

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHWA
PESHAWAR

Diary No. 5637
Dated 26/5/2023

APPEAL NO.290/2023

Mr. Ali Akbar SST BPS-16 (Bio/Chm), GHS No.2 Sakhakot, Tehsil Dargai, District Malakand.

.....Appellant

VERSUS

- 1). The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2). The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3). The District Education Officer (M), District ~~Malakand~~.

.....Respondents

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Deponent

Muhammad Naveed

CNI # 15402-4483399-5

Muhammad Naveed

Superintendent

Office of the DEO (M) Malakand.

Mobile No,03469450229

19.06.2023

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHWA
PESHAWAR

APPEAL NO.290/2023

Mr. Ali Akbar SST BPS-16 (Bio/Chm), GHS No.2 Sakhakot, Tehsil Dargai, District
Malakand.

.....Appellant

- 1). The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2). The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3). The District Education Officer (M), District Malakand.

.....Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

PRELIMINARY OBJECTIONS:

- 1 That the appellant has no locus standi.
- 2 That the appellant has no cause of action to file the instant appeal against the respondents.
- 3 That the appellant has concealed the material facts from this Honorable Service Tribunal, hence liable to be dismissed.
- 4 That the appellant has filed the instant appeal on malafide motives.
- 5 That the appellant is estopped by his own conduct to file present appeal.
- 6 That the appeal of the appellant is badly barred by law and limitation.
- 7 That the appeal is bad for misjoinder and non joinder of necessary parties.

RESPECTFULLY SHEWETH

OBJECTIONS ON FACTS

- 1). Pertains to appellant academics, qualification and service record of the appellant.
- 2). Pertains to appellant promotion from CT to SCT post.
- 3). pertains to appellant promotion from SCT to SST (Bio/Chem).
- 4). That the appellant has been annexed M.S agriculture degree equivalent to M.Phil as recognized by HEC but the finance division has been notified m. Phil Allowance is not admissible on any degree other than M. Phil. Although the respondent department is bound to process any case of his employee an accordance with rules and eligibility creteria if fulfilled. (Notification of Finance Division is attached as annexure.....(A)).
- 5). Incorrect, the appellant does not have any documental proof in black & white to prove that he has applied for M.Phil allowance through proper channel vide DEO (M) Malakand like others.
- 6). As stated above that the appellant have no solid proof through which he approached to the respondent department through proper which he approached to the respondent No.3.

Continued.....

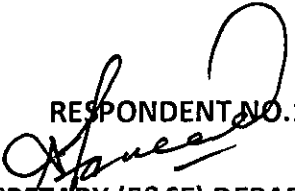
- 7). That annexure (F) attached by appellant manifest that he approached to secretary (E&SED), Peshawar which is against the available rules, because M. Phil allowance is passed through proper channel i.e., firstly the application must be submitted before DEO (M) Malakand then it is sent through covering letter to Directorate (E&SE) Peshawar for further approval. Incase, if it would be BPS-17 and above then it is further sent to Secretary (E&SED) Peshawar for approval. While the application of appellant is directly endorsed to Secretary (E&SED) Peshawar without fulfilling the codel formalities.
- 8). That the appellant as stated above is not fall in the category of aggrieved one because he does not submitted his application before the competent authority.

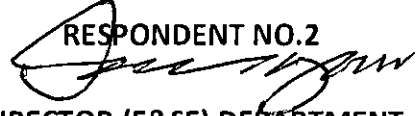
GROUNDS


- A). Incorrect, the respondent department every day granting M.Phil allowance to hundred of teachers and other employees, but as mentioned above the respondent department never found any application of appellant on record and the appellant has no proof to justify the fact.
- B). The respondent department always treated each & every employee in accordance with law and rules and never violated article 4 and 25 of the constitution of islamic republic of pakistan 1973:
- C). That the respondent department i.e., DEO (M) Malakand always welcomed the appellant to submit his fresh application along with all relevant documments for the entitlement of M.Phil allowance. While the appellant claims regarding reluctancy is baseless because he has not been submitted his application before DEO (M) Malakand. Besides, as stated above he has attached M.S agriculture degree which is not eligibile for M.Phil allowance according to the notification of finance department.
- D). Incorrect, the respondent department has no knowledge about his M.Phil degree due to the reason as best explained above.
- E). Incorrect, the respondent department never discriminated the rights of appellant.
- F). That the respondent department also seeks permission for further record at the time of hearing.

Prayer

It is humbly prayed that the appeal of the appellant is baseless and may be dismissed an accordance with rules and policey.

RESPONDENT NO.1

SECRETARY (E&SE) DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.

RESPONDENT NO.2

DIRECTOR (E&SE) DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.

RESPONDENT NO.3

DISTRICT EDUCATION OFFICER
(M) MALAKAND

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHW PESHAWAR

APPEAL NO.290/2023

Mr. Ali Akbar SST BPS-16 (Bio/Chm), GHS No.2 Sakhakot, Tehsil Dargai, District Malakand.

.....(Appellant)

VERSUS

- 1 Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
- 2 Director, Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
- 3 The District Education Officer (M) Malakand, District Malakand at Batkhela.

.....(Respondents)

AFFIDAVIT

I Muhammad Naveed Superintendent on the instructions of D.E.O. (Male) Malakand do hereby solemnly affirm and declare on oath that the contents of the accompanying para wise comments submitted by Respondent s as true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Service Tribunal.

Deponent

Muhammad Naveed

CNI # 15402-4483399-5

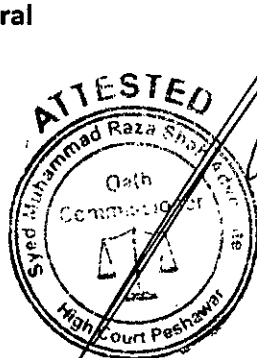
Muhammad Naveed

Superintendent

Office of the DEO(M) Malakand.

Identified by

Assistant Advocate General
Khyber Pakhtun Khwa,
At Tribunal, Peshawar.



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHWA
PESHAWAR

APPEAL NO.290/2023

ADDRESSES OF PARTIES

Mr. Ali Akbar SST BPS-16 (Bio/Chm), GHS No.2 Sakhakot, Tehsil Dargai, District Malakand.

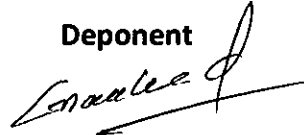
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- 2 Director, Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
- 3 District Education Officer (Male) Malakand.

.....(Respondents)

Deponent



CNI# 15402-4483399-5

Muhammad Naveed

Superintendent

Office of the DEO (M) Malakand.

Mobile No,03499362725

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHWAW PESHAWAR

Appeal No.290/2023

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- 2 Director, Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
- 3 District Education Officer (Male) Malakand.

.....(Respondents)

AUTHORITY

Mr. Muhammad Naveed Superintendent office of the DEO (M) Malakand is hereby authorized to attend the Tribunal, submit reply and pursue the above titled Service Appeal on behalf of the undersigned till the decision of the case and progress made be intimated to this office as well as to all others concerned.

Respondent No.3


District Education Officer,
(M) Malakand



HIGHER EDUCATION COMMISSION

H-9, Islamabad (Pakistan) Phone: (051) 90802750. Fax: (051) 90802753
E-mail: ismail@hec.gov.pk

Muhammad Ismail
Consultant (Quality Assurance Division)

Ref. 1-I (NQF)/QAD/2017/HEC/49-7
Date: May 23, 2017

Subject: Grant of MPhil Allowance @ Rs. 2500/- Per Month

- Reference to F.No.3(6)Imp/2016-Vol-II-4 dated January 04, 2017 on subject cited above.
- Under the provision of Section 10 clause (o) of HEC's Ordinance No. LIII, dated 11.09.2002, the Quality Assurance Division of HEC has devised the Admission and Award of Degree Criteria for MS/MPhil/PhD/Equivalent Programs. As per HEC approved criteria (enclosed), there is no difference between MS and MPhil degrees except nomenclature. As such, there are two types of MS/MPhil Degrees that are mentioned below:
 - MS/MPhil by Course Work (30 credit hours)
 - MS/MPhil by Thesis (24 credit hours course work + 06 credit hours thesis)
- It is further added that in some cases, nomenclature was changed from MPhil to MS after the introduction of BS and MS programs by HEC. As such following types of degrees are awarded as equivalent to 18 years of schooling:

S#	Degree Title	Description
i	a. MPhil Degree (with thesis) b. MS Degree (with thesis)	Both are equal degrees, awarded after 24 credit hours course work + 06 credit hours thesis. There is no difference except nomenclature.
ii	a. MPhil Degree by Course Work b. MS Degree by Course Work	Both are equal degrees, awarded after 30 credit hours course work. There is no difference except nomenclature.
iii	Equivalent degrees of Other disciplines like Engineering, Agriculture, Law, MBA, etc.	In these disciplines, degrees are not awarded with MS/MPhil Title while these degrees are equated to 18 years of schooling.

- According to above referred Office Memorandum of Govt. of Pakistan, Finance Division, the MPhil allowance is granted to those only who acquire/possess the degree of MPhil recognized by the HEC. However, in view of the above mentioned clarification, all those who have MPhil or MS degrees (18 years schooling) should be eligible to draw the allowance @ Rs. 2500/- per month.
- Forwarded for your favorable consideration, please.

With kind regards,

Enclosure: as above

Mr. Faisal Nadeem
Accounts Officer (Imp),
Government of Pakistan, Finance Division (Regulations Wing), Islamabad
FBC Building, Near State Bank of Pakistan.

Muhammad Ismail
(Muhammad Ismail)

Attested *Enaam*
MUHAMMAD IVEED
Supervisor (PS-17)
O/o Director, Islamabad
at Pakpeta

Attested *Faisal Nadeem*

(06)



GOVERNMENT OF PAKISTAN
FINANCE DIVISION
(Regulations Wing)
FBC Building, Near State Bank of Pakistan

F.No.3(6)Imp/2016-Vol-III-673

Islamabad, the 17th October, 2017

From: Mr. Faisal Nadeem,
Accounts Officer (Imp)

To: Assistant Director (Quality Assurance Division),
(Ms. Sadia Bukhari),
Higher Education Commission,
Sector H-8,
Islamabad

Subject: GRANT OF M. PHIL ALLOWANCE @ RS.2,500/- PER MONTH

Reference Higher Education Commission's letter No.F.1-1 (NQF)/QAD/2017/HEC/77-325, dated 02-10-2017 on the above noted subject and to say that under CSR-4 Government of Pakistan reserve to themselves the right of changing the rules in these Regulations regarding pay and acting allowance and leave and pension, from time to time at their discretion, and of interpreting their meaning in case of dispute. Moreover, under Rules of Business, framing of rules/policies on financial matters including the financial terms of service matters is the allocated business of Finance Division in terms of Rule-3(3) of Rules of Business, 1973.

2. At present, M. Phil Allowance is not admissible on any degree other than M. Phil as clarified vide our O.M.No.F.3(6)Imp/2016-Vol-II-4, dated 04-01-2017.

Faisal Nadeem
(Faisal Nadeem)
Accounts Officer (Imp)
051-9245869