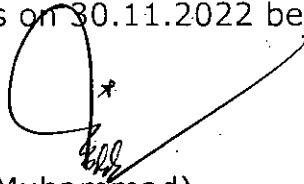


21.09.2022

Mr. Umer Farooq, Advocate, junior of learned counsel for the appellant present. Mr. Muhammad Ayatullah, Litigation Officer alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is indisposed today. Adjourned. To come up for arguments on 30.11.2022 before the D.B.



(Mian Muhammad)  
Member (Executive)



(Salah-Ud-Din)  
Member (Judicial)

30/11/22

Deleted from list to come up  
on 22-2-23



22.02.2023

Bench is incomplete, therefore, case is adjourned to 24.05.2023 for the same as before.




Reader

09.11.2021

Mr. Muhammad Maaz Madni, junior of learned counsel for the appellant present. Mr. Muhammad Raza Shah, SDEO on behalf of respondents No. 1, 4 & 5 and Mr. Naseeb Khan, Section Officer on behalf of respondent No. 3 alongwith Mr. Javed Ullah, Assistant Advocate General for the respondents present.

Comments on behalf of respondents No. 1, 4 & 5 have already been submitted. Representative of respondent No. 3 stated at the bar that respondent No. 3 relies on the comments already submitted by respondents No. 1, 4 & 5. Learned Assistant Advocate General also stated at the bar that respondent No. 2 relies on the comments submitted by respondents No. 1, 4 & 5.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is unable to appear before the Tribunal today due to illness. Adjourned. To come up for rejoinder, if any, as well as arguments before the D.B on 03.02.2022.



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



(Salah-Ud-Din)  
Member (J)

03.02.2022

The Tribunal is non-functional, therefore, the case is adjourned to 13.05.2022 before D.B for the same.

13-5-22

Proper DB not available the case is adjourned on 26-7-22

26-7-22

Proper DB not available to come up for the same on 21.9.22



Reader

of the Reader


05.08.2021

Counsel for the appellant present.

Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

An application for correction of address of respondent No.5 has been submitted and was placed on file, the description of the requisite correction is given in Para 2 of the application. Office is directed to make necessary correction in address of respondent No.5 accordingly.

The comments have not been submitted and on information conveyed to the learned A.A.G, he stated that the comments are in the process of preparation. Let the respondents submitted their comments within 10 days positively in office. Counsel for the appellant shall collect the copy of comments from office after 10 days. To come up for arguments on 20.09.2021 before D.B.

  
(Atiq Ur Rehman Wazir)  
Member (E)


  
Chairman

20.09.2021

Counsel for appellant present.

Muhammad Adeel Butt learned A.A.G alongwith Sajid Superintendent for respondents present.

Reply on behalf of respondents No.1, 4 & 5 submitted. Learned A.A.G made a request for time to furnish reply on behalf of respondents No.2 & 3. Request is accorded with direction to furnish reply of respondents No.2 & 3 in office within 10 days, positively. To come up for arguments on 09.11.2021 before D.B.

  
(Rozina Rehman)  
Member (J)

  
Chairman

14.06.2021

Appellant in person, Mr. Muhammad Adeel Butt, Addl. AG alongwith Sajid, Superintendent for the respondents No. 1 to 4 present. The above named representative has also accepted attendance on behalf of respondent No. 5.

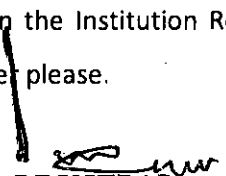

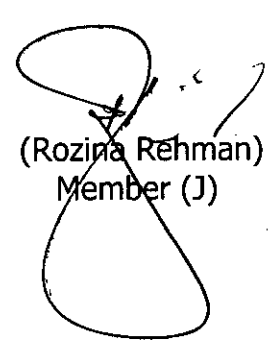
Respondents have not furnished reply. Representative of the respondents stated at the bar that the matter pertains to District Dir Lower and not District Mardan. Appellant seeks time to apply for correction of address of respondent No. 5. Appellant is required to do the needful within 7 days. Thereafter, notices be issued to respondent No. 5 with correct address. Respondents are required to submit written reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 05.08.2021 before the D.B.

  
Chairman

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 922 /2021 2

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/01/2021	<p>The appeal of Mr. Rehmat Ali resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	12.03.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/03/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Appellant present through counsel. Preliminary arguments heard. File perused.</p> <p>Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on <u>14/6/2021</u> before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>


Appellant Deposited  
Security & Process Fee

The appeal of Mr. Rehmat Wali PSHT GPS Kandaro Bala Dir Lower received today i.e. on 01/01/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Page nos. 13 to 25 are illegible which may be replaced by legible/better one.

No. 10 /S.T,

Dt. 05/01 /2021

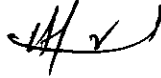
  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Noor Muhammad Khattak Adv. Pesh.

Note

Sir,

objection has been removed and  
replaced with better copies - Dated - 14-1-2021.



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

APPEAL NO. 922 /2020

RAHMAT WALI

VS

EDUCATION DEPTT:

**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	.....	1- 3.
2	Appointment order	A	4- 6.
3	Education Testimonials	B	7- 12
4	Notification dated 24.07.2014	C	13- 18
5	Judgments	D & E	19- 25
6	Departmental appeal	F	26
7	Notification	G	27
8	Vakalat nama	.....	28,

**APPELLANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

**APPEAL NO. \_\_\_\_\_/2021**

Mr. Rehmat Wali, PSHT (BPS-15),  
GPS Kandaro Bala, Tehsil Balambat, Dir Lower.

..... **APPELLANT**

**VERSUS**

- 1- The Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
- 2- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
- 5- The District Education Officer, (male) District Mardan.

..... **RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE INACTION OF THE RESPONDENTS BY NOT  
CONSIDERING THE APPELLANT FOR PROMOTION TO  
THE POST OF S.S.T (BPS-16) ON THE BASIS HAVING  
BACHELOR DEGREE IN 3<sup>RD</sup> DIVISION AND AGAINST  
THE SERVICE RULES NOTIFIED ON 24.7.2014 WHEREBY  
THE CONDITION OF BACHELOR 2<sup>ND</sup> DIVISION HAS  
BEEN INSERTED IN SERIAL NO.1B, COLUMN NO.3(i) OF  
THE TABLE AND AGAINST NOT TAKING ACTION ON  
DEPARTMENTAL APPEAL OF APPELLANT WITHIN  
STATUTORY PERIOD OF NINETY DAYS**

**PRAYER:**

That on acceptance of this appeal the impugned service Rules dated 24.7.2014 may kindly be modified to the extent that the condition of Second Division/Class be expunged from Column No.3 (i), serial No.1B of the table and the respondents may kindly be directed to consider the appellant for promotion to the post of Secondary School Teacher (BPS-16) from the date when his Colleagues and junior colleagues were promoted with all consequential back benefits including seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

**R/SHEWETH:**  
**ON FACTS:**



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

- 1- That appellant was initially appointed as PTC now PST (BPS-12) and right from appointment till date the appellant is serving the respondents department quite efficiently and of to the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure.....**A.**
- 2- That appellant is higher qualified having master in Arts in second division. Copy of academics documents are attached as annexure.....**B.**
- 3- That it is pertinent to mention here that the respondents issued the impugned notification dated 24/07/2014 whereby the post of secondary school teacher was restructured and 20% promotion quota to the aforementioned post was reserved for primary school teachers. That according to the said notification required qualification for initial recruitment as well as promotion was mentioned as second class bachelor degree. Copy of impugned notification dated 24/07/2014 is attached as annexure.....**C.**
- 4- That it is pertinent to mention here that the respondents denied promotion to some colleagues of the appellant to the post of SST due to having third class bachelor degree. That feeling aggrieved some colleagues of the appellant filed writ petitions which were allowed in favor of petitioners vide judgments dated 05/04/2016 and 28/01/2016 and consequently they were promoted to the post of SST. Copies of the judgments dated 28/1/2016 and 05/04/2016 are attached as annexure.....**D&E.**
- 5- That it is worth mentioning that appellant was also denied from promotion due to having third class bachelor degree despite the fact that appellant is having second division in higher qualification i.e. Master.
- 6- That appellant being a similar placed employee approached the respondents to extend him the benefits of above mentioned judgments, but still in vain. Copy of the Departmental appeal is attached as annexure.....**F.**
- 7- That it is also pertinent to mention that establishment department issued a notification dated 15/12/2011 whereby amendment has been made in PMS rules 2007 by providing that a candidate who has obtain 3<sup>rd</sup> division in bachelor degree will be eligible for the examination in cases where he/she has obtained a higher division in Master's degree. Copy of notification is attached as annexure .....**G.**

- 8- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on the following grounds amongst the others.

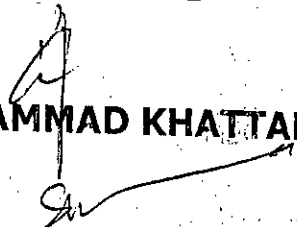
**GROUND:**

- A- That the impugned notification dated 24/07/2014 to the extent of second class bachelor degree for promotion is against the law facts and judgment of Peshawar high court, hence not tenable and liable to be modified and the words second class be expunged only for promotion purpose.
- B- That the petitioner 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 appellant is entitled to be promoted to the post of SST from due date in light of judgments of Peshawar high court by attracting principle of consistency as mentioned in 2009 SCMR 1.
- D- That appellant has second division in higher qualification i.e master and entitle to be promoted from due date in light of notification dated 15/12/2011.
- E- That the appellant has been discriminated on the subject noted above and as such the respondents violated the principle of natural justice.
- F- 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.

**APPELLANT**

  
**RAHMAT WALI**

**THROUGH:**  
**NOOR MOHAMMAD KHATTAK**  
&  
  
**SHAHZULLAH YOUSAFZAI**  
**ADVOCATES**

OFFICE ORDER:-

A-4

The following appointment of trained P.T.C. candidates (Trained from G.C.Thana) are hereby ordered ~~ixzkm~~ with effect from 1/3/93 as P.T.C. teachers in BPS, NO. 7 in the schools as noted against their names subject to the following conditions.

Sl. No.	Name of Candidate/ Father's Name.	Village.	School Where app- ointed.	Remarks.
1.	Mr, Momin Khan, S/O Mohd Roz,	Darikand.	GPS, Shatez Erl.	N.O. Post
2.	Mr, Bakht Jamal, S/O Fazal Wahid,	Manial.	:. Manial.	-dO-
3.	Mr, Abdul Malik, S/O Toti Gul.	Katpatai.	:. -dO-	-dO-
4.	Mr, Jamalud Din, S/O Ahya Gul,	Warsakai.	:. Warsakai (GH)	-dO-
5.	Mr, Wazir Zada, S/O Alam Khan,	Nasrat Barawal.	:. Shatez (B)	-dO-
6.	Mr, Mohd Azam, S/O Mohd Aslam,	Bagh Maidan.	:. Warsakai (GH)	-dO-
7.	Mr, Noor Rehman, S/O Sher Gul.	Gumbatbanda.	:. Tikarkot.	-dO-
8.	Mr, Ikramul Haq, S/O Mohd Shah,	Safarai. T. gara.	:. Shah Bandai	-dO-
9.	Mr, Hiftahud Din, S/O Fazal Maboed,	Kandaro.	:. -dO-	-dO-
10.	Mr, Abdul Ahad, S/O Wali Mohd,	Pitaw Badarkanai.	:. Dalator Kalkta.	-dO-
11.	Mr, Zahir Ahmad, S/O Gul Mohd,	Katan (B)	:. -dO-	-dO-
12.	Mr, Mohd Zaman S/O Toti Rahman,	Barkand.	:. Dambarkon	V. Post -dO-
13.	Mr, Said Rashid, S/O Abdur Rashid,	Rehankot. Bala.	:. -dO-	-dO-
14.	Mr, Barkat Jan, S/O Gulab Jan.	Kotkai.	:. Bedar Larjam,	-dO-
15.	Mr, Noor Mohd, S/O Mohd Seraj.	Dankar, Dir.	:. -dO-	-dO-
16.	Mr, Bakhtiyar Zamin, S/O Mohd Amin,	Sadiq Banda.	:. Kamalkhel.	-dO-
17.	Mr, Mohd Nagin Khan, S/O Pacha Mohd,	Jelar.	:. -dO-	-dO-
18.	Mr, Gul Zarin Khan, S/O Zamin Khan,	Jabbar.	:. Bandagai Karo.	-dO-
19.	Mr, Niaz Mohd, S/O Sardar Ali Khan,	Jabbar.	:. -dO-	-dO-
20.	Mr, Habibur Rahim, S/O Fazal Rahim,	Sadiqa Banda.	:. Kandaro Nihag.	V. Post.
21.	Mr, Amirbaz Khan, S/O Shahnazar Khan,	Dasker (P)	:. Karpat.	-dO-
22.	Mr, Mirzaman Khan, S/O Gul Zarin,	Kakad,	:. Dabona.	-dO-
23.	Mr, Shah Zaman, S/O Gul Haroon,	Lalo, Wari.	:. Talaw,	-dO-
24.	Mr, Mohd Azizud Din, S/O Shahbud Din,	Tarpatar.	:. Batlai.	-dO-
25.	Mr, Hidayatullah, S/O Ahmad,	Wari.	:. Bandan,	-dO-
26.	Mr, Attaullah Khan, S/O Sher Bahadar Khan,	Kakad.	:. Sundrai.	-dO-
27.	Mr, Mohd Tahir Khan, S/O Mohd Shirreen,	Jabbar.	:. Singaram, Dir.	-dO-

(See Page NO.2)

ATTESTED



5

- 28. Mr, Gul Mohd, Khan, S/O Sher Mohd. Khan, Kotkai, S.B. GPS, Prata. V. Post.
- 29. Mr, aridullah Khan, S/O Mohd Akbar Khan, Gulbala, Md: :Kachal. -dO-
- 30. Fazal Hamid, S/O Ali Noor, Takoro. :Kharkoi. -dO-
- 31. Mohd Sultan, S/O Mohd Rahman,, Sabarshah. :Dhall. -dO-
- 32. Haji Mohd, S/O Bahadar Munir, Titar. :Shahai. -dO-
- 33. Mr, Mahmood Jan, S/O Shireen Jan, Islamdheri. :Kambat, NO.2 N.C. Post.
- 34. Mr, Badshah Mohd, S/O Shahbaz Khan, Nawaikoto. : -dO- -dO-
- 35. Mr, Yaqob Khan, S/O Abdullah Khan, Shena. :Nawaikalai, V. Post.
- 36. Mr, Hazrat Hussain, S/O Khan Said, Battan, Ktyarai. Kamal Khan, N.C. Post.
- 37. Mr, Munawar Shah, S/O Abdur Rashid,, Seh sada, : -dO- -dO-
- 38. Mr, Azizul Haq, S/O Fakhrud Din, Chatpat. :Badwan, -dO-
- 39. Mr, Abdul Ghafoor, S/O Fazal Raziq,, Adamdheri. : -dO- -dO-
- 40. Mr, Ghulam Badshah, S/O Ramdad Khan,, Tindodog. :Khadagzo Sri. -dO-
- 41. Mr, Abdul Ghaffar, S/O Fazal Akbar,, Jawaro Asbanr. : -dO- -dO-
- 42. Mr, Azam Khan, S/O Khan Wali,, Peshai. :Zulekha Barawl. -dO-
- 43. Mr, Serajul Haq, S/O Mohd Shah,, Safarai, : -dO- -dO-
- 44. Mr, Hidayat Gul, S/O Khan Gul,, Dogai. :MPS, Gatkoto Brawal. Vacant Post.
- 45. Mr, Rahmat Wali, S/O Said Wali,, Kandaro (P) :Ailgal. -dO- -dO-
- 46. Mr, Yusuf Khan, S/O Mohd Saeed, Khan,, Chinaron Shah. GPS, Jabba (P) -dO- -dO-
- 47. Mr, Bahadar Shah, S/O Sultan Zarin,, Gulbatkai. :GPS, Jabba Bala. -dO-
- 48. Mr, Riaz Ahmad, S/O Ghulam Nabi,, Pukhtawargai. GPS, Darora Nawroz Khan N.C. Post.
- 49. Mr, Mohd Rashid, S/O Khuaidad Khan,, Tangai Banda. :Mohin Banda, Dir. -dO-
- 50. Mr, Khan Zarin, S/O Mohd Azim Khan,, Siardarra. : -dO- -dO- -dO-
- 51. Mr, Saeedur Rehman, S/O Abdul Hamid,, -dO- :Doon Bala, Dir. Vacant post.
- 52. Mr, Bahadar Mohd, S/O Noor Mohd,, Dheri Talash. :Dankar, Dir -dO-
- 53. Mr, Ahmad Feroz, S/O Feroz,, Banda -dO- :MPS, Didkan, Dir. -dO-
- 54. Mr, Israrul Haq, S/O Amanul Haq,, Shalkandai. :GPS, Chilal. Dir. -dO-
- 55. Mr, Usman Saeed, S/O Gran Saeed,, Dogai. :MPS, Doobjango. Dir. -dO-
- 56. Mr, Anwar Nawaz Khan, S/O Wazir Khan,, Khowar. Sian. :GPS, Doon Serai. -dO-
- 57. Mr, Umar Wahab, S/O Zaman Khan,, Jabbar, :Haji Shai, Dir. -dO-
- 58. Mr, Mohd Ikram, S/O Mohd Inam,, Mansoorbanda. :Thall Kalan, Dir. -dO-

ATTESTED



6

- 59. Mr, Ghulam Rahman, S/O Mohd Umar, Shekowlai. GPS, Komrat. Dir. V. Post.
- 60. Mr, Mohd Khurshaid, S/O Sakhai Jan, Gosam. :. Chichlo, Dir. -dO-
- 61. Mr, Sher Ali Khan, S/O Kachkool Khan, Nakhtarokota. MPS, Loie Nail, Dir. -dO-
- 62. Mr, Ashfaq Ahmad, S/O Tajbar Khan, Dislawar. :. Chakarbatola. Dir. -dO-
- 63. Mr, Adshah Zamin, S/O Mian Gul Zarin, Asharai, Wari. :. Shergah, Dir. -dO-
- 64. Mr, Niaz Ali, S/O Fazal Alim, Saraibala. GPS, Narkon, Dir. -dO-
- 65. Mr, Rahatullah, S/O Mazullah Khan, Usherai. :. Sia Ghanshal, Dir. -dO-
- 66. Mr, Khawaja Nizam Haq, S/O Rafiul Haq, Kassbanda. :. Sia Ghanshal. -dO-
- 67. Mr, Bawar Jan, S/O Said Alam Jan, Thrai. MPS, Hajiabad Donserai. -dO-
- 68. Mr, Habibur Rehman, S/O Gul Mula, Shang, Wari. :. Waigal. Dir. -dO-
- 69. Mr, Mohd Afaaa, S/O Mahmood, Dag Gosam, :. Gargal. -dO-
- 70. Mr, Ihsanul Haq, S/O Mirajul Haq, Ranai. :. Kass Karo, Wari. -dO-

CONDITIONS:-

1. Charge report should be submitted to all concerned.
2. They are directed to produce Health & Age certificates from the Civil Surgeon, Dir at Timergara.
3. Their appointment being temporarily are liable to termination at any time with out notice. In case they want to leave this Deptt: they will have to give one months notice in advance or deposit one months pay.
4. Before handing over charge their original documents should be checked.
5. They may not be handed over the charge if their age exceeds 28 years or below 18 years.

(KARIMULLAH KHAN)  
 DISTT: EDUCATION OFFICER (M)  
 PRY: DIR AT TIMERGARA.

OFFICE OF THE DISTT: EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA.  
 Endst: NO. 534-610 / PED/A-I Dated Timergara the 28/2/93

1. All the SDEOs (M) in Distt: Dir for information.
2. All the Candidates concerned for compliance.
3. The Distt: Accounts Officer Dir at Timergara

M. Anwar/

*[Signature]*  
 DISTT: EDUCATION OFFICER (M)  
 PRY: DIR AT TIMERGARA.

*[Handwritten marks]*  
 STT  
 Supdt - 3

ATTESTED

*[Handwritten signature]*



# University of Peshawar

(Pakistan)

Session ANNUAL 1991

7  
B

RAHMAT WALI

SON

of

SAID WALI

and a student

of GOVT. DEGREE COLLEGE TIMARGARA

having passed the prescribed examination

held in JULY

19 91

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

## Bachelor of Science

in the

THIRD

Division

The Examination was taken as ~~a whole~~ / in parts -

Serial No. 010487

Registration No. 88-TD-989

Roll No. 42575

Result declared on MARCH 3, 1992



*Fazli Hamid*  
Registrar

Countersigned  
*[Signature]*  
Vice-Chancellor

RECEIVED



# University of Peshawar (Pakistan)

Session ANNUAL 2001



RAHMAT WALI SON OF SAID WALI and a student  
of DISTRICT DIR having passed the prescribed Examination  
held in JULY 2001 is this day admitted by the University of Peshawar to the Degree of

## Bachelor of Education

In the SECOND Division in Theory  
In the FIRST Division in Teaching Practice  
In the SECOND Division in Aggregate

Passed also in FOUNDATIONS OF EDUCATION as an ELECTIVE Subject  
The Examination was taken as a whole ~~in~~ in parts

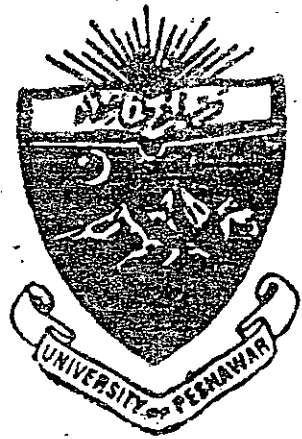
RECEIVED

Serial No. 014126

Registration No. 88-TD-989

Roll No. 2321

Result declared on DECEMBER 28, 2001



*M. Iqbal Khan*  
Registrar

Countersigned

*Z. Iqbal Khan*  
Vice-Chancellor



# UNIVERSITY OF MALAKAND PAKISTAN

Serial No. MA/PR/1198

9

*This Degree of  
Master of Arts  
In*

ARABIC

*Is Awarded to*

*Mr/Ms* RAHMAT WALI *Son/Daughter of* SAID WALI

*Student/Private candidate of* DISTRICT DUE LOWER

*Having passed the prescribed examination held in* AUGUST-SEPTEMBER, 2008

*Session* 2006-2008 *Registration No* 2006730870 *Roll No* 13795

*Division* FIRST

*Examination was taken as a whole/in parts*

*Issuance Date* MARCH 10, 2010

RESULT DECLARED ON: FEBRUARY 23, 2009

Countersigned

*Controller of Examinations*

*Registrar*

*Vice Chancellor*

REGISTERED



(10)

# Allama Iqbal Open University Islamabad



Serial No. 18247

Certified that Mr. / Ms. RAHMAT WALI

Son / Daughter of SAID WALI

Registration No: 96-NDR-0464

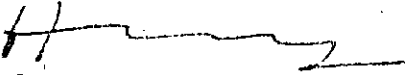
Roll No: Q-673329

having completed the prescribed requirements in semester  
SPRING-2006 is awarded the degree of:

*Master of Education (M.Ed.)*

He/She has secured 57 % marks and has been placed in C grade.


ATTESTED

  
CONTROLLER OF EXAMINATIONS

Result declared on: March 08, 2007

ISLAMABAD. DATED: July 06, 2009



  
Vice-Chancellor



S. No. 476792

Roll No. 8182



12

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Peshawar N.W.F.P. Pakistan
Secondary School Certificate Examination
SESSION 1985 (ANNUAL)

THIS IS TO CERTIFY THAT Rahmat Wali
Son/Daughter of Said Wali
and a student of Govt: High School Timergara, Dir

has passed the Secondary School Certificate Examination
of the Board of Intermediate and Secondary Education, Peshawar held in April 1985
as a Regular candidate. He/She obtained 565 Marks out of 850
and has been placed in Grade B Representing Very Good

The Candidate passed in the following subjects:

- 1. English 2. Urdu 3. Islamiyat 4. Physics 5. Pak: Studies 6. Chemistry 7. Mathematics 8. Biology

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

Date of birth according to admission form is Twelfth April,
one thousand nine hundred and Sixty Eight (12-4-1968)

Signature of Asstt. Secretary

Asstt. Secretary

8 August, 1985

Signature of Secretary

Secretary

This certificate is issued without alteration or erasure.

ATTESTED
Signature

**GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY  
EDUCATION DEPARTMENT**

Peshawar dated the 24<sup>th</sup> July, 2014.

**NOTIFICATION**

No.SO(PE) 4-5/SSRC/meeting/2013/Teaching Cadre:- In pursuance of the provision contained in sub rule (2) rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No.SO(G)S&LD/1-28/2003/Voli-II date 09.04.2004, Notification No.SO(G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and Notification No.SO(PE)4-5/SSRC/meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

**AMENDMENTS**

In the Appendix,-

- (i) Serial No.1 shall be renumbered as 1B and before serial No.1B, as so renumbered new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1	Subject specialist (BPS-17)	i. At least second class Master Degree or four Years BS Degree in the Relevant subject: and ii. Bachelor of education or Master of education (Industrial Art or Business education) or MA education or equivalent qualification from a recognized university	23 to 35 years	a) fifty per cent by promotion, on the basis of seniority-cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16), with at least five years' service as such and having qualification mentioned in column No.3.  Note: if no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial recruitment: and  b) fifty percent by initial recruitment.
1A	Director physical education (BPS-17)	At least second class master Degree in physical Education from a recognized university	22-35 years	a) Fifty percent by promotion on the basis of seniority cum fitness from amongst senior Physical Education Teachers BPS-16 with at least five year's service as senior physical education teacher and physical education teacher and having qualification mentioned in column No.3: Provided that if no suitable person is available from amongst senior physical education teachers for promotion then the post

				<p>shall be filled by promotion, on the basis of seniority cum fitness from amongst the physical education teachers with at least five years service as such and having qualification mentioned in column No.3;</p> <p>Note:- If no suitable candidate is available in the relevant cadres of the above teachers the post falling in their promotion quota shall be filled by initial recruitment; and</p> <p>b) fifty percent by initial by initial recruitment"; and</p>
--	--	--	--	--

ii) against serial No.1B, as so renumbered for the existing entries the following shall be substituted in respective column, namely:

1	2	3	4	5
1B	Secondary School Teachers (BPS-16)	<p>1. At least second class bachelor degree's from a recognized university on need basis from the following groups with two subject</p> <p>a) (Chemistry, Botany or zoology), Or</p> <p>b) Physics, Maths 'A or B' or statistics Or</p> <p>c) Humanities and other equivalent groups at degree level with English as compulsory subject; And</p> <p>11. Bachelor of Education or Master of education (Industrial Art or business Education) or MA education or equivalent qualifications from a recognized university.</p>	21 to 35 years	<p>1. seventy five percent by promotion on the basis of seniority cum fitness from the district concerned in the following manner:</p> <p>2. forty percent amongst the senior certified teachers BPS-16 with at least five years service as senior certified teacher and certified teacher and having qualification mentioned in column No.3:</p> <p>provided that if no suitable candidate is available from amongst senior certified teachers for promotion then the post shall be filled by promotion on the basis of seniority cum fitness from amongst certified teachers with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>b) four percent from amongst the senior drawing master BPS-16 with at least five years service as</p>

senior drawing masters and drawing masters and having qualification mentioned in column No.3 ;  
provided that if no suitable candidate is available from amongst senior drawing master for promotion then the post shall be filled by promotion on the basis of seniority cum fitness from amongst drawing master with at least five years service as such and having qualification mentioned in column No.3;

- c) four percent from amongst the senior Arabic teachers BPS-16 with at least five years service as senior Arabic teachers and Arabic teachers and having qualification mentioned column No.3;  
provided that if no suitable candidate is available from amongst senior Arabic teachers for promotion then the post shall be filled by promotion on the basis seniority cum fitness from Arabic teachers with at least five years service as such and having qualification mentioned in column No.3;

- d) four percent from amongst the senior theology teachers BPS-16 with at least five years service as senior theology teachers and theology teachers and having qualification mentioned in column No.3;  
provided that if no suitable candidate is available from

				<p>amongst senior theology teachers for promotion then the post shall be filled by promotion on the basis of seniority cum fitness from amongst the Theology Teachers with at least five years service as such and having qualification mentioned in column No.3:</p> <p>e) three percent from amongst the Senior Qari BPS-16 with at least five years service a senior Qari and having qualification mentioned in column No.3: provided that if no suitable candidate is available from amongst the senior Qari then the post shall be filled by promotion on the basis of seniority cum fitness from Qaris with at least five years service as such and having qualification mentioned in column No.3;</p> <p>f) twenty percent from amongst the primary school head teachers BPS-16 with at least seven years service as primary school Head Teachers and senior primary school teachers and primary school teachers and having qualification mentioned in column No.3; provided that if no suitable candidate is available from amongst</p>
--	--	--	--	---



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 24<sup>th</sup> July, 2014.

**NOTIFICATION**

**No.SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre:** In pursuance of the provisions contained in sub rule (a) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No.SO(GDS&LD)198/2003/Vol-II dated, 09.04.2004, Notification No.SO(GDS&LD)160/06 Vol I/DPE/IB dated, 13.11.2007 and Notification No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

**AMENDMENTS**

In the Appendix,-

(b) Serial No. 1 shall be renumbered as IB and before Serial No. IB, as so mentioned in the table below, new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1. Subject Specialist (BPS 17)	At least second class Master's Degree in any of the relevant subjects and	Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A. Education or equivalent qualification from a recognized University.	19/03/2013	1. To be filled up only by promotion, on the basis of seniority cum merit, for the relevant subject to be amongst the Secondary School Teachers (BPS 16) with at least five years service as such and having qualification mentioned in column No. 3.

**Note:** If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by outside

13





(ii)

against Serial No. 1B, as so renumbered, for the existing entries, the following shall be substituted, in respective columns, namely:

1	2	3	4	5
1B.	Secondary School Teacher (BPS-16)	<p>I. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology), Or (b) (Physics, Maths "A" or "B" or Statistics) Or (c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p>and</p> <p>II. Bachelor of Education or Master of Education (Industrial Art. or Business Education) or M.A Education or equivalent qualifications from a recognized University.</p>	21 to 35 years.	<p>1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner:</p> <p>(a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher, and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters(BPS-16), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3:</p>

16

Provided that if no suitable candidate is available from amongst Senior Drawing Masters for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3;

- (c) four per cent from amongst the Senior Arabic Teachers(BPS-16), with at least five years service as Senior Arabic Teachers and Arabic Teachers, and having qualification mentioned in column No.3:

Provided that if no suitable candidate is available from amongst Senior Arabic Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Arabic Teachers with at least five years service as such and having qualification mentioned in column No. 3;

- (d) four per cent from amongst the Senior Theology Teachers(BPS-16), with at least five years service as Senior Theology Teachers and Theology Teachers and having qualification mentioned in column No.3:

(17)

Provided that if no suitable candidate is available from amongst Senior Theology Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers with at least five years service as such and having qualification mentioned in column No. 3.

- (e) three per cent from amongst the Senior Qaris (BPS-16), with at least five years service as Senior Qari and Qari and having qualification mentioned in column No. 3.

Provided that if no suitable candidate is available from amongst the Senior Qaris then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Qaris with at least five years service as such and having qualification mentioned in column No. 3.

- (f) twenty per cent from amongst the Primary School Head Teachers (BPS 16), with at least seven years service as Primary School Head Teachers and Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3.

Provided that if no suitable candidate is available from amongst

18

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Endst : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar
4. The Secretary, Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer, (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
22. Master file

(ZAMIN KHAN MOMAND)  
SECTION OFFICER (PRIMARY)

**PESHAWAR HIGH COURT BANNU BENCH  
FORM OF ORDER SHEET**

Date of order or other proceedings	Order or other proceedings with signature of Judge (S)
(1)	(2)
<p><b>28.01.2016</b></p>	<p><b>WP No.73-B-2014</b>  Present Mr. Ali Jan Khan Advocate for petitioner:  <b>MUHAMMAD GHAZANFAR KHAN</b> :-</p> <ol style="list-style-type: none"> <li>1. the petitioner namely Mumtaz Khan son of the Gull Jan, through the instant Constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, seeks issuance of directions to the respondents/department to consider him for promotion in the post of SST in BPS-16 in view of the department promotion committee meeting held on 18.01.2014.</li> <li>2. we have heard learned counsel for the petitioner and gone through the available record of the case.</li> <li>3. Perusal of the record transpires that the petitioner has passed B.A in third division while as per notification bearing No. dated 18.1.2011 the minimum qualification for the post of SST BPS-16 are Bachelor's degree or MA in education bachelor degree in education. The record further shows that the petitioner has also passed M.ed during the year 2000 in second division and M.A History and Pak study during the session 2003 in second division.</li> <li>4. In wake of the above, we direct the respondents to consider the petitioner for promotion to the post of SST BPS-16 in the next departmental promotion Committee meeting on the basis of his degree in MA History and Pak Study coupled with M.ed qualifications. The writ petition is disposed of in the above terms.</li> </ol> <p align="right"><b>Sd/- ikramullah Khan</b></p> <p><b>ANNOUNCED</b>  <b>28.01.2016.</b></p> <p align="right"><b>Sd/-Muhammad Ghazanfar Khan, J</b></p>

FORM OF ORDER SHEET

D-19

Date of order or other proceedings	Order or other proceedings with signature of Judge(s)
(1)	(2)
28/01/2016	<p>WP No.73-B-2014.                      Present: Mr. Ali Jan Khan advocate for petitioner.</p> <p><u>MUHAMMAD KHAZANUAR KHAN</u> is the petitioner, namely, <u>Munir Zia</u> son of <u>Gul Jan</u>, through the instant Constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, seeks issuance of directions to the respondents/department to consider him for promotion to the post of SST in BPS-16 in view of the Departmental Promotion Committee meeting held on 18-01-2014.</p> <p>2. We have heard learned counsel for the petitioner and gone through the available record of the case.</p> <p>3. Perusal of record transpires that the petitioner has passed BA in third division while as per notification bearing No. SO (1) 50/SR/07/2011 dated 18/1/2011, the minimum qualifications for the post of SST (BPS-16) are second class Bachelor's degree, or MA in Education or Bachelor's degree in Education. His</p>

*[Handwritten signature]*

REGISTERED  
 JUDGE  
 Reserve High Court  
 Islamabad Bench

*[Handwritten signature]*

23

20

record further shows that the petitioner has also passed M.Ed during the year 2000 in second division and M.A. History and Pak Study during the session 2003 in second division.

4. In wake of the above, we direct the respondents to consider the petitioner for promotion to the post of SST (BPS-16) in the next Departmental Promotion Committee meeting on the basis of his degree in M.A. History and Pak Study coupled with M.Ed qualifications. The writ petition is disposed of in the above terms.

Sd/- Iftakhar Khan, J

ANNOUNCED  
28/01/2016.

Sd/- Muhammad Ghazafar Khan, J

Handwritten signature and date: 15/2/16

CERTIFIED TO BE TRUE COPY

Handwritten signature and date: 15/2/16

Examiners  
Peshawar High Court Bench  
Authorized Under Article 87 of  
The Constitution of Pakistan Order 1984

Handwritten signature



BETTER COPY- E

**Judgment Sheet**  
**IN THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH JUDICIAL DEPARTMENT**  
Writ Petition No.1041-A/2015

**JUDGMENT**

1. **IKRAMULLAH KHAN, J:-** Through the instant writ petition under article 199 of the Islamic republic of Pakistan, 1973 the petitioner seeks declaration to the effect that the act of respondent NO, 3 where by the promotion notification dated 28.10.2014 was withdrawn vide impugned notification 24.04.2014 on the ground of having qualification of B.Sc (3<sup>rd</sup> division) is illegal and without lawful authority and against the judgment of this court passed in W.P.No.58-B of 2014.
2. In essence, the petitioner was initially appointed as certified teacher and, as per entitlement, later on promoted to the post of senior certified teacher (BPS-16) Vide notification dated 28.10.2014. where after the petitioner assumed the charge of the said post on 30.10.2014 and after performing his duties to the satisfaction of his competent authority, on 24.04.2015 respondent No,3 has passed the impugned notification and, as such, the promotion order of the petitioner was withdrawn on the ground having B.SC in third division.
3. Comments were called from respondent No.3 who filed the same, averring therein that though petitioner was promoted to the post of SST vide notification dated 28.10.2014 by respondent No.2 scrutinizing his qualification documents, it was found that petitioner was not eligible for promotion to the post of SST being B.SC third divisioner hence, his promotion order was de-notified by the director elementary and secondary education : Khyber Pakhtunkhwa Peshawar and on the direction of director the promotion order of the petitioner was withdrawn vide impugned notification dated 24.04.2015.
4. It is further been averred in the comments that promotion order of the petitioner was withdrawn on the ground of B.sc third division and it was done in light of policy circulated vide Notification No.SO(PE)4-5/SSRC/meeting/2013/teaching cadre dated 24.07.2014 according to which the method of recruitment of SST was specified with a first condition of at least second class BA/Bsc from a recognized university on need basis with two relevant subjects along with second condition of MA education or B.ed from the recognized university further averred that it is the prerogative of the government to enhance, modify or alter the promotion criteria/ policy for the civil servants and a civil servant is not supposed to be treated with a set of rules of his own choice.
5. In response to para-6 of the petition, respondent No.3 averred in the comments that the judgment of this court was announced on 04.06.2015 where as the withdrawal order of the petitioner was passed on 24.04.2015, prior to the announcement of the judgment.
6. The main contention of learned counsel for the petitioner is that this court has already declared the condition of having third division as null and void in its judgment dated 04.06.2015 and the case of the petitioner is on better footing for reason that in referred judgment the petitioner had not been appointed but so far as the case of the petitioner is concerned, he was duly promoted rather received its benefits from 28.10.2014 to 24.04.2015 and thus the impugned order is illegal, without lawful authority and jurisdiction.

7. Admittedly, the petitioner was duly promoted to the post of question on 28.10.2014, after the departmental promotion committee evaluated his case /PERs.
8. Now the question for determination before this court would be that when the petitioner actually performed his duties on the promoted post and that too for six long months, then how the respondent No.3 could withdraw earlier promotion order only on the pretext having B.Sc third division.
9. It appears from the record that a division Bench of this had already declared the condition of having third division as null and in its judgment dated 04.06.2015 which fact has also been affirmed by the respondent No.3 in his comments by stating that they were not aware of that judgment at the time of withdrawal of the impugned promotion of the petitioner and when the case of the present petitioner is it par with that of the petitioner there in, rather on better footing because the petitioner was not only promoted to the post in question but he performed his duties for six long months and received its benefits, the impugned notification passed by respondent No,3 is required to be set at naught.
9. It is also a well settled principle of law that once a benefit is granted to a civil servant, cannot taken back from him and, if so, very stringent strong reason are required for the same, which are not available in the case in hand, more so, when the promotion order of similarly placed teachers having B.Sc third division have not been so far withdrawn which is clearly violation of article 25 of the constitution of Pakistan.
10. For the reasons mentioned above, this petition is accepted and the impugned notification dated 24.04.2015 issued by respondent No.3 where by the promotion order of the petitioner was withdrawn is declared to be without lawful authority and, as, such the promotion notification dated 28.10.2014 is hereby restored.

**Announced:  
05.04.2016.**

IN THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH  
JUDICIAL DEPARTMENT

Writ Petition No. 1041-A/2015

JUDGMENT

Date of hearing 5.4.16

Petitioner Mohammad Bani Gyan Aided School

Respondents Govt of NWFP

~~2015~~ P C

E - 21

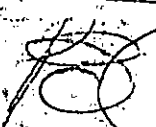
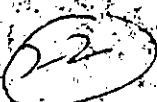
IKRAMULLAH KHAN, J. - Through the instant writ petition under Article 199 of the Islamic Republic of Pakistan, 1973, the petitioner seeks declaration to the effect that the act of respondent No.3 whereby the promotion notification dated 28.10.2014 was withdrawn vide impugned notification dated 24.04.2014 on the ground of having qualification of B.Sc. (3<sup>rd</sup> division) is illegal and without lawful authority and against the

judgment of this court passed in W.P.No. 58-B of 2014.

2. In essence, the petitioner was initially appointed as Certified Teacher and, as per entitlement, later on promoted to the post of Senior Certified Teacher (BPS-16) vide notification dated 28.10.2014 whereafter the petitioner assumed the charge of the said post on 30.10.2014 and after performing his duties to the satisfaction of his competent authority, on 24.04.2015 respondent No.3 has passed the impugned notification and, as

certified to be true copy  
[Signature]



[Signature]

~~SECRET~~        


such, the promotion order of the petitioner was withdrawn on the ground of having B.Sc in third division.

3. Comments were called from respondent No.3, who filed the same, averring therein that though petitioner was promoted to the post of SST vide notification dated 28.10.2014 by respondent No.2 but on scrutinizing his qualification documents, it was found that petitioner was not eligible for promotion to the post of SST being B.Sc. third divisioner, hence, his promotion order was de-notified by the Director Elementary and Secondary Education, Khyber Pakhtunkhwa Peshawar and on the direction of Director the promotion order of the petitioner was withdrawn vide impugned notification dated 24.04.2015.

4. It has further been averred in the comments that promotion order of the petitioner was withdrawn on the ground of B.Sc third division and it was done in light of policy circulated vide Notification No.SO(PE)4-5 / SSRC / meeting / 2013 / teaching cadre dated 24.07.2014 according to which the method of recruitment of SST was specified with a first condition of at least second class BA / B.Sc from a recognized University on need basis with two relevant subjects along with second condition of MA Education, or B.Ed from the recognized University. Further averred that it is the prerogative of the government to enhance, modify or alter the promotion

~~23~~

23

criteria / policy for the civil servants and a civil servant is not supposed to be treated with a set of rules of his own choice.

5. In response to Para-6 of the petition, respondent No.3 averred in the comments that the judgment of this court was announced on 04.06.2015 whereas the withdrawal order of the petitioner was passed on 24.04.2015, prior to the announcement of the judgment.

6. The main contention of learned counsel for the petitioner is that this court has already declared the condition of having third division as null and void in its judgment dated 04.06.2015 and the case of the petitioner is on better footing for the reason that in the referred judgment the petitioner had not been appointed but so far as the case of the petitioner is concerned, he was duly promoted rather received its benefits from 28.10.2014 to 24.04.2015 and thus, the impugned order is illegal, without lawful authority and jurisdiction.

7. Admittedly, the petitioner was duly promoted to the post in question on 28.10.2014 after the departmental promotion committee evaluated his case / PERs.

8. Now the question for determination before this court would be that when the petitioner actually performed his duties on the promoted post and that too for six long months, then how the respondent No.3 could withdraw the earlier promotion order only on the pretext of having P. Sc third division.

5

Certified to be a true copy

EO

In Court

South

4

8. It appears from the record that a Division Bench of this Court had already declared the condition of having third division as null and void in its judgment dated 04.06.2015 which fact has also been affirmed by the respondent No.3 in his comments by stating that they were not aware of that judgment at the time of withdrawal of the impugned promotion of the petitioner and when the case of the present petitioner is at par with that of the petitioner therein, rather on better footing because the petitioner was not only promoted to the post in question but he performed his duties satisfactorily and received his benefits, the impugned notification passed by respondent No.3 is required to be set at naught.

9. It is also a well settled principle of law that once a benefit is granted to a civil servant, cannot be taken back from him and, also, very stringent strong reasons are required for the same, which are not available in the case in hand, moreover, when the promotion order of the similarly placed teachers having B.Sc third division have not been so far withdrawn which is clearly violator of Article 25 of the Constitution of Pakistan.

10. For the reasons mentioned above, this petition is accepted and the impugned notification dated 24.04.2015 issued by respondent No.3 whereby the promotion order of the petitioner was withdrawn is declared to be without lawful

24  
25  
279

Unlawful

permitted to be  
Abdullah Khan  
Secretary  
2015

99

Handwritten signature

230

72

authority and, as such, the promotion notification dated  
28.10.2014 is hereby restored.

25

Announced  
28.10.2014

*Sd/- Justice*  
*Sd/- Justice*

230

*[Faint handwritten notes]*

To,

The Secretary,  
E&SE Department,  
Khyber Pakhtunkhwa, Peshawar

F- (26)

Subject:

DEPARTMENTAL APPEAL AGAINST THE INACTION OF THE RESPONDENTS BY NOT CONSIDERING THE APPELLANT FOR PROMOTION TO THE POST OF SST (BPS-16) ON THE BASIS OF HAVING BACHELOR DEGREE IN 3<sup>RD</sup> DIVISION AND AGAINST THE SERVICE RULES NOTIFIED ON 24.07.2014 WHEREBY THE CONDITION OF BACHELOR 2<sup>ND</sup> DIVISION HAS BEEN INSERTED IN SERIAL NO.1B, COLUMN NO.3(i) OF THE TABLE.

Respected-Sir,

With due respect it is stated that I was initially appointed as Primary School Teacher in the respondent Department and right from the date of my 1<sup>st</sup> appointment I am performing my duties quite efficiently and upto the entire satisfaction of his superiors. During service I was promoted to the post of SPST and subsequently promoted to the post of PSHT. I have the higher qualification of Master in Arts in second Division but the authorities issued the impugned Notification dated 24.07.2014 whereby the post of SST was restricted and 20% promotion quota to the aforementioned post was reserved for Primary School Teachers. That according to the said Notification required qualification for initial recruitment as well as promotion was mentioned as second class bachelor degree. That the concerned authority denied promotion of my some colleagues to the post of SST due to having third class bachelor degree. They were feeling aggrieved filed writ petitions which were allowed in favor of petitioners vide judgment dated 05.04.2016 and 28.01.2016 and consequently they were promoted to the post of SST. That I was also denied from promotion due to having third class bachelor degree despite the fact that I am having second division in higher qualification of Master in education. That being a similar placed employee approached the concerned authority to extend the same benefit of the above mentioned judgments but in vain. That the establishment Department issued a Notification dated 15.12.2011 whereby amendment has been made in PMS rules 2007 by providing that a candidate who has obtain 3<sup>rd</sup> division in bachelor degree will be eligible for the examination in cases where he/she has obtained a higher division in Master's degree. That feeling aggrieved from the inaction of the concerned authority by not considering me for promotion to the post of SST (BPS-16) filed the instant Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Department appeal I may very kindly be considered for promotion to the post of SST (BPS-16) from the date when my colleagues and junior colleagues were promoted with all consequential benefits including seniority. Any other remedy which your good self deems fit that may also be awarded in my favor.

Dated: 10.09.2020

APPLICANT

RAHMAN WALLI, PSHT (BPS-15),  
GPS Kandaro Bala, Dir Lower





GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

223

Dated: Islamabad (K) December, 15 2011

~~Annex~~ (R)

G-27

NOTIFICATION

No. SOE.II (ED) 2011/2011 - In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XXVII of 1973), the Chief Minister of Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Provincial Management Service Rules, 2007, the following further amendment, shall be made, namely:-

AMENDMENT

In Schedule-I, against Sr. No. 1 in Column No. 3 the full stop appearing at the end shall be replaced by colon and thereafter the following proviso shall be added, namely:-

"Provided that candidates who have passed a B.A. Division or D-Grade in Bachelor's Degree will be eligible for the examination in cases where no/less than two higher Division has been passed."

CHIEF SECRETARY  
KHYBER PAKHTUNKHWA

Encls. No. & date given

Copy of the above is forwarded to:-

1. Additional Chief Secretary, Khyber Pakhtunkhwa
2. Secretary to Government, Khyber Pakhtunkhwa
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
4. Senior Member Board of Revenue, Khyber Pakhtunkhwa
5. All Administrative Secretaries, Khyber Pakhtunkhwa
6. Secretary (Administration & Coordination) Civil Secretariat (A/C)
7. Chairman, Khyber Pakhtunkhwa Public Service Commission
8. Accountant General, Khyber Pakhtunkhwa, Peshawar
9. Director, Special Department
10. Secretary Khyber Pakhtunkhwa Trade & Commerce Department
11. PS to Chief Secretary, Khyber Pakhtunkhwa
12. PS to Secretary to Administration
13. PAs to Additional Secretary (2007) / Chief Secretary (2007) to Administration Department.
14. Office Order file

*Signature*

SECTION OFFICER (ED)

*Signature*

ATTESTED

*Signature*

**VAKALATNAMA**

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

\_\_\_\_\_ OF 2021

*Rahmat wali*

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

*Education Deptt.*

(RESPONDENT)  
(DEFENDANT)

I/We *Rahmat wali*

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

Dated. \_\_\_\_/\_\_\_\_/2021

*Rahmat wali*  
\_\_\_\_\_  
CLIENT

**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**

*Mir Zaman Safi*  
**MIR ZAMAN SAFI**

*Afrasiab Khan Wazir*  
**AFRASIAB KHAN WAZIR**

**&**

**HAIDER ALI**  
**ADVOCATES**

OFFICE:

Flat No.4, 2<sup>nd</sup> Floor, Juma Khan  
Plaza, near FATA Secretariat,  
Warsak Road, Peshawar.  
Mobile No.0345-9383141

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

C.M. NO. \_\_\_\_\_/2021

IN

**Service Appeal No. 922/2020**

RAHMAT WALI

V/S

EDUCATION DEPTT:

**INDEX**

<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
1	Memo of application	.....	1
2	Affidavit	.....	2

APPLICANT

Through:

  
**NOOR MUHAMMAD KHATTAK**  
Advocate High Court,

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



*Put up to worthy chairman  
with relevant appeal*

C.M. NO. \_\_\_\_\_/2021

IN

**Service Appeal No. 922/2020**

RAHMAT WALI

V/S

EDUCATION DEPTT:

**APPLICATION FOR CORRECT ADDRESS OF RESPONDENT NO.5**

Respectfully Sheweth:

- Reader*
- Put up on the date fixed.*
1. That, the above title service appeal is pending adjudication before this Honourable Court, which is fixed for hearing on **5-8-2021**
  2. That, it is important to mention here that the correct address of the Respondent No.5 is District Education Officer(Male) Dir Lower which is mistakenly mentioned as District Education Officer(Male) District Mardan.
  3. That, the appeal of the applicant/appellant has been admitted for regular hearing and if the address of the Respondent No. 5 not corrected than proper notice to the said Respondent will not be served.
  4. That, valuable rights of the applicant/appellant are involved in the instant appeal therefore, needs to correct the address of Respondent No. 5 as District Education Officer(Male) District Dir Lower instead of District Education Officer(Male) District Mardan.
  5. That the interest of justice demands that such like application kindly be admitted to meet the ends of justice and also to meet the principles of access to justice.

It is therefore, most humbly prayed that on acceptance of this application the address of Respondent No. 5 as District Education Officer(Male) District Dir Lower instead of District Education Officer(Male) District Mardan may kindly be corrected in the above titled appeal.

APPLICANT/APPELLANT

Through:

*[Signature]*  
**NOOR MUHAMMAD KHATTAK,**  
Advocate High Court,  
Peshawar

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

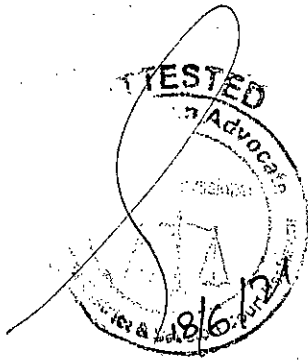
**RAHMAT WALI**

**VS**

**EDUCATION DEPTT:**

**AFFIDAVIT**

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



*[Signature]*  
**DEPONENT**

**CERTIFICATE:**

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

*[Signature]*  
**CERTIFICATION**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 922/2021

RAHMAT WALI

VS

EDUCATION DEPARTMENT:

INDIX

S.NO.	DOCUMENTS	ANEXTURE	PAGE
1	PARA WISE COMMENTS		1-2

RESPONDENTS.

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

**SERVICE APPEAL NO.922/2021.**

**MR. Rahmat wali PSHT.**

.....Appellant

**VERSUS**

1. The Secretary Elementary and secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
2. The secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
3. The secretary Finance Department, Khyber Pakhtunkhwa, Peshawar
4. The Director (Elementary & Secondary Education), Khyber Pakhtunkhwa Peshawar.
5. The District Education Officer (Male) Dir lower at Timergara.

**3(RESPONDENTS)**

**PARA WISE COMMENTS ON BEHALF OF RESPONDENTS, 1,4,5.**

**RESPECTFULLY SHEWETH:**

**PRELIMINARY OBJECTIONS:**

1. The appellant is not an aggrieved person with the meaning of Article 212 of the constitution of the Islamic republic of Pakistan.
2. The appellant has concealed the material fact from this Hon! Able Tribunal, hence liable to be dismissed.
3. The appellant has not approached this Honorable Tribunal with clean hands.
4. The appellant has filed the instant appeal on malafide motives.
5. The instant appeal is against the prevailing laws & rules.
6. That the instant service appeal suffers from laches, hence not maintainable in the form.
7. The appellant has got no locus standi to file the instant appeal.
8. The instant appeal is frivolous, besides being time bard.

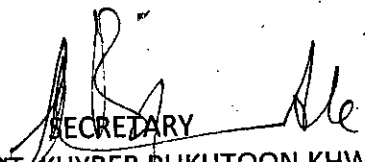
**ON FACT:**

1. This para relates to the appellant, hence needs no comments.
2. Correct up to the extent of Master Degree in 2<sup>nd</sup> division, but Master degree is extra qualification. The original criteria for promotion to the post of SST is BA/BSC 2<sup>nd</sup> division, while the appellant has BA/BSc degree in 3<sup>rd</sup> division.
3. Correct, as per notification the appellant availed the benefit of BPS-14 & 15 according to the impugned notification. He is bound to follow all the postulates in the notification as he availed the other benefits.
4. In addition to para No.3 above, the court order was specific, may be implemented by the department.
5. As above para No.4.
6. Being court matter, hence needs no comments.
7. The matter relates to PMS, not to E&SE department.
8. Needs no comments.

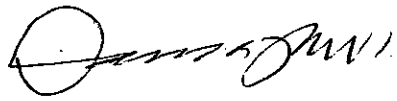
**GROUND:-**

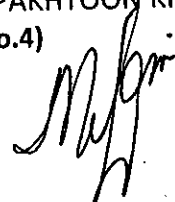
- A. Incorrect. The appellant interpret it for his own interest.
- B. Incorrect. Each and every one is treated as per law.
- C. Incorrect.
- D. The requisite qualification is BA/BSC 2<sup>nd</sup> division for promotion to SST, while Master degree is extra qualification.
- E. Incorrect.
- F. That the respondent department seek leave to raise additional grounds at the time of arguments.

**It is therefore, humbly prayed that on acceptance of the above submission, the instant Service appeal may very graciously be dismissed in favor of the answering respondents with cost.**

  
SECRETARY  
GOVT. KHYBER PAKHTOON KHWA  
ELEMENTARY AND SECONDARY DEPARTMENT  
(Respondent No.1)

SECRETARY  
Elementary and Secondary Education  
Govt. of Khyber Pakhtunkhwa

  
DIRECTOR  
ELEMENTARY & SECONDARY  
EDUCATION KHYBER PAKHTOON KHWA  
(Respondent No.4)

  
DISTRICT EDUCATION OFFICER (M)  
DIR LOWER AT TIMERGARA  
(Respondent No.5)