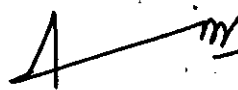


FORM OF ORDER SHEET

Court of _____

Appeal No. 1092/2023


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/05/2023	<p>The appeal of Mr. Khanadan Khan resubmitted today by Mr. Noor Muhammad Khattak 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. Khanadan Khan PST GPS Karrer Habibzai Ghallanai 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.

- 1- Annexure-F of the appeal is illegible which may be replaced by legible/better one.
- 2- Copy of rejection order of departmental appeal in respect of appellant is not attached with the appeal which may be placed on it.

No. 1356 /S.T.

Dt. 8/5 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv.
High Court Peshawar.

R/siv,

In response to objection no 1 the Annex F is replaced with legible copies.

In response to objection no 2, the appellant along with others filed writ petition before Peshawar High Court which has been treated departmental appeal and respondents through Impugned consolidated appellate orders dt: 6/4/23, the same is appellate order for the appellant which is available ~~at~~ on file Annex E Page 22.


16/5/23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL NO. 1092/2023

KHANADAN KHAN VS EDUCATION DEPARTMENT

INDEX

S. NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal with affidavit	1-3
3.	Copy of appointment order	A	4-6
4.	Copy of the regularization order	B	7-9
5.	Copies of the WP and judgment	C	10-16
6.	Copy of the COC Petition	D	17-21
7.	Copy of the impugned appellate order dated 6.04.2023	E	22
8.	Copy of Judgment dated 21.10.2021	F	23-27
12.	Vakalatnama	-----	28

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
Advocate, Supreme Court of Pakistan

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1092 /2023

Mr. Khanadan Khan PST BPS-12 Government Primary School, Karrer
Habibzai, Ghallani, District Mohmand.

.....**APPELLANT**

VERSUS

- 1- The Secretary Education Department, Civil Secretariat Peshawar, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Mohmand.

.....**RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED
APPELLATE ORDER DATED 6/04/2023 WHEREBY THE
DEPARTMENTAL APPEAL OF THE APPELLANT FOR FIXATION OF
PAY W.E.F. 06.03.2003 I.E. FROM THE DATE OF INITIAL
APPOINTMENT HAS BEEN REJECTED WITHOUT ANY GOOD
REASON.**

PRAYER:

That on acceptance of this appeal the impugned appellate order dated 6.04.2023 may very kindly be set aside and the appellant may kindly be allowed/granted pay fixation w.e.f. 6.03.2003 i.e. from the date of initial appointment with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

- 1- That the appellant was initially appointed as PCT BPS-7 now PST BPS-12 in the of project community school teacher vide order dated 06.03.2003 and since appointment the appellant performing his duty quiet efficiently and to the entire satisfaction of their high ups. Copy of appointment order is attached as Annexure..... **A.**
- 2- That the respondent department through order dated 30.08.2013 regularized the services of the appellant and performing their duties. Copy of the regularization order is attached as annexure **B.**
- 3- That since the appellant has more than 10 years services against the said post but astonishingly the respondent were not counted toward his pay

and pension protection which cause huge financial loss to the appellant.

- 4- That the appellant feeling aggrieved from the said inaction filed WP No-2803/2020 before the honorable Peshawar high court which was decided Judgment dated 01.10.2020 and the same has been treated as departmental appeal and transmitted to the respondents for consideration and decision strictly in accordance with civil servant pension rules 1963. Copies of the WP and judgment are attached as AnnexureC.
- 5- That the respondents are reluctant to decide the department appeal of the appellant, the appellant filed COC Petition No.99/2023 whereby the same has been disposed of vide order dated 09.03.2023 with the direction to decide the department appeal within one month through speaking order. Copy of the COC Petition and order dated 09.03.2023 are attached as annexure.....D.
- 6- That the respondents through impugned appellate order dated 06.04.2023 rejected the departmental appeal of the appellant without any reason and justification and against the enabling rules. Copy of the impugned appellate order dated 6.04.2023 is attached as annexure..... E.
- 7- That feeling aggrieved from the appellate order and having no other remedy the appellant filed the instant appeal on following grounds inter alia.

GROUND:

- A- That the impugned appellate order dated 6.03.2023 and the inaction of respondents by not allowing pay fixation and protection to the appellant w.e.f. initial appointment i.e 6.03.2003 are against the law, facts, norms of natural justice and materials on the record.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department 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 mala fide manner while issuing the impugned appellate order dated 6.4.2023 and by not allowing pay fixation to the appellant w.e.f. initial appointment i.e 6.03.2003 and as such the inaction of the respondents is violative of law and rules.
- D- That in such a situations/ similar cases of pay protection appeal No.860/2017 was allowed vide judgment dated 21.10.2021 by this honorable Tribunal. Copy of Judgment dated 21.10.2021 is attached as Annexure F.
- E- That the inaction of the respondents is discriminatory and against the norms of natural justice, therefore not tenable in the eye of law.
- F- That under Article 38 (e) of the Constitution of Pakistan, 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan. therefore in light of the above

mentioned Article the appellant is fully entitle for the grant of pay fixation w.e.f. 6.03.2003 the date of initial appointment but the same has not been done in case of appellant which is evident from the pay role of the appellant. Copies of the pay role are attached as annexureG.

G- That as per rule 2.3. of the West Pakistan Pension Rules, 1963 and FR 22 the appellant is fully entitled for the grant of pay fixation w.e.f. initial appointment with all back benefits.

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: 4.5.2023

APPELLANT


Khanadan Khan

THOROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT


KAMRAN KHAN


UMAR FAROOQ MOHMAND


WALED ADNAN


MUHAMMAD AYUB
ADVOCATES HIGH COURT

AFFIDAVIT

I, Khanadan Khan PST BPS-12 Government Primary School, Karrer Habibzai, Ghallani, District Mohmand, do hereby solemnly affirm and declare on Oath that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.


DEPONENT

OFFICE OF THE AGENCY EDUCATION OFFICER MOHMAND AGENCY AT GIJALLANAI
OFFICE ORDER

Consequent upon the recommendation of the selection committee and nomination of Political Agent Mohmand Agency vide his office No. 1085-89 Dated. 20/02/2003, the following candidates are hereby appointed against PTC Posts in the community schools under president special development package in Khwaizal / Baizai inaccessible areas in BPS. 7 plus Usual allowances as admissible under the rules on contract base for the project period in the schools noted against their names with immediate effect.

S.#	Name of candidate with Father name	School where appointed
1	Mohammad Shah S/O Musa Yar Khan	C.S Bad Manai Ghafoor
2	Munir 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 Shah Mir Kore Khan Abad
5	Qadar Khan S/O Shah Jehan	Do
6	Syyar 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 Ghafoor
10	Abdul Samad S/O Mohammad Rafiq	C.S Lakhkar Killi Gul Wali
11	Abdul Malik S/O Feroz Khan	C.S Landi Shah Zarin
12	Bushir Ahmad S/O Said Akram	C.S Lakhkar Kili Gul Wali
13	Shad Ali Khan S/O Hasham Khan	C.S Bad Manai Gul Zar
14	Saadullah S/O Haji Dawood Jan	C.S Manai Zai Sekandar
15	Nazir Gul S/O Nawab Khan	Do
16	Zunta Khan S/O Khan Saad	C.S Manzari Cheena Shinwari
17	Tajawal Khan S/O Fazal Mohammad	C.S Jarobai Fazal
18	Ahmad Khan S/O Niaz Din	C.S Masti Kore Gulab
19	Hazrat Shah S/O Sahib Jamal	C.S Kung Mehrab Gul
20	Ali Akbar S/O Hazrat Mohammad	C.S Ucha Jewara Naik 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	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 Khan Baig Kore Fazlai Manan
26	Khaista Zar S/O Ihsanullah	C.S Khan Baig Kore Fazlai Manan

SS 20/02/03
1032/1/8997/20/03

	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 Jewara Naik Mohd
29	Mohammad Quraishi 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 Ghukhai Siraj Khan
35	Fida Mohammad S/O Arsala Khan	Do
36	Saz Mohammad S/O Shah Rasool	C.S Kaka Kore Hunar Jan
37	Niqab Khan S/O Khan Sharif	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 Na'ir S/O Arsala Khafi	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 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 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 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 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 Najeeb Khan	C.S Baidmanai Yad Mohd
59	Said Ahmad S/O Mohammad Aiza	C.S Manzari Cheena Shinwari
60	Mohammad Khan S/O Mohammad Wah	C.S Toor Khel Ahmad Noor
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 Bashir Khan	C.S Khanjar Killi Malik Abid
65	Sakhi Jan S/O Izzat Gul	C.S Jarobi Fazal
66	Zahid Ullah S/O Najeeb 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 Zadu
70	Liqat Ali S/O Ikram Khan	Do
71	Asif Khan S/O Janjal Khan	C.S Maim Khel Malik Islam Bacha

Hakim Khan (D.I.O)
Mohmand Agency at Ghallana

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

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.

Endst No. 4993- 5089 Dated. 06/03/2003

Copy of the above is forwarded to the:-

1. Director of Education, PTA, NWFP, Peshawar.
2. Political Agent Mohmand Agency at Ghallanai w/t his office memo No. as cited.
3. Agency Surgeon Mohmand Agency at Ghallanai.
4. Asstt: Political Agent Upper Mohmand at Ghallanai.
5. Agency Accounts Office, Mohmand Agency at Ghallanai.
6. Acct/Pay Clerk in office
- 7-97 Candidates copies

Agency Education Officer
Mohmand Agency at Ghallanai.

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

OFFICE OF THE AGENCY EDUCATION OFFICER MOHMAND AGENCY AT GHALLANAI
REGULARIZATION OF COMMUNITY TEACHERS.

-7-

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 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 Ahmad 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 Dag	Khwezai	Against newly created post
8	Azizullah S/I Itbar Khan	CS Muhammad Yad	GPS Grang No.3	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

14	Muhammad Ishaq S/O Gul Said	CS Shawal	GPS Chamarkand No.2	Halimzai	Against Vacant Post
15	Akbar Khan S/O Sher Jan	CS Kankar Killi	GPS Shewa Fashir	Halimzai	Against Vacant Post
16	Ilyas Khan S/O Muhammad Shakir	CS Gulzar Baidnmanai	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 Shamsher	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 Zanawar Cheena Gul Said	Khwezai	Against newly created post
27	Bakht Zada S/O Shahzada	CS Bahlola	GPS Yousaf Baba	Prang Ghar	Vacant Against newly created post
28	Bacha Hassan S/O Ibrahim Shah	CS Faiz Ali	GPS Kharai Dara	Halimzai	Against Vacant Post
29	Sajid Aji S/O Tawas Khan	CS Faiz Ali	GPS Bacha Kandao	Halimzai	Against Vacant Post
30	Iftikhar 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 Rahil 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 Selai 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 Bakhmal 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 Shamsher 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/I 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

Endst No. 14047-52 /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.

(SAID MUHAMMAD)
Agency Education Officer
Mohmand Agency at Ghallanai.

Dated 30/8 /2013


Agency Education Officer
Mohmand Agency at Ghallanai

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. 2803 /2020



1. Muhammad Ishaq, PTC,
Government Primary School Chamarkand No. 2 Ghallanai,
District Mohmand.
2. Aziz Ullah, PTC,
Government Primary School Grang, No. 1, Ghallanai,
District Mohmand.
3. Akbar Khan, PTC,
Government Primary School Shewa Ghallanai, District Mohmand.
4. Khanadan, PTC,
Government Primary School Karrer, Habibzai Ghallanai,
District Mohmand.

PETITIONERS

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 District Education Officer District Mohmand at Ghallanai.

RESPONDENTS

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

ATTESTED

EXAMINER
Peshawar High Court

RESPECTFULLY SHEWETH:

Brief facts giving rise to present petition are as under:-

1. That the petitioners were initially appointed as PST Teacher in the Project Community School Teachers in the year , 2000, 2001, 2003, 2004, 2006, and 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 in the year 2011 onwards. 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 this writ petition on the following grounds amongst the

GROUNDS:

ATTESTED
EXAMINER
Peshawar High Court

... 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. -12-

- 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 be 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 service 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
- 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 nature writ petition Bearing NO. 5585-P/2018 on 4.09.2019. Thus the petitioners are also entitled for the same relief. Copy of the Judgment is 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.

ATTESTED

EXAMINER
Peshawar High Court

13-
this writ petition the inaction on the part of respondents and not counting the previous service of the petitioners towards pay protection and pensionary benefits 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 benefits of the past service to the petitioners to meet the ends of justice, principles of equity and by treating them at par with the petitioners of the above referred writ petitions. Any other remedy which this august court deems appropriate may also be awarded in favour of petitioners.

M. Ishaq
PETITIONERS

M. Ishaq and others.

THROUGH:

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

VERIFICATION:

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

M. Ishaq
DEPONENT

LIST OF BOOKS:

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

S. J. Khan
CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 8.7 of
the Constitution of the Islamic Republic of Pakistan
Shahadat Order 1984

13 OCT 2020

ATTESTED

EXAMINER
Peshawar High Court

PESHAWAR HIGH COURT,
PESHAWAR,
[Judicial Department].

-14-



Writ Petition No.2803-P/2020

Muhamamd Ishaq, PTC,
GPS Chamarkand Ghallanai,
District Mohamand and others.

Petitioner (s)

VERSUS

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

Respondent (s)

For Petitioner (s) :-

Mr. Muhammad Asif Yousafzai, Advocate.

For Respondents :-

Mr. Rab Nawaz Khan, AAG.

Date of hearing:

01.10.2020.

JUDGMENT

ROOH-UL-AMIN KHAN, J:-For reasons recorded in our common judgment of even date, placed in WP No.2802-P/2020, this writ petition, we treat this writ petition as departmental appeal 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

M. Shauq Ali Khan

Rooh ul Amin
JUDGE

DI of Hon'ble Mr. Justice Rooh ul Amin Khan; and
Hon'ble Mr. Justice Ikram Ullah Khan.

[Signature]
JUDGE

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 5.7 of
the Constitution of the State of 1973

13 OCT 2020

[Judicial Department].

-15-

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) :-
For Respondents :-
Date of hearing :-

Mr. Muhammad Asif Yousafzai, Advocate.
Mr. Rab Nawaz Khan, AAG.
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.

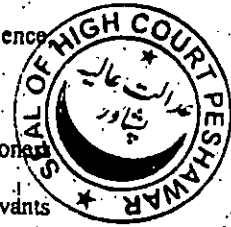
2: As per averments in the writ petitions, the petitioners were initially appointed as PSTs in the Project Community School Teachers in the year 2000 to 2007. The said schools were closed in the year 2010. In the meanwhile, the Governor Khyber Pakhtunkhwa vide notification dated 11.05.2012, accommodated 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

Yousafzai

ATTESTED

EXAMINER
Peshawar High Court

-16-



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

[Signature]
CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 7 of
The Government of Punjab Act, 1972

13 OCT 2020

[Signature]
JUDGE

[Signature]
JUDGE

By Hon'ble Mr. Justice Rooh ul Amin Khan; and
Hon'ble Mr. Justice Ikram Ullah Khan.

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 7 of
The Government of Punjab Act, 1972

13 OCT 2020

C.O.C. No. 997 /2023

In

Writ Petition No.2803-P/2020

(K) 1907
-17-

1. Akbar Khan, PTC
GPS, Shewa Ghallanai, District Mohmand.
2. Muhammad Ishaq, PTC
GPS, Chamarkand No.2, Ghallanai, District Mohmand.
3. Aziz Ullah, PTC,
GPS, Grang N0:1, Ghallanai, District Mohmand.
4. Khanadan, PTC.
GPS, Karreer-Habibzai, Ghallanai, District Mohmand.



PETITIONERS

VERSUS

1. Dr. Shahzad Bangash, Chief Secretary Govt: of KP, Civil Secretariat, Peshawar.
2. Motasim Billah, Secretary E&SE Department Govt: of KP, Civil Secretariat, Peshawar.
3. Ikram Ullah Khan Secretary Finance Deptt: KP Civil Secretariat, Peshawar.
4. Nadeem Khan District Education Officer, District Mohmand At Ghallanai.

RESPONDENTS

.....
CONTEMPT OF COURT PETITION UNDER ARTICLE 204 OF THE CONSTITUTION OF PAKISTAN 1973 READ WITH SECTION-3 OF THE CONTEMPT OF COURT ORDINANCE, 2003 FOR INITIATING CONTEMPT OF COURT PROCEEDINGS AGAINST THE RESPONDENT FOR NOT OBEYING THE DIRECTION OF THIS AUGUST COURT GIVEN IN WRIT PETITION NO. 2803-P/2020.

RESPECTFULLY SHEWETH:

Brief facts giving rise to present petition are as under:-


FILED TODAY
Deputy Registrar
11 JAN 2023

ATTESTED
EXAMINER
Peshawar High Court


18-

1. That the petitioner filed writ petition No. 2803-P/2020 against the inaction/omission, of the respondents and not counting the previous Service of the petitioners 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. Copy of the judgment is attached as Annexure-A.
2. That the after obtaining copy of the judgment petitioner applied to the respondents for passing appropriate order in light of the judgment of august Court, but in vain and no response has been received by the petitioner till dated. Copy of the applications are attached as annexure-B.
3. That having no other remedy the petitioner is constrained to file this petition as the respondents are not willing to obey the judgment.
4. That being the apex Court of the province the respondents are under legal obligation to obey the direction of the Hon'ble Court in letter and spirit.
6. That the act and attitude of the respondents clearly show that they are not willing to obey the direction given by this august Court on 01.10.2020.
7. That the petitioner seeks permission of advance others grounds and proof and at the time of hearing.

It is therefore most humbly that the proper contempt of court proceeding may be initiated against the respondents for not obeying the judgment of this august Court dated 01/10/2020. Any other remedy deems appropriate by this court may also awarded in favor of petitioner.


PETHIONER
Akbar Khan & Others

FILED TODAY
Deputy Registrar
11 JAN 2023

THROUGH:

(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT
PESHAWAR

ATTESTED
EXAMINER
Peshawar High Court

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

-19-

C.O.C. No. 99 F /2022
In Writ Petition No. 2803-P/2020

Mr. Akbar Khan & others V/S Shew Ghallana and others

AFFIDAVIT

I, Akbar Khan, PTC GPS, Shewa Ghallana; District Mohmand, for himself and for other petitioners do hereby solemnly affirm and declare that the contents of this contempt of court petition are true and correct to the best of my knowledge and belief.


DEPONENT

Akbar Khan
(Petitioner No.1) ✓

Case 2402-617527-9
Cell 0346 9160960

IDENTIFIED BY:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT

Filed on	27.01.23
at	27
at the Court of	Akbar Khan
in	Shewa Ghallana District
of	Syed Noman Ali Bukhari

FILED TODAY
Deputy Registrar
11 JAN 2023

CERTIFIED TO BE TRUE
Exemplar
Peshawar High Court, Peshawar
Authorized Under Article 8
The Oath-taking and Affidavit Ordinance
16 MAR 2023

FORM OF ORDER SHEET

-20-



Date of Order or Proceeding	Order or other proceedings with Signature of Judge
2	3
09.03.2023	<p><u>COC No. 99-P of 2023 in WP No. 2803-P of 2020.</u></p> <p><u>Present:-</u> Mr. Muhammad Asif Yousafzai, Advocate for petitioners.</p> <p>Mr. Umar Farooq, AAG for respondents.</p> <p>***</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.-</u> Through this petition filed under Article 204 of the Constitution of Islamic Republic of Pakistan, 1973 read with Section 3 of the Contempt of Court Ordinance, 2003, the petitioners Akbar Khan and others seek initiation of contempt of Court proceedings against the respondents for not obeying the verdict of this Court passed in W.P No. 2803-P of 2020 whereby, while treating the petition as departmental appeal, it was transmitted to the respondents for consideration and decision strictly in accordance with the Civil Servants Pension Rules, 1963 as well the guidelines laid down by the Larger Bench of this Court in its judgment dated 22.06.2017 passed in WP No. 3394-P of 2016. Learned counsel for petitioners states that despite laps of sufficient time, the departmental appeal of the petitioners has not yet been decided by the respondents:</p> <p>2. When confronted with the above situation,</p>

ATTESTE
EXAMINER
Peshawar High Court

which learned counsel for petitioners has expressed no objection. - 21 -

3. In view of above, this COC petition stands disposed of with direction to the respondents to decide the departmental appeal of the petitioners within a period of one month from today, without fail, while passing a speaking order.

Announced:
09.03.2023.

JUDGE

JUDGE

CERTIFIED TO BE TRUE COPY
Esikumer
Geshawar High Court, Peshawar
Subscribed Under Article 17 of
the Constitution of Pakistan, 1973
16 MAR 2023

Zia*

D.B

Hon'ble Mr. Justice Mohammad Ibrahim Khan, J.
Hon'ble Mr. Justice Ihtisam Ibrahim, J.

75541
Date of Presentation of Application... 12-03-2023
No of Pages... 5-0
Copying fee... 20-10
Total...
Date of Preparation of Copy... 12-03-2023
Date of Delivery of Copy... 12-03-2023
Witnessed By... M. Nadeem



ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

Block "A" Opposite MPA's Hostel, Civil Secretariat Peshawar

Phone No. 091-9223587

Dated Peshawar the April 6th, 2023 - 22-

ORDER

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

WHEREAS, Mustafa Khan and 19 other appellant (petitioners) were initially appointed as PST Teacher in the Project Community School Teachers for a project period at various community schools of 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 were 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 Governor Khyber Pakhtunkhwa the services of the appellant were regularized w.e.f. 01/09/2013.

5. AND WHEREAS, Mustafa Khan and 19 others filed Writ Petition No. 4340-P/2020 before the Honorable Peshawar High Court with the prayer of counting their previous services towards pay protection and back benefits.

6. AND WHEREAS, the Honorable Peshawar High Court Peshawar vide its judgment dated 10-12-2020 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 titled Amir Zeb etc Vs Account Officer, Nowshera & others.

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 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 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 Schools 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 (I-II-III), Elementary & Secondary Education Department.
6. Teachers concerned.

(ARSALAN AHMAD)
SECTION OFFICER
(PRIMARY-MALE)

"F" - 23 -

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**



APPEAL NO. 860 /2017

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 897

Dated 17-8-2017

Mst: Noreen Anwar, PST (BPS-12),
GGPS Akhon Kot, Orakzai Agency

..... APPELLANT

VERSUS

- 1- The Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
- ✓ 2- The Director (Education) FATA, FATA Secretariat, Warsak Road, Peshawar.
- 3- The Agency Education Officer Orakzai Agency at Hangu.

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR FIXATION OF PAY W.E.F. THE DATE OF FIRST APPOINTMENT i.e. 11.1.2005 INSTEAD OF 15.7.2014 AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the respondents may be directed to count the previous service of the appellant towards regular service in light of the judgment of this august Tribunal dated 2.7.2010 and subsequent order dated 16.7.2012. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day
Registrar

17/8/17. R/SHWETH:
ON FACTS:

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

That, initially the appellant was appointed as PTC now PST in the respondent Department after fulfilling all the codal formalities for appointment to the post vide order dated 11.1.2005. Copy of Relevant page of Services Book is attached as annexure A.

- 2. That after receiving the appointment order the appellant submitted her arrival report and assumed the charge at FCS Tambi and start performing her duty quite efficiently and to the best of her abilities, in the meanwhile the services book

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 860/2017

-24-



Date of Institution ... 17.08.2017
Date of Decision ... 21.10.2021

Mst. Noreen Anwar, P.S.T. (B.P.S-12), G.G.P.S Akhon Kot
Orakzai Agency: ... (Appellant)

VERSUS

The Additional Chief Secretary (FATA) FATA Secretariat,
Peshawar and two others. ... (Respondents)

Noor Muhammad Khattak,
Advocate ... For appellant.

Muhammad Riaz Khan Pindakhel,
Assistant Advocate General ... For respondents.

Rozina Rehman ... Member (J)
Atiq Ur Rehman Wazir ... Member (E).

JUDGMENT

Rozina Rehman, Member (J): The relevant facts leading to filing of instant appeal are that appellant was appointed as P.T.C (now P.S.T). She submitted her arrival report and assumed the charge at F.C.S Tambi. She performed her duties at F.C.S till 2014, where-after, her services were regularized at Government Girls Primary School Akhon Kot Orakzai Agency vide order dated 15.07.2014 w.e.f 01.07.2014. She preferred departmental appeal for fixation of her pay w.e.f the date of her initial appointment instead of 15.07.2014 but the same was not responded to, hence, the present service appeal.

ATTESTED

EXAMINER
Kyber Pakhtunkhwa
Service Tribunal

2. We have heard Noor Muhammad Khattak learned counsel -25- Advocate for appellant and Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Learned counsel for appellant submitted that by not counting project service served by the appellant in the respondent Department, is against law, facts and norms of natural justice. He contended that the appellant was not treated in accordance with law and rules and as such, the respondents violated Article-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. He submitted that similar nature case titled Mian Siraj Vs. Government of Khyber Pakhtunkhwa was decided by this Tribunal vide judgment dated 02.07.2010 and the same was implemented by the Department, therefore, under the principle of consistency reported in 2009 S.C.M.R-1, appellant is also entitled to the grant of similar relief.


4. Conversely learned A.A.G submitted that there is no provision in the rules on the basis of which appellant can be regularized from initial appointment from the date which relates to project period. He submitted that the appellant was regularized w.e.f 01.07.2014 in the light of notification issued by the respondent No.3 which is in accordance with law and rules and that the appellant was dealt according to law. Lastly, he submitted that all Government employees are bound to perform duties according to law/instructions given by the Government from time to time in the interest of public.


ATTENDED
 [Signature]
 [Stamp]

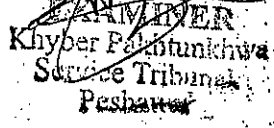
5. From the record it is evident that appellant was appointed as project P.T.C at F.C.S Tambi in B.P.S-07 vide order dated 11.01.2005. She was adjusted as regular P.T.C at G.G.P.S Akhon Kot Orakzai Agency in B.P.S-07 vide order dated 15.07.2014. No doubt, she served the Department from the year 2005 till 15.07.2014 but her services were regularized w.e.f 01.07.2014. Learned counsel for the appellant did not properly assist the tribunal, as to how the appellant is entitled for regularization of her previous service. Copy of the judgment of Peshawar High Court dated 06.08.2013 is also not available on record to ascertain as to whether services of the appellant and others were regularized with immediate effect or was given retrospective effect. The only option left with us is to consider her previous service towards pensionary benefits, as is admissible under pension Rules, 1963.

6. In view of the foregoing discussion, the instant appeal is partially accepted with direction to respondents to consider her temporary service as regular service counting towards pensionary benefits only as is admissible under Rule 2.3 of West Pakistan Civil Services Pension Rules, 1963. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
21.10.2021


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 22/10/21
Number of Words 1620
Copying Fee 28/-
Urgent ✓
Total 187/-
Name of Copyist _____
Date of Completion of Copy 02/11/21
Date of Delivery of Copy 02/11/21

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO: _____ OF 2023

Khanadan Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt

(RESPONDENT)
(DEFENDANT)

I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** 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. ____/____/2022

Khanadan

CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT
(BC-10-0853)
(15401-0705985-5)

UMAR FAROOQ MOHMAND

WALEED ADNAN

&

MUHAMMAD AYUB
ADVOCATES

OFFICE:

Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)

Khanadan Khan
Advocate