any other case law as per need.

NOTE: Prior Notice along with the copies of the Writ Petition has already been given to the respondents as per amended High Court's Rules dated: 23.02.2016


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
OF PAKISTAN.

-FILED TODAY
Deputy Registrar
25 SEP 2020

E

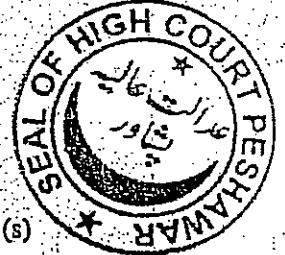
(R)
(S)
(20)

**IN THE PESHAWAR HIGH COURT,
PESHAWAR,
[Judicial Department].**

Writ Petition No.2802-P/2020

Murad Ali, PTC,
GPS Taraki Tangi Ghallanai,
District Mohmand and others.

Petitioner (s)



VERSUS

The Government of Khyber Pakhtunkhwa,
through Chief Secretary and others.

Respondent (s)

For Petitioner (s) :-

Mr. Muhammad Asif Younsuzai, Advocate.

For Respondents :-

Mr. Bab Nawaz Khan, AAG.

Date of hearing:

01.10.2020.

JUDGMENT

ROOH-UL-AMIN KHAN, J:- Through this common judgment, we propose to decide the instant writ petition and connected Writ Petition No.2803-P/2020, titled, "Muhammad Ishaq etc. vs Government of Khyber Pakhtunkhwa through Chief Secretary and others" as identical question of law and fact is involved therein.

2. As per averments in the writ petitions, the petitioners were initially appointed as PSTs in the Project Community School Teachers in the year 2000 to 2007. The said schools were closed in the year 2010. In the meanwhile, the Governor Khyber Pakhtunkhwa vide notification dated 11.05.2012, accommodated the petitioners by re-adjusting/appointing them against the substantive posts. The services of the petitioners were regularized w.e.f. 01.09.2013. Grievance of the petitioners is that the respondents have refused to count temporary service

ATTESTED

EXAMINER

Peshawar High Court

Peshawar High Court

towards their regular service for the purpose of pension, hence these writ petitions.



3. At the very outset learned counsel for the petitioners fairly and frankly conceded that petitioners are civil servants and jurisdiction of this Court in the matter is barred under Article 212 of the Constitution, however, requested that it would be in the interest of justice if the petitions of the petitioners are treated as departmental appeals and sent to the respondents for decision in light of the guidelines laid down by a Larger Bench of this court in its judgment dated 22.06.2017, rendered in Writ Petition No.3394-P/2016, titled, "Amir Zeb etc vs the District Account Officer Nowshera and others".

4. In view of the above, we instead of dismissing the writ petition treat them as departmental appeals on behalf of the petitioners and transmit the same to the respondents for consideration and decision strictly in accordance with the Civil Servants Pension Rules 1963 as well as the guidelines laid down by the Larger Bench of this court in its judgment dated 22.06.2017, rendered in Writ Petition No.3394-P/2016, titled, "Amir Zeb etc vs the District Account Officer Nowshera and others".

Announced:
01.10.2020

ALSO ANNOUNCED

J. Iqbal
JUDGE

[Signature]
JUDGE

DB of Hon'ble Mr. Justice Rooh-Ul-Amin Khan; and
Hon'ble Mr. Justice Ikram Ullah Khan.

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of Pakistan 1973

13 OCT 2020

[Signature]
CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of Pakistan 1973
13 OCT 2020

To
The District Education Officer,
District, Moolmand.

(Handwritten initials)
(Handwritten initials)
(Handwritten initials)

F 22

Through proper channel

**SUBJECT: REMINDER/APPLICATION FOR DECIDING THE
DEPARTMENTAL APPEAL OF THE APPELLANT WHICH
WAS TRANSMIT BY THE PESHAWAR HIGH COURT
PESHAWAR VIDE ORDER DATED 04/09/2019.**

Respected Sir,

Most humbly it is submitted that I am civil servant and presently working as PST.

That the same benefit was not awarded to the appellant and the pay of the appellant was fixed as fresh pay without considering the previous pay and service of the appellant which is against the law and rules.

The appellant filed writ petition no 4340-p/2020 for his claim. The said Writ Petition was heard on 2020 and the Hon'ble Court was kind enough to convert the Writ Petition as departmental appeal and transmit it to your good self for treating the Writ Petition as departmental appeal and to decide the same in accordance with law. Copy attached.

The deptt. so many times makes promise to decide the departmental appeal of the appellant but no fruitful result achieved now after passing two years the departmental appeal of the appellant is still pending. Which is also violation of Peshawar High Court Peshawar Judgment.

The District Education Officer,
District, Mohmand.

Through proper channel

F 22

**SUBJECT: REMINDER/APPLICATION FOR DECIDING THE
DEPARTMENTAL APPEAL OF THE APPELLANT WHICH
WAS TRANSMIT BY THE PESHAWAR HIGH COURT
PESHAWAR VIDE ORDER DATED 04/09/2019.**

Respected Sir,

Most humbly it is submitted that I am civil servant and presently working as PST.

That the same benefit was not awarded to the appellant and the pay of the appellant was fixed as fresh pay without considering the previous pay and service of the appellant which is against the law and rules.

The appellant filed writ petition no 4340-p/2020 for his claim. The said Writ Petition was heard on 2020 and the Hon'ble Court was kind enough to convert the Writ Petition as departmental appeal and transmit it to your good self for treating the Writ Petition as departmental appeal and to decide the same in accordance with law. Copy attached.

The deptt. so many times makes promise to decide the departmental appeal of the appellant but no fruitful result achieved now after passing two years the departmental appeal of the appellant is still pending. Which is also violation of Peshawar High Court Peshawar Judgment.

The District Education Officer,
District, Mohmaid.

Through proper channel

**SUBJECT: REMINDER/APPLICATION FOR DECIDING THE
DEPARTMENTAL APPEAL OF THE APPELLANT WHICH
WAS TRANSMIT BY THE PESHAWAR HIGH COURT
PESHAWAR VIDE ORDER DATED 04/09/2019.**

Respected Sir,

Most humbly it is submitted that I am civil servant and presently working as PST.

That the same benefit was not awarded to the appellant and the pay of the appellant was fixed as fresh pay without considering the previous pay and service of the appellant which is against the law and rules.

The appellant filed writ petition no 4340-p/2020 for his claim. The said Writ Petition was heard on 2020 and the Hon'ble Court was kind enough to convert the Writ Petition as departmental appeal and transmit it to your good self for treating the Writ Petition as departmental appeal and to decide the same in accordance with law. Copy attached.

The deptt. so many times makes promise to decide the departmental appeal of the appellant but no fruitful result achieved now after passing two years the departmental appeal of the appellant is still pending. Which is also violation of Peshawar High Court Peshawar Judgment.

That according to government policy, the appellant had right to benefit of the pay protection will be admissible to the employees under WEST Pakistan 1963 pension rules and judgment of Larger bench of Peshawar High Court Peshawar.

It is therefore, most humbly requested, on acceptance of this application/reminder, the departmental appeal of the appellant shall be decided and the pay of appellant may kindly be protected and the service rendered on contract basis may be accounted toward the length of service and pensionary benefits in order to the save the appellant from financial loss.

Gul Nabi s/o Lal Saad
Applicant

17/01-7537039-3

Date: 01/12/2022

CC to: The Secretary to Govt: (E&SE) Deptt: KP Peshawar.

CC to: The Director (E&SE) Merged Area, KP, Peshawar.

Better Copy

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block A Opposite MPA.s Hostel, Civil Secretariat Peshawar
Phono No. 091-9223587

ORDER

No. SO (Lit-IV) E&SED/COC#69-P/2023/WP 4340-P/2020/Mustafa Khan & others

WHEREAS Mustafa Khan and 19 others appellant (Petitioners) were initially appointed as PST Teacher in the Project Community School Teachers for a project period at various community schools at District Mohmand in the year 2000 to 2007.

2. AND WHEREAS, the Community School Teachers project was closed down on 31.12.2010.

3. AND WHEREAS, the Community School Teachers was re-appointed consequent upon the direction of competent authority vide order No. 6048-61 dated 09.12.2011.

4. AND WHEREAS, in pursuance of the notification No. SO (E)/SSD/SCTR/99-10, dated 11-05-2012 duly approved by the then Government Khyber Pakhtunkhwa the services of the appellant were regularized w.e.f 01/0/2013.

5. AND WHEREAS, Mustafa Khan and 19 others filed Writ Petition No. 4330-P/2020 before the Hon' able Peshawar High Court with the prayer of couting their previous services towards pay protection and back benefits.

6. AND WHEREAS, the Hon' able Peshawar High Court Peshawar vide its Judgment dated 12-12-2020 treated the Writ Petition as Departmental Appeal and transmitted the same to the respondent Department for consideration and decision in light of the Judgment in Writ Petition No. 2802-P/2020 as well as decision strictly in accordance with Civil Servant Pension Rules, 1963 and the guidelines laid down by the larger bench in Writ Petition No. 3394-P/2016 title Amir Zeb etc Vs Account officers, Nowshera & other.

7. AND WHEREAS, the respondent Department in the light of Judgment of Peshawar High Court in Writ Petition No 4340-P/2020 conducted a Departmental Consideration Committee meeting on 21/03/2023.

8. AND WHEREAS, the respondent Department in the light of Judgment of Peshawar High Court conducted a Departmental appellate committee meeting and provided opportunity of hearing to the Petitioners.

9. NOW THEREFORE, in pursuance of order Dated 10-12-2020 the Hon' able Peshawar High Court Peshawar, with relevant law, rules, policy and recommendations of the Appellate Committee meeting, discussed hereinabove, the undersigned, in the capacity of Appellate Authority is of the considered view that the Petitioners namely Mustafa Khan and 19 others are not entitled to back benefits and pay protection for the period served in Community School Project, hence, the claim of the Petitioners hereby stands rejected in the interest of public service.

SECRETARY
E&SE DEPARTMENT

Endst of even No. & date

Copy of the above is forwarded to the:-

1. Additional Registrar (Judicial), Peshawar High Court, Peshawar.
2. Additional Advocate General Peshawar High Court, Peshawar.
3. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer. (Male), Mohmand.
5. Section Officer (Lit:III), Elementary & Secondary Education Department.
6. Teachers concerned.

69

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block "A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 991-9221587

Dated Peshawar the April 04, 2023

ORDER

No. SOLICITVIE&SEDC/OC669-P/2023/VP/4346-P/2020/Mustafa Khan & others

1. **WHEREAS**, Mustafa Khan and 19 other appellant (petitioners) were initially appointed as P.S.I teacher in the Project Community School Teachers for a project period at various community schools in District Mardan in the year 2009 to 2017.

2. **AND WHEREAS**, the Community School Teachers project was closed down on 31-12-2010.

3. **AND WHEREAS**, the Community School Teachers were re-appointed consequent upon the instruction of competent Authority vide order No. 6023-61, dated 09-12-2011.

4. **AND WHEREAS**, in pursuance of the notification No. SO(E)SSD/SCTR/99-10, dated 10-05-2012 (as approved by the then Governor Khyber Pakhtunkhwa) the services of the appellant were regularized as L.O/07/2012.

5. **AND WHEREAS**, Mustafa Khan and 19 other, filed Writ Petition No. 4540-P/2020 before the Honorable Peshawar High Court with the prayer of granting their previous services towards pay, pension and other benefits.

6. **AND WHEREAS**, the Honorable Peshawar High Court Peshawar vide its judgment dated 01-03-2022 granted the writ petition and departmental appeal and transmitted the same to the respondent department for its consideration and decision in light of the judgment in writ petition No. 2802-P/2020 as well as decision made in accordance with Civil Servant Pension Rules, 1963 and the guidelines laid down by the apex court in Writ Petition No. 2384-P/2018 titled Amir Zeb etc. Vs Account Officer Nawshera & others.

7. **AND WHEREAS**, the respondent department in the light of judgment of Peshawar High Court in Writ Petition No. 4540-P/2020 organized a Departmental Appellate Consideration Committee meeting on 21-03-2023.

8. **AND WHEREAS**, the respondent department in the light of judgment dated 01-03-2022 conducted a Departmental Appellate Committee meeting and provided opportunity of hearing to the petitioners.

9. **NOW, THEREFORE**, in pursuance of order dated 10-12-2020 the Honorable Peshawar High Court Peshawar, consulting with relevant law, rules, policy and recommendations of the Appellate Committee meeting discussed hereinabove, the undersigned, in the capacity of Appellate Authority, in the considered view that the petitioners namely Mustafa Khan and 19 others are not entitled to back benefits and pay protection for the period served in Community Schools Project, hence, the claim of the petitioners heroby stands rejected in the interest of public service.

SECRETARY
E&SE DEPARTMENT

Ends: of even No. & date

Copy of the above is forwarded to the:

1. Additional Registrar (Judicial), Peshawar High Court, Peshawar
2. Additional Advocate General, Peshawar High Court, Peshawar
3. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
4. District Education Officer (Male), Mardan

Better Copy

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

NO. FD (SOSR-1) 12-7/2014

Dated Peshawar the 6th February, 2014

1. All Administrative Secretaries to Govt of Khyber Pakhtunkhwa.
2. Senior Member Board of Revenue Khyber Pakhtunkhwa.
3. Secretary to Government of Khyber Pakhtunkhwa.
4. The Principal Secretary Chief Khyber Pakhtunkhwa.
5. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Divisional Commissioner's in Khyber Pakhtunkhwa.
9. All Political Agents/District & Session Judges in Khyber Pakhtunkhwa.
10. The Registrar Peshawar High Court Peshawar.
11. The Chairman Public Service Commission Khyber Pakhtunkhwa.
12. The Chairman Service Tribunal, Khyber Pakhtunkhwa.
13. The Accountant General, Khyber Pakhtunkhwa.

Subject:- PROTECTION OF PAY OF CONTRACT EMPLOYEES ON
REGULARIZATION/APPOINTMENT ON REGULAR BASIS:

Dear Sir:-

In pursuance to the finance Davison's Office Memorandum No. R.1/2012 dated 31st May 2013, the competent authority is pleased to allow the pay protection to non gazetted contract employees on their regularization/appointment on regular basis with immediate effect subject to the following conditions:-

- i) That the contract appointment has been made on standard terms and conditions circulated by this Provincial Government are amended from time to time.
- ii) That the contract employ has applied through proper channel and has been properly by the appointed authority. This condition shall not apply in case of regularization on the same post.
- iii) That regularization/regular appointment has been made with the approval of competent authority.
- iv) That there is no break/interruption between contract service and regular service.
- v) That the service rendered on contract basis shall not qualify for pension/gratuity.
- vi) That in case of regular appointment in lower pay shall not be protected./

Your Faithfully
RAZAULLAH KHAN
Addl Secretary (Regulation)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO: FD (SOSR-1) 12-7/2014
Dated Peshawar the 6th February, 2014

(Handwritten marks and signatures)

To:

1. All Administrative Secretaries to Govt of Khyber Pakhtunkhwa
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary, Revenue, Khyber Pakhtunkhwa.
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. The Secretary Finance FATA, FATA Secretariat, Peshawar.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Divisional Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Accountant General, Khyber Pakhtunkhwa, Peshawar.

25

Subject:

PROTECTION OF PAY OF CONTRACT EMPLOYEES ON
REGULARIZATION / APPOINTMENT ON REGULAR BASIS:

Dear Sir,

In pursuance to the Finance Division's Office Memorandum No.79/R-1/2012 dated 31st May, 2013, the competent authority is pleased to allow the pay protection to non-Gazetted contract employees on their regularization / appointment on regular basis with immediate effect subject to the following conditions:-

- i) That the contract appointment has been made on standard terms and conditions, circulated by this Provincial Government as amended from time to time.
- ii) That the contract employee has applied through proper channel and has been properly approved by the appointing authority. This condition shall not apply in case of regularization on the same post.
- iii) That regularization / regular appointment has been made with the approval of competent authority.
- iv) That there is no break / interruption between contract service and regular service.
- v) That the service rendered on contract basis shall not qualify for pension / gratuity.
- vi) That in case of regular appointment in lower grade, pay shall not be protected.

Yours faithfully,

(Signature)
(RAZAULLAH KHAN)
Addl. Secretary (Regulation)

P.T.O

Better Copy

Endst o FD, (SOSR-1)

12-7/2014

Dated 6h Feb, 2014

Copy for information and necessary action to the:-

1. The Director, Treasures & Accounts, Khyber Pakhtunkhwa.
2. All the District comptroller of Accountrs in Khyber Pakhtunkhwa.
3. The Director Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
4. The Director, PMIU, Finance Department.
5. The Treasury Officer, Peshawar.
- 6 The Secretary, Board of Revenue, Khyber Pakhtunkhwa.
7. All the District & Agency Accounts Officers, in Khyber Pakhtunkhwa/ FATA.

(MASOOD KHAN)
Deputy Secretary (Reg-II)

Endst No. & date Even.

Copy for information is forwarded to the:-

1. All the Section Officers/Budged Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar.
2. The Private Secretary to Senior Minister for Financed, Khyber Pakhtunkhwa.
3. The Private Secretary to Secretary/P.As to Special Secretary/Additional Secretaries/Deputy Secretariat in Finance Deptt:-

(Wazir Muhammad Afgar)
Section Officer (SR-1)

Endst: No. FD (SOSR-1)-12-7 /2014

Dated 6th Feb, 2014

26

Copy for information & necessary action to the:-

1. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa;
2. All the District Comptroller of Accounts in Khyber Pakhtunkhwa;
3. The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar;
4. The Director, FMU, Finance Department;
5. The Treasury Officer, Peshawar;
6. The Secretary, Board of Revenue, Khyber Pakhtunkhwa;
7. All the District & Agency Accounts Officers in Khyber Pakhtunkhwa / FATA

(MASOOD KHAN)
Deputy Secretary (Reg-II)

Endst: No. & Date Even

Copy for information is forwarded to:-

1. All the Section Officers / Budget Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar
2. The Private Secretary to Senior Minister for Finance, Khyber Pakhtunkhwa
3. The Private Secretary to Secretary / P.As to Special Secretary / Additional Secretaries / Deputy Secretaries in Finance Deptt.

(Wazir Muhammad Afgar)
Section Officer (SR-1)

VAKALAT NAMA

NO. _____/20

IN THE COURT OF MP. Service Tribunal, Patna

Gul Nabi

Appellant
Petitioner
Plaintiff

VERSUS

Edu Deptt

Respondent (s)
Defendants (s)

I Gul Nabi do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE _____/20

Gul Nabi
(CLIENT)

ACCEPTED

Syed Noman Ali Bukhari
SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT
BC-15-5643