

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 1131/2022

Mr. Muhammad IqbalAppellant.

VERSUS

Chief Secretary, Govt: of Khyber Pakhtunkhwa & others.....Respondents.

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11/4/23
Despondent

**BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR**

Service Appeal No # 1131/2022

Mr. Muhammad IqbalAppellant

Versus

Chief Secretary, Govt of Khyber Pakhtunkhwa & Other.....Respondents

**APPLICATION FOR SETTING ASIDE EX-PARTY PROCEEDING DATED 06-01-2023
AND RESTORING RIGHT OF FILING PARA-WISE COMMENTS.**


Respectfully Sheweth,

- 1 That the above titled appeal was fixed before this Honorable Tribunal on 06-01-2023 for submission of written reply.
- 2 That the Honorable Tribunal has ordered against the respondents as ex-parte alongwith striking out the Right of respondents for non-filing of para-wise comments. **(Copy enclosed).**
- 3 That feeling aggrieved the respondents seeks restoration of the right of filing para-wise comments on the following grounds inter alia.

Grounds:

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

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


Secretary
Elementary & Secondary Education,
Department (Respondent No. 1 & 2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Service Appeal No. 1131/2022

Mr. Muhammad IqbalAppellant.

VERSUS

Chief Secretary to Govt of KPK Peshawar..... Respondents.

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NOS. 1 TO 4.

Respectfully Sheweth,

Preliminary Objections:

1. The appellant has got no cause of action against the Respondents.
2. The appellant has not come to the Tribunal with clean hands.
3. The appellant is not an aggrieved person nor has any locus standi to file the present appeal.
4. That the appellant has concealed material facts from this Tribunal.
5. That the appellant is estopped by his own conduct to file the present appeal.
6. That the present appeal is against the prevailing law and rules.
7. That the appellant is not entitled for any relief, he has sought from this Honorable Tribunal.
8. That the present appeal is liable to be dismissed being devoid of any merits.
9. That the present appeal is barred by law and hence no maintainable.
10. That the appeal is bad for misjoinder and non-joinder of necessary parties.

On FACTS

1. Pertains to record.
2. Pertains to record.
3. Pertains to record, however, it is pertinent to mention here that the Provincial Selection Board proceeded in accordance with law and took up the case for the then vacant positions where top five were recommended for promotion and as there were no further vacant post available. Therefore, no further promotions were given to anybody and same as the position of the present appellant.
4. Pertains to record, however, the fact that the superannuation age of civil servants from 60 to 63 years was once for all settled as 60 years by Khyber Pakhtunkhwa Civil Servant Act, (Amendment) 2021.
5. Pertains to record, however it is pertinent to mention here that the appellant was not an eligible candidate for the promotion as there were only five post available vacant whereas the present appellant was on S. No. 11 in the seniority list of BPS-19.
6. Incorrect, the appellant was not eligible for promotion due to non-availability of posts that is why only top five were promoted.
7. Incorrect, the respondents have performed their duty in accordance with law and as the situation of availability of post of BPS-20 (Teaching Cadre) was unknown and still occupied by the then officers because of the amendment in Khyber Pakhtunkhwa Civil Servant Act (Amendment) and after the settlement of the above matter of retirement of officers the appellant was retired and therefore, not taken up from any further PSB meeting.

8. In response of Para-08, it is submitted that as stated in above paras the appellant was retired on 12-01-2022 and till then no Provincial Selection Board meeting were scheduled due to the non-availability of vacant posts of BPS-20 (Teaching Cadre). Therefore, the appeal is without any legal standing and is liable to be dismissed being devoid of any merits.
9. Incorrect, in fact in the upper part of the same para it is admitted by the appellant that when the working paper was sent, the appellant stood retired from service. So it is clear from the appeal of the appellant that before PSB meeting the right of promotion of appellant ceased being retired on 12-01-2022. It is further submitted that the appellant was in the knowledge of the current situation of the than working paper, PSB meeting and his retirement date but in spite of knowledge of having no name of the appellant in working paper dated 12-01-2022 his departmental appeal was filed on 17-03-2022, which is time barred and validly dismissed by the department appellate authority.
10. Para-10 alongwith all the grounds are incorrect, hence denied, the appellant is not an aggrieved person in the eye of law.


On Grounds:

- A. Incorrect, in PSB meeting 30-12-2020 only top five panelist were recommended for promotion from seniority list of BPS-19 dated 21-12-2019 because of the non-availability of further vacant posts.
- B. Incorrect, the appellant there were no post available for promotion during his employment and likewise him many people retired and the other got promotion on availability of posts.
- C. Incorrect, and denied. The Government has its policies and make chances in it from time to time through legislations in which the Respondents cannot interfere being constitutional powers. So the amendment in superannuation period was the aim of Government and at that time that was legal for the respondent which was the act of the parliament and because of the act of the parliament there were no vacant post at all.
- D. Incorrect, the detail reply is given the above parawise comments.
- E. Incorrect, the appellant was not entitled for any relief and so is the current situation, therefore, the appeal in hand is not maintainable.
- F. Incorrect, the appellant is not an aggrieved person and is not entitled for any relief.
- G. Incorrect, the appeal is hopelessly time barred.

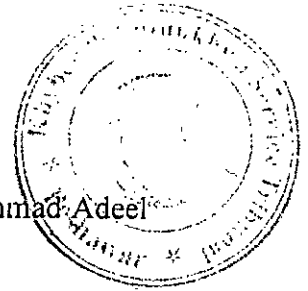
It is therefore, most humbly requested that the appeal may kindly be dismissed being having no force of law and devoid of merits.


DIRECTOR

**Education Khyber Pakhtunkhwa
(Respondent No. 4)**


SECRETARY
**Elementary & Secondary Education,
(Respondent No. 1 & 2)**

A. No 1129/2022



6th Jan, 2023

None for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

There is nobody present on behalf of the respondents nor did they submit written reply/comments. The time provided in Rule-12 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 for filing reply is seven days before the date fixed but despite providing opportunity the respondents have not filed the comments. They are thus placed ex-parte and their right to file reply stands struck off. Therefore, let this appeal be admitted to full hearing subject to all just and legal objections. The appellant is directed to deposit security fee within ten days. To come up for arguments on 21.02.2023 before D.B.

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(Kalim Arshad Khan)
Chairman

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 10/1/23
Number of Pages 2-8
Copies 10/2
Fees 10/-
Date of Delivery of Copy 11/1/23

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service Appeal # 1131/2022

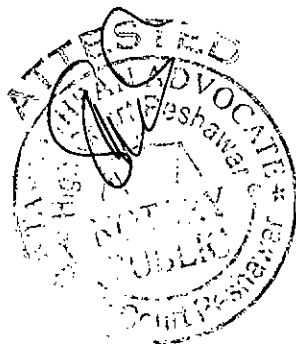
Mr. Muhammad Iqbal.....Petitioner

VERSUS

Govt. of Khyber Pakhtunkhwa & others.....Respondents

AFFIDAVIT

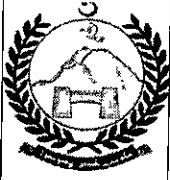
I, **Muhammad Imran Zaman**, Section Officer (Litigation-II) Elementary & Secondary Education, Department do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments, submitted by the respondents, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

11/1/22
Imran

Muhammad Imran Zaman
Section Officer (Lit-II)
E&SE Department Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

AUTHORITY

I, Section Officer (Litigation-II), Elementary & Secondary Education, Department, do hereby authorize Mr. Fahim Ullah (Focal Person) of Elementary & Secondary Education, Department, Government of Khyber Pakhtunkhwa to attend and submit para-wise comments the Khyber Pakhtunkhwa Service Tribunal Peshawar on behalf of the undersigned.

SECTION OFFICER (LIT-II)
Elementary & Secondary Education, Department,
Government of Khyber Pakhtunkhwa

**PANEL PROFORMA FOR
PROVINCIAL SELECTION BOARD**

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In respect of **Muhammad Iqbal** Personnel

Domicile – Kohat		Service/Group		Sen: No. 18		
Education Qualification		Date of Birth		Date of Superannuation		
MA M.Ed		6.2.1962		6.2.2022		
SERVICE PARTICULARS						
Date of Joining/ Service	Date of Promotion in respect of			Length of Service		Eligibility for consideration
	Present Scale	Lower Rank		Total	In present Scale	
		B-17	B-18			
22.10.1991	13.6.2012	22.10.1991	9.2.2004	Y-29 & 9 months	Y-9 & 01 months	Eligible for promotion
Important appointments held in the present Rank/post:						
1	Principal BS-19 GHS Tall Hangu					
Penalties (if any) Nil						
Training Courses (other than mandatory Training)						
Number of PERs						
Basic Scale	Outstanding	Very Good	Good	Average	Below Average	Adverse report/ Remarks in
B-17		6	6	-	-	-
B-18		2	6	-	-	-
B-19		2	8	-	-	-
Awaited Reports (PERs)			Additional Information (if any)			
EFFICIENCY INDEX						
Required Threshold	Score of PERs + Training Reports			Marks awarded by PSB	Total	
70	52					
Recommendations of PSB						
Promoted		Deferred			Superseded	

Prepared by

 Section Officer (PSB)
 Provincial Selection Board
 Islamabad

Checked by

 Section Officer (PSB)
 Elementary & Secondary
 Education Department (PSB)

PER GRADING AND QUANTIFICATION FORM FOR REGULAR PROMOTION TO BS-20
IN RESPECT OF MR Muhammad Iqbal (DOB 06.02.1962)

Seniority No.18

Year	Period of PER		Pen Picture	PERs Assessment	Fitness for Promotion	Score
	From	To				
Previous Scale (BP-17)						
1992	1.1.1992	31.12.1992	A proficient teacher.	Agreed.	Good	Fit 7
1993	1.1.1993	31.12.1993	Punctual and hardworker.	Agreed.	Good	Fit 7
1994	1.1.1994	31.12.1994	He is a man of qualities.	Agreed.	Good	Fit 7
1995	1.1.1995	31.12.1995	The person concerned is very hardworking and knows his job and dutiful.	Agreed.	Good	Fit 7
1996	1.1.1996	31.12.1996	Very bold person in performance his duties.	Agreed.	Good	Fit 7
1997	1.1.1997	31.12.1997	Simple and straight forward most suitable for administration.	Agreed.	V.Good	Fit 10
1998	1.1.1998	31.12.1998	He is hardworking teacher.	Agreed.	V.Good	Fit 10
1999	1.1.1999	31.12.1999	Efficient and dutiful.	Agreed.	Good	Fit 7
2000	1.1.2000	31.12.2000	Very good.	Agreed.	V.Good	Fit 10
2001	1.1.2001	31.12.2001	Efficient and dutiful.	Agreed.	V.Good	Fit 10
2002	1.1.2002	31.12.2002	The officer is cooperative to his boss.	Agreed.	V.Good	Fit 10
2003	1.1.2003	31.12.2003	Punctual.	Agreed.	V.Good	Fit 10
						102
Previous Scale (BP-18)						
2004	1.1.2004	31-12-2004	Hardworking and efficient.	Agreed.	Good	Fit 7
2005	1.1.2005	31-12-2005	A very competent, intelligent and reliable officer.	Agreed.	Good	Fit 7
2006	1.1.2006	31-12-2006	A very competent, intelligent and reliable officer.	Agreed.	Good	Fit 7
2007	1.1.2007	31-12-2007	Obedient and dutiful.	Agreed.	Good	Fit 7
2008	1.1.2008	31-12-2008	The officer has shown excellent results during the period.	Agreed.	V.Good	Fit 8
2009	1.1.2009	31-12-2009	The officer has ability to work under pressure.	Agreed.	Good	Fit 7
2010 A	1.1.2010	15-7-2010	The officer has a good communication skill. He has the ability to work under pressure positively.	Agreed.	V.Good	Fit 8
2010 B	16.7.2010	31-12-2010	His honesty and hardwork are his main strengths. No obvious weakness was observed in the reporting period.	Agreed.	Good	Fit 7
2011	1.1.2011	31-12-2011	The officer is honest reliable and trustworthy	Agreed.	Good	Fit 7
						65
Present Scale (BP-19)						

Section
Elementary
Education

Hyderabad

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**PER GRADING AND QUANTIFICATION FORM FOR REGULAR PROMOTION TO BS-20
IN RESPECT OF MR Muhammad Iqbal (DOB 06.02.1962)
Seniority No.18**

2012	1.1.12	31.12.12	He is an honest and upright officer	Agreed	Good	Fit	7
2013	1.1.13	31.12.13	His honesty and hardwork are his main strengths.	Agreed	Good	Fit	7
2014	1.1.14	31.12.14	Regular and hardworking officer	Agreed	Good	Fit	7
2015	1.1.15	31.12.15	Punctual regular and willing to take challenging tasks	Agreed	Good	Fit	7
2016	1.1.16	31.12.16	Efficient and cooperative officer	Agreed	Good	Fit	7
2017	1.1.17	31.12.17	Cooperative and trustworthy	Agreed	V.Good	Fit	8
2018	01.01.2018	31.12.2018	The officer bears excellent demeanour and conducts.	Agreed	Good	Fit	7
2019	01.01.2019	31.12.2019	The officer possess excellent moral and ethical values. He is highly upright	Agreed	V.Good	Fit	8
2020	01.01.2020	31.12.2020	Reliable under pressure	Agreed	Good	Fit	7
							65

Comprehensive efficiency index

PERs Quantified Score 50:30:20@ 70%	Basic Scale	Aggregate Score	Weightage Factor	Points Obtained
	Present Scale	7	36	30
	Previous Scale(B)	7	22	22
	Previous Scale(A)	9	17	
	(i) Additions*			
	(ii) Deletions**			
	Total C5+B3+A2	23		52

Evaluation by the PSB out of 30 marks

G.Total

Required threshold on CEI for promotion to BP-20 is 70

- * 2 marks shall be added for serving in a government training institution including those meant for specialized training in any particular cadre for a period of 2 years or more
- ** 5, 3 & 1 marks shall be deducted for each major, minor penalty and adverse remarks respectively.

(Signature)

Secretary
Elementary Education
District Education Office
Faisalabad

(Signature)

(Signature)
District Education Officer (BS-20)
Elementary Education
Higher Education
Faisalabad

19 12/2021

PSE-V

SENIORITY LIST OF PRINCIPALS BS-19 MALE E&SED Khyber Pakhtunkhwa (Teaching Cadre)									
S.#	Name of Officer with Designation	Qualif:	D/O Birth	Domicile	Date of 1 st Entry In Edu:	Date of Present posting	BS	Method of Recruit	Remarks
1	Sher Nawaz Pri: GHS Landiwah Lakki Marwat	M.A M.Ed	15/03/1965	Bannu	22/10/1989	13/06/2012	19		Promoted to BS-20
2	Muhammad Ashraf Deputy Director FITE	M.Sc M.Ed	03/05/1961	Kohat	13/09/1990	13/06/2012	19	By Promotion	Promoted to BS-20 & Retired
3	Nazim ud Din Principal RITE (M) Darosh Chitral	M.A M.Ed	01/04/1964	Chitral	24/12/1988	13/06/2012	19	By Promotion	Promoted to BS-20
4	Munawar Gul Pri: GHSS Tarnab Farm Peshawar	M.A M.Ed	15/03/1962	Bannu	31/10/1981	13/06/2012	19	By Promotion	Promoted to BS-20
5	Moin ud Din Principal. GHSS Shakar Dara	M.Phil. Ed u	01/01/1961	Karak	30/09/1987	13/06/2012	19	By Promotion	Promoted to BS-20 & Retired
6	Muhammad Bashir Pri: GHS Kalo Khan Swabi	M.Sc B.Ed	05/04/1963	Swabi	22/01/1991	13/06/2012	19	By Promotion	
7	Mir Daud Khan Pri: GHSS Nazim Nasib	M.A B.Ed	03/02/1964	Bannu	22/10/1991	13/06/2012	19	By Promotion	
8	Riasat Khan Principal GCMHS Torbata	M.Sc B.Ed	13/03/1962	Abbottabad	13/10/1985	13/06/2012	19	By Promotion	
9	Sikandar Sher Pri: GHSS Mansabdar Swabi	M.A M.Ed	10/03/1962	Swabi	15/05/1987	13/09/2012	19	By Promotion	
10	Neik Nawaz Khan Sec BISE Bannu	M.A B.Ed	08/09/1961	Bannu	22/03/1992	13/06/2012	19	By Promotion	Retired
11	Raj Muhammad Khan Secretary BISE DI Khan	M.Sc M.Ed	13/01/1962	Nowshera	17/02/1992	13/06/2012	19	By Promotion	
12	Muhammad Salim Pri: GSSNCMHS No.1 Tank	M.A M.Ed	02/02/1962	D.I.Khan	11/11/1987	13/06/2012	19	By Promotion	
13	Hussam ul Haq Pri: GHS no.3 Kohat	M.A M.Ed	01/01/1961	Kohat	11/02/1982	13/06/2012	19	By Promotion	Retired
14	Abdul Hallim Pri: GHS Jehangiri Karak	M.Sc M.Ed	16/07/1962	Karak	23/02/1984	13/06/2012	19	By Promotion	
15	Zaheer Ahmad Pri: GSMHS Taru Jabba	M.Sc M.Ed	13/11/1962	Bannu	22/10/1991	13/06/2012	19	By Promotion	
16	Riaz Ahmad Bahar Pri: GHS Civil Quarter	M.Sc M.Ed	07/01/1964	Peshawar	22/10/1991	13/06/2012	19	By Promotion	
17	Mir Laiq Pri: GHSS Hakim Barat Bannu	M.A B.Ed	03/08/1961	Bannu	05/10/1987	13/06/2012	19	By Promotion	Retired
18	Muhammad Iqbal Pri: GHS Badher	M.A M.Ed	06/02/1962	Kohat	22/10/1991	13/06/2012	19	By Promotion	
19	Saif Ullah Pri: GHSS Kot Kashmir Lakki	M.A B.Ed	02/08/1962	Bannu	13/02/1988	13/06/2012	19	By Promotion	
20	Nisar Muhammad DEO(M) Mansehra	M.Sc M.Ed	10/03/1963	Peshawar	14/11/1990	13/06/2012	19	By Promotion	
21	Taj Muhammad Pri: GHS Tur Dher No.1 Swabi	M.A M.Ed	31/12/1963	Mohmand Agency	19/03/1992	13/06/2012	19	By Promotion	
22	Hafiz Muhammad Rauf Pri: GHS Bazar Ahmad	M.A B.Ed	10/11/1963	Bannu	19/04/1986	13/06/2012	19	By Promotion	
23	Lutfuer Rahman Pri: GHSS labour Colony	M.A B.Ed	18/11/1963	Nowshera	30/12/1990	13/06/2012	19	By Promotion	
24	Muhammad Ajmal Pri: GHSS Takkar Mardan	M.Sc B.Ed	10/12/1961	Mardan	20/11/1986	13/06/2012	19	By Promotion	
25	Abdul Aziz Pri: GHS No.1 Abbatt Abad	M.A M.Ed	23/02/1961	Bannu	23/02/1983	13/06/2012	19	By Promotion	Retired
26	Muhammad Nazir Pri: GHSS Shinklari	M.Sc B.Ed	20/01/1963	Mansehra	11/08/1987	13/06/2012	19	By Promotion	
27	Muhammad Sharif Pri: GHS Kota Swabi	M.Sc M.Ed	02/06/1964	Swat	26/09/1992	13/06/2012	19	By Promotion	
28	Muhammad Mutahir Member Text Book	M.A M.Ed	22/03/1966	Swabi	26/09/1992	13/06/2012	19	By Promotion	
29	Ajmair Shah Pri: GHS No.1 Nowshera kalan	M.A B.Ed	20/09/1967	Nowshera	26/09/1992	13/06/2012	19	By Promotion	
30	Waqar Ali Pri: GHSS Dosehra Charsadda	M.A M.Ed	06/05/1970	Nowshera	28/08/1992	13/06/2012	19	By Promotion	
31	Wali Khan Pri: GHS khujaki Killa Karak	M.Sc M.Ed	09/04/1969	Karak	26/09/1992	13/06/2012	19	By Promotion	
32	Munawar Khan Pri: GHS Gul Bela Peshawar	M.Sc B.Ed	24/01/1968	Bannu	26/09/1992	13/06/2012	19	By Promotion	
33	Syed Tajam ul Shah Pri: GHSS Manki Sharif	M.A B.Ed	28/01/1965	Nowshera	12/02/1988	13/06/2012	19	By Promotion	
34	Muhammad Hanif Pri: GHSS Kachi Palind Khan	M.Sc B.Ed	21/10/1966	D.I.Khan	26/09/1992	21/04/2014	19	By Promotion	
35	Hamid Ullah Jan Controller of	M.Phil M.Ed	12/10/1964	Lakki	17/03/1993	21/04/2014	19	By Promotion	
36	Bakht Zada Pri: GHS Pura Shangla	M.A B.Ed	11/09/1962	Swat	28/09/1992	21/04/2014	19	By Promotion	
37	Saeed Ullah Jan Pri: GHSS Gardai Bajour.	M.Sc B.Ed	25/04/1967	Bajaur Agency	26/09/1992	21/04/2014	19	By Promotion	
38	Bakhtiar Ahmad Secretary BISE	M.A B.Ed	13/04/1967	Nowshera	26/09/1992	21/04/2014	19	By Promotion	

File