15th March, 2023

Mr. Kamran Khan, Advocate for the appellant present.

Mr. Asif Masood Ali Shah, Deputy District for the respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 31.05.2023 before the

D.B. Parcha Peshi given to the parties.



(Salah-ud-Din) Member (J)

(Kalim Arshad Khan) Chairman 13.12.2022

CANNER

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KPÉ

Counsel for the appellant present.

Mr. Muhammad Jan, District Attorney alongwith Waheedullah, Senior Clerk for the respondents present.

Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Granted. To come up for arguments on 01.03.2023 before the D.B.

(FAREEHA PAUL) Member(E)

(ROZINA REHMAN) Member (J)

01.03.2023

Clerk of learned counsel for the appellant present. Mr. Hashmatullah, Superintendent alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Lawyers are on strike. To come up for arguments on 15.03.2023 before the D.B. Parcha Peshi given to the parties.

(Fareeha Paul) Member (E)

(Salah-ud-Din) Member (J)

19.05.2022

Learned counsel for the appellant present. Mr. Farhan Ahmed, Assistant alongwith Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned Member (Judicial) Ms. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 21.07.2022 before the D.B.

21.07.2022

Junior to counsel for appellant present.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General alongwith Farhan Assistant for respondents present.

File to come up alongwith connected Serivce Appeal No.6274/2020 titled "Taufeeq Vs. Government of Khyber Pakhtunkhwa" on 28.09.2022 before D.B.

(Fareeha Paul) Member(E)

(Rozina Rehman)

Member (J)

(Salah-ud-Din) Member (Judicial)

28,09.2022

Appellant present through counsel. Naseer Ud Din Shah, learned Assistant Advocate General alongwith Ihsan Ullah, Law Officer for respondents present.

File to come up alongwith connected Service Appeal No. 6274/2021 titled "Taufiq Vs. Higher Education Department" on 13.12.2022 before D.B.

(Farecha Paul) Member (E)

(Rozina Rehman) Member (J)

14.09.2021

Counsel for appellant present.

Muhammad Adeel Butt learned Additional A.G for the respondents present.

File to come up alongwiht connected Service Appeal No.6274/2020 titled Taufiq Vs. Higher Education Department, on 10.01.2022 before D.B.

(Rozina Rehman) Member (J)



10.01.2022

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakheil, Assistant Advocate General alongwith Mr. Jehanzeb Superintendent for respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not gone through the record. Adjourned. To come up for arguments before the D.B on 22.02.2022.

(Atiq-ur-Rehman Wazir)



Member(E)

22.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 19.05.2022 for the same as before.

20.01.2021

Junior counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Jehanzeb Superintendent for respondents present.

Written reply on behalf of respondents is still awaited. Representative of respondents made a request for time to furnish written reply/comments. Opportunity is granted. To come up for written reply/comments on 18.03.2021 before S.B.

(Rozina Rehman) Member (J)

Junior to counsel for the appellant and Addl: AG alongwith Mr. Jehanzeb, Supdt for respondents present.

Written reply/comments on behalf of respondents not submitted. Representative of the respondents seeks time to submit the same on the next date. Granted but as a last chance.

Adjourned to 07.05.2021 before S.B.

(Mian Muhammad) Member (E)

27.05.2021

18.03.2021

Junior to counsel for the appellant and Mr. Javaidullah, Asstt. AG alongwith Jehanzaib Supdt. and Naseeb Khan, S.O for the respondents present.

Respondents have furnished Parawsie comments which are placed on file. The appeal is assigned to D.B for arguments on 14.09.2021.



30.09.2020

Counsel for the appellant present.

Learned counsel argued that the appellant was initially appointed on 04.11.2010- on adhoc basis as a stop-gap arrangement. On 02.07.2012, his service was regularized through notification. The respondents, however, did not count his service on adhoc basis for the purpose of extending service benefits to the appellant. Learned counsel also referred to the judgment of Honourable Peshawar High Court passed in Writ Petition No. 2039-P/2014 on 24.05.2017. The petition was submitted by the officials placed similar to the appellant, while the last paragraph of the judgment required the respondents to regularize the petitioners therein from their respective dates of initial appointment. The appellant was duly entitled to the similar treatment.

Subject to all just exceptions, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 30.11.2020 before S.B.

30.11.2020

Junior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Written reply on behalf of respondents not submitted. Learned Additional Advocate General is directed to ensure presence of representative of the department and submit reply on the next date. Adjourned to 20.01.2021 on which date file to come up for written reply/comments before S.B.

> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)

Form- A FORM OF ORDER SHEET

Court of_

Case No.-

Order or other proceedings with signature of judge 1S.Ńo. Date of order proceedings 3 1 2 The appeal presented today by Mr.Noor Muhammad Khttak 25/06/2020 1-Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR This case is entrusted to S. Bench for preliminary hearing to be put 2up there on 21/07/2020. CHAIRMAN Mr. Kamran Khan, Advocate for the appellant is present 21.07.2020 and stated that the appeal was not on their diary, therefore, he could not prepare the appeal and requested for adjournment. Adjourned to 30.09.2020. To come up for prelim(nary hearing before S.B. (MUHAMMAD JAMAL KHAN) MEMBER

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 6274 /2020

TAUFIQ

VS

EDUCATION DEPTT:

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3	Arrival report	B	7.	
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5	Regular appointment	· D	13- 14.	
6	Act	E .	15-17.	
7	Judgment	F	18- 26.	
8	Departmental appeal	G	27.	
9	Vakalat nama	•••••••••	28.	

APPELLANT

THROUGH: NOOR MOHAMMAD KHATTAK ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

74_12020 APPEAL NO.

Mr. Taufiq, Lecturer in Statistics (BPS-17), GDC Barkhlozai, District Bajaur Appellant

VERSUS

- 1- The Secretary, Higher Education, Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, Higher Education Department, Khyber Pakhtunkhwa, Peshawar.

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR PROTECTION OF SENIORITY OF THE APPELLANT IN LIGHT OF SECTION-8 OF THE CIVIL SERVANT ACT, 1973 READ WITH RULE 17 OF THE APPOINTMENT, PROMOTION & TRANSFER RULES, 1989 AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT COUNTING PREVIOUS CONTRACTUAL SERVICE OF THE APPELLANT I.E. w.e.f. 04-11-2010 TILL 6.12.2012 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

T

That on acceptance of this appeal the respondents may kindly be directed to count/fix the seniority of the appellant in the cadre of Lecturers from the date of regular appointment i.e. 6.12.2012 and the respondents may further please be directed to count previous contractual service of the appellant towards regular service i.e. w.e.f. 4.11.2010 till 2.7.2012 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH: ON FACTS:

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

That it is worth mentioning here, that appellant services were further extended for one year and was reappointed vide order dated 07/02/2012 on adhoc basis. Copy of reappointment order dated 07/02/20 is attached as annexure.

3- That lateron, on the recommendations of KP public service commission the respondents appointed the appellant as lecturer in statistics against the regular post in GDC barkhalozai district bajaur vide order dated 02/07/2012, that in response to the aforementioned appointment order the appellant took over the charge as lecturer in statistics in GDC barkhalozai district bajaur on 3/07/2012. Copies of regular appointment order dated 2/07/2012 and arrival report are attached as annexure **D**.

- **6-** That feeling aggrieve and having no other remedy the appellant filed the instant appeal on following grounds inter alia.

GROUNDS:

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4-

- A- That the inaction of respondents by not protecting the seniority of the appellant in light section-8 of the civil servant Act, 1973 read rule 17 of the APT rules, 1989 and not counting previous contractual service of the appellant w.e.f. 04-11-2010 is against the law, facts, norms of natural justice and materials on the record.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and mala fide manner by not protecting the seniority of the appellant in light section-8 of the civil

servant Act, 1973 read rule 17 of the APT rules, 1989 and not counting previous contractual service of the appellant w.e.f. 04-11-2010.

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- D- That the inaction of the respondents by not protecting the seniority of the appellant in light section-8 of the civil servant Act, 1973 read rule 17 of the APT rules, 1989 and not counting previous contractual service of the appellant w.e.f. 04-11-2010 is discriminatory and against the norms of natural justice, therefore not tenable in the eye of law.
- E- That under Article 38 (e) of the Constitution of Pakistan, 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan, therefore in light of the above mentioned Article the appellant is fully entitle for his seniority of the appellant in light section-8 of the civil servant Act, 1973 read rule 17 of the APT rules, 1989 and counting previous contractual service of the appellant w.e.f. 04-11-2010.
- F- That there is no break in service of appellant from the date of initial appointment till regular appointment upon recommendation of KP public service commission.
- G- That in light of Rule 2.3 of the West Pakistan, Pension Rules, 1963 the appellant is fully entitle for the grant of pay fixation from the date of initial appointment.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

THORUGH:

APPELLANT

TAUFIO

NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI ADVOCATES

GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

atistics

Dated Peshawar the November 04th, 2010.

NOTIFICATION A-4

<u>No:SO(COLLEGES)2-5/2010</u>. Consequent upon the recommendations of Departmental Selection Committee, the Competent Authority is pleased to appoint the following Male lecturers (BPS-17) on adhoc basis as a stop gap arrangements for a period of one year or till the availability of selectees of Khyber Pakhtunkhwa Public Service Commission whichever is earlier and to post / adjust them in the colleges mentioned against each:

5-#	Name & Address	Subject	Zone	Posted at	Remarks
•	Amir Dost Khan S/o Muhammad	Computer	Disabie	GPGJC Saidu	A.V.P
	Sultan, Village & P/o Bar Shawar	Science	Zone-III	Sharif, Swat.	
	Shamkanra, Tehsil Matta, District		Swat		<i>.</i> •
	Swat.				
2	- Tanveer Usman S/o Usman Ghani,	Maths	Disable	GPGC Mardan	A.V.P
	Mohalla Shaban, Village & P.O.		Zone-II		
	Khairabad, Nowshera.		Nowshera	4	· ·
3.	Ubaid Ali S/o Abdul Ghafoor, Mbh.	Economics	Disable	GPGC	A.V.P
	Badnam Khel, V.P.O Gojar Garhi,		Zone-II	Nowshera	
, ,	Tehsil & District Mardan.		Mardan		
4.	Muhammad Waris S/o Fazli	Computer	Disable	GPGC Mardan	AVP
	Mabood, MOhallah Shah Dhand,	Science	Zone-II		
	Village & P/o Lund Khwar, Tehsil	•	Mardan	1	
	Takht Bhai, District Mardan.	•	-	i 1	•
5.	Syed Hamid Ali Shah S/o	Pak Study	Disable	GDC Dagger,	4,V,P
	Muhammad Shah, Village		Zone-III	Buner.	
	Sunigram, Dagger, Buner.		Buner		
6.	Muhammad Siraj S/o Muhamad	Law	Disable	GBC Madyar	2 2 - 2 - 4 P
	Zarin, Village Kotha, Tehsil Barikot,		Zone-III	; .	*
	Swat.	· . • •.	Swat		•
7.	Insan Ullah S/o Niamat Ullah, P/o	Physics	Disable	GDC Dera	A.V.P
	Serai Gambela, Village Kotka		Zone-IV	Township No.	-
	Mehmood Lakki Marwat.	·	Lakki Marwat		
S.	Abdul Khalig S/o Rasool Jalal,	Biology	Merit-I	GDC Takht-e-	A.V.P
	Village & P/o Tabbi Khawa, Tehsil		Zone-IV	Nasrati	5. Y.C
	& District, Karak,		Karak	Karak	
9.	Nazif Ullah Khan S/o Taklim Khan	Biology	Zone-I	Services placed	4, 25,
	Department Micro Biology, Faculty		N.W.Agency	i at the Disposal	
. ••	Biological Sciences, Quaid-e-Azam			of Director	G. C. S.
	University, Islamabad.	•		Education (FATA)	.
10.	Muhammad Naeem Khan S/o	Biology	Zone-2	GDC Garh	A V P
•	Muhammad Sareer Khan, Village		Charsadda	Kapoora,	m.v.r
	Qilla Anwar Mahal, PO Utmanzai,	·		Mardan.	
	Tehsil & Distirct Charsadda,				
11.	Qaisar Zaman S/o Haider Shah, Gul	Biology	Zone-3	GDC Dagger	
	Muqam Zarif Khan Koroonia, P.O. &	5.5.591	Malakand	and haddler	
	Tehsil Dargai, District Malakand.		maignatio	1	
12.	Asmat Ullah Khan S/o Rasool	Biology	Zone-4	Christ	2
		Dividey	Karak	, GPGC Haripu	1999 B. 18
	Badshah, C/o Rasool Badshah,				

C		1	Political	Zone-V	GPGC	つきてい	
	39.	Muhammad Aamii Aam	Science	Abbottabad	Nowshera		202
	1	Toh & Dist Abbottabaou		Zone-V	GDC	AND -	× >
	90	Con Waseem S/O Munaminau	Political	: Abbottabad	Darband,		K
	90.	Hanif Vill & PO Kuthiala Distt & Teh	Science	ADDOLLEDEG	Mansehra.		()
		Abbattabad	D-lition!	Zone-V	GDC Lassar	∴,\'P	C
Ĵ	91.	Imran Afsar S/O Khan Afsar dist &	Political	Mansehra	Nawab,		
		Teh Mansehra Vill & PO Palsal Via	Science	[10] School	Mansehra.		 1
		Laswa Nawab		i	Services		
		Taufean S/O lawid Moh Lal Fageer	Statistics	Merit-I	placed at the		
4	292.	Main bazaar Shabqadar PO & Teh		Zone-I Mohmand	Disposal of		1.1
		Shabqadar Distt Charsadda			Director		
				Agency	Education	. •	
1					(FATA).		
				Niceit-IT	GDC Zaida,	A.V.P	
-	293.	Manzoor Ul Hassan S/O Gul Hassan	Statistics	Zone-II	Swabi.		
•	272	Shah Mon Khadrey KHE , Vill & PO					
	•	Pani Pir Swabi		Swabi	GDC Gandaf,	A.V.P	
	201	Ban Nawaz Khan S/O Muhammad	Statistics	Merit-III Zone-II	Swabi.		
	. רכג	Gul Vill & PO Touru Mohallah Amu	-	Zone-11 Mardan	، ستارين		
		Khei Dist Mardan			GDC No. 1.	A.V.P	
•	205	Mohammad Hamraz S/O Taj Ali	Statistics	Zone-IV	D.I. Khan		
		Khan Department Of Statistics					
		Quaid –e- Azam University		Karak			
	•	Islamabad		·	· .		
		· · · · · · · · · · · · · · · · · · ·		Merit-V	Services		
	296	5. Subhan Ullah S/O Naseer Zaman	Statistics	Zone-II	placed at the	5	-
		Vill Sokhta PO Shabqadaar Fort	•	Charsadda		e	· :
		Charsadda	· · ·	CharSauda	Director		
			÷		Education		
		•			(FATA).		
•			Chablabla	s · Merit-VI	Services	-	-
	29	7. Hazrat Ali S/O Wakeel Dad Vill &	Statistic	Zone-II	placed at th	e	
		POI Gar Munara Teh & Dist Swabi	· • .	: Swabi		of	
	· ·			. J71001	Director		
	· ·		· · ·		Education		•
			, -		(FATA).		
	. <u>.</u> .		J Statisti	cs Zone-I	Services	· •	
	2	98. Muhammad Abid S/O Muhammac		Mohman		ne .	
	•	Shah Dist Mardan Teh Takht Ba	а 11 Г. ч	Agency			
•	•	PO Lund khawar Vill Gulmera haj	R L .		Director		
		Abad.		· · ·	Education		÷.,
					(FATA).		
•		Difference Contract Damie Dalum	d Statist	ics Zone-I	Services	•	
		299. Ansar Ullah S/O Fazal Jamir Balun		NWaziri		the	
		Hospital Room # 17 Danishaba	. u .	Agency	Disposal	of	1
		Peshawar		: Ageney	Director		, A
					Education		
					(FATA).	•	
					· · · · · · · · ·	· .	
	مز		an Statis	tics Zone-I	Services	-	. • •
1.		300. Ameer Khan S/O Anwar Kha		Mohma		the	
_		Room # 36 Hostel #2 University	UI ·	Agency		of	
-		Peshawar	- ,	i ngenej	Director		
		•			·		r (#* 5 ⁷⁴ 6.
					(ΓΔΤΔ) 🛥	LAND LAND	
	۰.				Education (FATA). Services Ind placed at t		A Mood March
	. 3	101. Achan Khan S/O Wisal Kha			Services g™	ha l	\
		Warsak Road Ghalgi Khandar Khe	21	Hohmar			
		P/O Mathera Peshawar		Agency	Disposal	of. M	2
			- 1		Director		
•					Educiation		
				. ,	Education (FATA).		

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Alisar Jamal S/O Bacha Knan Moliallan Gulu Snan Vill & PO Saknakot Dargai Malakand	Zoolegy	Zone-III Malakand	Service active placeo active Disposai c Director	
	•	· .	Education (FATA).	do
349 Asmat Ullah Khan S/O Rasool Badshah C/O Rasool Badshah SET	Zoology	Zone-IV Karak	GPGC Karak	_=.v.p
GHS No Kohat city 350. Ihsan Ullah S/O Rasheed Khan Vill Mianki Banda PO Inzer Banda Teh takht Nasrati dist Karak	Zoology	Zone-IV Karak	GDC Latamber, Karak.	4.V.P
351. Muhammad Faiz Khan S/o Muhammad Afzal Khan Moh Choinian vill Sikandur Pur Haripur	Zoology	Zone-V Haripur	GDC Khanpur, Haripur,	A.V.P
352. Khalid Mehmood S/O Ghulam Rasool VIII Bandi Sarara PO Chamiali Teh & Distt Abbottabad	Zoology	Zone-V Abbottabad	GDC Zarobi. Swabi.	.4.V.P

ADJUSTMENT:-

Consequent upon the above, the following posting / transfer of lecturers is also made in the best public interest:-

S. #	Name / Designation / present	Posted at	Remarks
1.	Attique uz Zaman, lecturer in Statistics, GDC Oghi, Mansehra.	GPGC Haripur.	Against vacant
2.	Sajjad Ahmad, lecturer in Maths, GDC Samarbagh, Dir Lower.	GPGC Timergara, Dir Lower.	Against vacant post
3.	Ijaz Ahmad, lecturer in Economics, GDC Ahmadabad, Karak.	GPGC Kohat	Against vacant post
4.	Ikram Ullah, lecturer in Political Science, GDC Totakan, Malakand Agency.	GPGC Timergara, Dir Lower.	Against vacant post
5.	Dilawar Khan, lecturer in Chemistry, GDC Dara Adam Khel, FR Kohat.	· GDC Hangu	Against vacan: post
6.	Rashid Ahmad, lecturer in Pak Study, GDC Puran, Shangla.	GDC Matta, Swat.	 Against vacant post
7.	Murad Ali, lecturer in Chemistry, GPGC Khar, Bajaur Agency.	GPGC Timergara, Dir Lower.	Against vacar ' post

The appointment of the above lecturers from S. No. 01 to 352 will be subject to the following terms and conditions:-

TERMS AND CONDITIONS

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- The appointment of the above candidates will be on Adhoc basis for a period of one year upto 4.11.2011 or till the arrival of the selectees of the Khyber Parcharkhwa Public Service Commission, whichever is earlier.
- They will get pay and allowances in BPS-17.
- No TA/DA will be allowed for their first appointment.
- The appointment of the candidates mentioned in Para.1 above is subject to the condition that they bear the Domicile of Khyber Pakhtunkhwa.

TESTED



OFFICE OF THE PRINCIPAL GOVT: DEGREE COLLEGE BARKHALOZAI BAJAUR AGENCY

CHARGE REPORT:

I Lecturer in <u>Statistics</u> made and received over the charge of Lecturer on Adhoc Basis at Govt Degree College Barkhalozai Bajaur Agency on the 24/nov/2010 F.Noon vide FATA Secretariat Warsak Road Peshawar No:FS/E/100-80(vol-3)/11925-61, Dated 23/Nov/2010.

Signature of relieved Administ Jacant Fist Govt. Servant Grant : Servinant Designation Lecturer in <u>Statist</u>, GDC Barkhalozai Bajaur Agency.

Station:GDC Barkhalozai Bajaur Agency

Signature of relieved9____ : Sexuart Govt. Servant $\underline{G}_{\sigma\sigma} t$ Designation Lecturer in Statistic GDC Barkhalozai Bajaur Agency.

2 / /2010. Endost.No. 📝 🖗 🍹 🚽 🖓 dated

Copy to:-

(1)Director Higher Education KPK Peshawar.
(2)Director Education (FATA) KPK Peshawar.
(3)Agency Accounts officer at Khar Bajaur.
(4)Office Record.
(5)Officer Concerned.

Principal GDC Barkha Bajaur Age

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GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

Page 1.

Dated Peshawar the February 7th, 2012.

NOTIFICATION

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Lect. in stat

Sino

NO. SO(COLLEGES)2-5/2010. In continuation of this Department Notification of even number dated 04.11.2010, the Competent Authority is pleased to re-appoint the following Male lecturers (BPS-17) for a period of one year in various subjects on adhoc basis as purely temporary and stop-gap arrangements for Govt. Colleges of Khyber Pakhtunkhwa. Their salaries will be started from the dates noted against each in Column-4:-

		2	3	4.
	#	Name & Designation	Posting station	Date from which re- appointed
l <u>ine</u>		Amir Dost Khan, adhoc lecturer in	GPGJC Saidu Sharif,	10-11-2011
	•	Computer Science.	Swat	
		Ubaid Ali, adhoc lecturer in Economics.	GPGC Nowshera	17-11-2011
2.	- 1	Syed Hamid Ali Shah, adhoc lecturer in	GDC Dagger Buner	10-11-2011
د _ا .	•	Pak Study.		
1		Muhammad Siraj, adhoc lecturer in Law.	GDC Madyan, Swat.	12-12-2011
	5.	Ihsan Ullah, adhoc lecturer in Physics.	GDC No.3 D.I Khan.	12-11-2011
·		Nazif Ullah adhoc lecturer in Biology	GPGC Miranshah S.W.A	02-01-2012
	5.	Muhammad Naéem Khan, adhoc lecturer	GDC Ghari Kapoora,	16-11-2011
/	7.		Mardan.	
1		Qaisar Zaman adhoc lecturer in Biology	GDC Dagger Buner	10-11-2011
	<u>8. </u>	Ishtiaq Ahmad adhoc lecturer in Botany	GDC Chitral	16-11-2011
<u> </u>	<u>9.</u>	Rafi Ullah adhoc lecturer in Botany	GDC Gulabad, Du	05-11-2011
	10.	Rail Ollari adride rectarer in Detany	Lower.	
-		Muhammad Usman Khan adhoc lecturer	GDC Paniala, D.I. Khan.	26-11-2011
	11.			
	17	in Bolany Muhammad Israr adhoc lecturer in	GDC Akora Knatta	41-11-2011
	12.		Nowshehra	
ŀ		Botany Sabtain Adil_adhoc lecturer in Botany	GPGC No.1 Abbotabad	05-11-2011
	13.	Taseer Ullah Shah adhoc lecturer in	GDC No.3 D.1 Khan	12-11-2011
	14.	•		
		Botany Muhammad Aamir adhoc lecturer in	GDC Sherwar	י, 14-11-2011
	15.		Abbottabad.	
		Botany Murad Ali adhoc lecturer in Chemistry	GDC Zaida Swabi	11-11-2011
	16.	Asif Khan adhoc lecturer in Chemistry	GDC Thall Hangu	12-11-2011
	17.	Majid Ali adhoc lecturer in Chemistry	GDC Takht Bhai Marda	n 05-12-2011
· .	18. 19	Muhammad Imran adhoc lecturer in	GDC Paharpur D.I Kha	n 11-11-2011
	n.	Chemistry		
	X 0,	Sheher yar; adhoc lecturer in Chemistr	y. GDC Landi Jalandi	ar, 25-11-2011
'n M		Sherier yery demonstration	Bannu.	
	21.	Ibrahim Khan adhoc lecturer in	GPGC Khar Ba	jur 14-11-2011
•		Chemistry	Agency	
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65. Muhammad Hanif adhoc lecturer in Economics	GPGC Kohat	12-11-2011
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73. Muhammad Rafiq adnoc lecture in		12-11-2011
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N N	248. Irian Ullah adhoc lecturer in Urdu GDC Wadpage
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Page 9 of

They shall not be entitled to any pension or gratuity for the service rendered by them on Adhoc basis; nor they will claim any right of regularization. Charge report in duplicate should be submitted to all concerned. Their service shall be terminated if they violate any provision of the terms & conditions specified in the Agreement Bond.

SECRETARY TO GOVE. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even.

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Copy of the above is forwarded to the: -

- 1. Accountant General, Knyber Pakhtunkhwa, Peshawar.
- 2. Director Higher Education, Khyber Pakhtunkhwa Peshawar:
- 3 Director of Education (FATA), Warsak Road Pesnawar.
- 4) Director Recruitment, Khyber Pakhtunkhwa Public Service Commissic Peshawar.
- 5. Districts / Agency Accounts Officers concerned.
- 6. Principals of the Government Colleges concerned.
- 7. Section Officer (Estab-II) FATA Secretariat, Coordination & Administratic Department, Warsak Road Peshawar
- 8. P.S. to Secretary Higher Education Department.
- 9. Lecturers concerned.

(WAHEED KHÁN) SECTION OFFICER (COLLEGES-II)

We-1/2.



FATA SECRETARIAT Social Sectors Department Warsak Road Peshawar



Notification

No.SO(Edu:SSD)/1-1/Apptt:Lect:/5582-98 Consequent the upon recommendations of Khyber Pakhtunkhwa Public Service Commission, the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) is pleased to appoint the following (Male/Female) candidates as lecturer in Higher Education, Archives & Libraries Department,^kKhyber Pakhtunkhwa in BS-17 (16000-1200-40000) plus usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government subject to the conditions inter-alia specified at Para-2 and posted them in the Colleges mentioned against their names below.

- S#	Name and Father's Name	Subject	Posted at	Remarks
1	Mr. Taufiq S/O Jawid Villige Shati Kor, Samad Kor Tehsil Ghallanai Mohmand	Statistics	GDC Barkhlozai, Bajaur	Post already occupied by him on adhoc basis
2	Agency Mr.Muhammad Ismail S/O Bakht Munir village and Post office Harrichand Nehir Bangla Tehsil Tangi District Charsadda	Statistics	GPGC Khar, Bajaur	Post already occupied by him on adhoc basis
3	Mr.Asadullah S/O Hukam Dad Domail Zirraki District and Tehsil Bannu	Statistics	GDC Darazinda FR D.I.Khan	Post already occupied by him on adhoc basis
4	Mr.Adnan Khan S/O Wasal Khan, Warsak Road Ghalgi Kandar Khel P/O Mathra Peshawar.	Statistics	GPGC Khar, Bajaur	Post already occupied by him on adhoc basis
5	Mr. Ajmir Khan S/O Anwar Khan, Village Qandhari Wali Kor P/O Şandukhel Tehsil Lakaro Mohmand Agency	Statistics	GDC Landikotal, Khyber	Post already occupied by him on adhoc basis
6	Mst. Sadia Nawab D/O Nawab Ali Khan, House No. 112 Street-3 Sector K-4 Phase-3 Hayat Abad Peshawar.	Urdu	GGDC Jamrud, Khyber	Against vacant post
7	Mst. Romana Khan Məhsud D/O Din Ghulam Mahsud Mahsud, House No. 13 LALAZAR Colony Near Govt. College No. 1 (For Boys) Dera Ismail Khan.	English	GGDC Jandola, FR Tank	Against vacant post
8	Mst. Hina D/O Farid Ullah, House # 141/C, Mohallah Nawab, Bannu City	English	GGDC Miranshah, NWA	Vice Nausheen Gul, Adhoc Lecturer who's services shall be terminated



TERMS & CONDITIONS

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- Their services will be considered regular but without Pension a Gratuity in terms of Section-19 of the NWFP Civil Servants Act 1973 as amended vide NWFP Civil Servants (Amendment) Act 2005. They will however be entitled to Contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
- 2. The Lecturers who are already in Government Service and are working against pensionable posts on regular basis before 1st day of July 2001, without any service break, on application to Khyber Pakhtunkhwa Public Service Commission through proper channel are allowed choice of option either to retain benefit of pension & gratuity as allowed to them under their previous terms of appointment or to avail the benefit of Contributory Provident Fund allowed to them under the new appointment.
- 3. Their services are liable to termination on one month's notice from either side. In case of resignation without notice, their one month pay/allowances shall be forfeited to the Government.
- 4. The appointees should join their posts within 30 days of the issuance of this Notification. The Director Education (FATA) would furnish a certificate to the effect that the candidate have joined the post or otherwise, after one month of the issuance of this Notification, failing which their candidature will expire automatically and no subsequent appeal etc shall be entertained.
- 5. They would be on probation for a period of one year extendable for another period of one year.
- 6. They will be governed by such rules and regulations as may be issued from time to time by the Government.
- 7. Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period.
- 8. Charge report should be submitted to all concerned.
- 9. They will not be entitled to any TA/DA on their first appointment as Lecturer.

Secretary Social Sectors Department

Endst No. & Dated Even

- Copy forwarded to the:-.
- 1. Secretary Higher Education, Archives & Librarie's Department Khyber
 - Pakhtunkhwa.
- 2. Director Education FATA, Peshawar.

3. Accountant General Khyber Pakhtunkhwa

- 4. Addl: Accountant General (PR) Sub Office Peshawar.
- 5. PS to Chief Secretary Khyber Pakhturikhwa.

- 6. PS to Secretary Social Sectors Department, FATA Secretariat, Peshawar.
- 7. Individuals concerned.
- 8. Personal File.

Section Officer (Edu:SSD)

THE KHYBER PAKHTUNKHWA ADHOC LECTURERS (REGULARIZATION OF SERVICES) ACT, 2014.

(KHYBER PAKHTUNKHWA ACT NO. XXII OF 2014)

[First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary),dated the 26th May,2014].

to provide for regularization of the services of certain lecturers appointed on adhoc basis in the Province of the Khyber Pakhtunkhwa.

<u>Preamble:</u> WHEREAS Higher Education, Archives and Libraries Department has appointed on 04.09.2013 upto 30.06.2014, one hundred and ninety-five male and forty-six female lecturers in various colleges of the Khyber Pakhtunkhwa on adhoc basis;

AND WHEREAS it is expedient to provide for the regularization of the services of these lecturers, in the public interest, for the purposes hereinafter appearing;

It is hereby enacted as follow:

<u>1.</u> Short title and commencement... (1) This Act may be called the Khyber Pakhtunkhwa Adhoc Lecturers (Regularization of Service) Act, 2014.

(2) It shall come into force at once.

2. Definitions.-. (1) In this Act, unless the context otherwise requires,-

- (a) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;
- (b) "Department" means the Higher Education, Archives and Libraries Department;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "law or rule" means the law or rule for the time being in force governing the selection and appointment of civil servants:
- (e) "lecturer" means an adhoc lecturer appointee by Government on 04.09.2013 on adhoc basis against post in various Government Colleges of the Khyber Pakhtunkhwa; and



(f) "post" means a post of the lecturer in the Department and is required to be filled on the recommendation of the Commission.

(2) The expressions "adhoc appointment" shall have the same meanings as respectively assigned to them in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).

3. <u>Regularization of services of adhoc lecturers.</u> (1) Notwithstanding any thing contained in any law or rule, all lecturers, who were holding the posts till the commencement of this Act, shall be deemed to have been validly selected and appointed to those posts on regular basis from the date of the commencement of this Act;

Provided that-

- (a) such lecturers were appointed against those posts which falls within the ambit of the Commission:
- (b) the services of such lecturers shall be deemed to have been regularized under this Act only on the publication of their names in the official Gazette;
- (c) such lecturers possess the qualification and experience prescribed for the posts to which they are appointed on regular basis;
- (d) the candidates recommended by the Commission till the date of commencement of this Act shall have the first right for appointment against the post instead of lecturers to be regularized under this Act; and
- (e) such lecturers were appointed after observance of all codal formalities/ criteria.

(2) For the purposes of sub-section (1), the date, on which the recommendation of the Commission is received in the Department, shall be deemed to be the date of recommendation of the Commission.

4. <u>Determination of seniority.</u>-(1) The lecturers whose services are regularized under this Act, shall rank junior to all those belonging to same service or cadre, as the case may be, who are in service on commencement of this Act, and shall also rank junior to such other persons, if in pursuance of the recommendation of the commission made before commencement, to be appointed to the respective service of cadre, irrespective of their actual date of joining the service.

(2) The inter-se-seniority of the lecturers whose service are regularized under this Act shall be determined on the basis of their continuous officiating in service:

Provided that if the date of continuous officiating in the case of two or more lecturers is the same, the lecturer older in age, shall rank senior to the younger one.

5. <u>Overriding effect.</u> Notwithstanding anything to the contrary in any other law or rule for the time being in force, the provision of the Act shall have an overriding effect and the provision of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

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Judgment Sheet

IN THE PESHAWAR HIGH COURT PESHAWAR

(Judicial Department) WP No. 2039-P/2014 Afsar Khan & others

1/s



Federation of Pakistan & others <u>JUDGMENT</u> Date of hearing. 24:05:2017

Mr. Jehanzeb Mehsud, Advocate

Respondent (s) by:

Petitioner (s) by:

• Syed Qaiser Ali Shah, AAG

MUHAMMAD YOUNIS THAHEEM, J ...

The petitioners 253 in number invoked the constitutional jurisdiction of this Court by filing instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 seeking relief for following prayer:

> "It is humbly prayed that this Hon'ble Court may graciously be pleased to:

i. Declare the act of the respondents whereby they have refused to regularize the services of the petitioners and extend the



benefits prescribed for 1282 employees of Fata Secretariat by Cabinet Sub-Committee in its meeting held on 13th March, 2013 is against the law, arbitrary, discriminatory and violative of Article 4 & 2-A of the Constitution.

ii. Direct the Respondents to regularize the services of the Petitioners in the light of the decision of Cabinet Sub-Committee in its meeting held on 13th March, 2013."

2. Brief facts of the case are that respondent No.5/Secretary Administration, Information & Coordination FATA Secretariat; Warsak Road, Peshawar invited applications for the posts of Lecturers in (BPS-17) on, "adhoc basis" in various academic Disciplines from candidates belonging to Federally administered tribal domicile area and Khyber Pakhtunkhwa vide advertisement dated 29.05.2011. The petitioners considered themselves as eligible having required qualifications in their respective academic disciplines, applied for the same posts, participated in the selection

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Government the petitioners were not regularized, hence this petition on the grounds mentioned therein. 3. Comments were called from respondents No.3 to 5, who submitted their para-wise comments and refuted the submissions of petitioners by raising various legal as well as factual objections particularly raised objection that as petitioners were appointed on "Adhoc basis", therefore, no right had been accrued to them for regularization. Similarly they also objected that as the posts pertain to BPS-17 so it could only be filled recommendations of through Khyber Pakhtunkhwa Public Service Commission so are not entitled for the relief prayed.

4. A

Arguments heard, record perused.

5. From the perusal of record it is an admitted position that petitioners were appointed after adopting due process of law and their service contract was extended as discussed above. Similar kind of legal controversy arose in WP No.379-P/2015 titled as Dr. Amir-uz-Zaman and others Vs Govt. of KPK & others and the same was settled vide judgment dated15.06.2016 according to which most of the

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medical officers were regularized under Khyber Pakhtunkhwa Medical Officers (Regularization of Service Act, 2015) but when petitioners of referred WP No.379-P/2015 moved application for their regularization, they were regretted vide order dated 11.09.2015 on ground that they were appointed for FATA and PATA so could not be regularized. The ratio of the judgment passed in WP No.379-P/2015 is as under:

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"petitioners are appointed and posted on contract basis till the arrival of Public Service Commission selectees and as such the petitioners while holding the said posts comes within the purview of ibid Act so after the promulgation of the said Act they are regularize employees of the Provincial Government posted in

This Court vide order dated 28.05.2015

DESTED

05 JUN 2017

held that the petitioners mainly relied upon the

judgment of this Court including the judgment of Larger Bench in WP No.969/2010 dated 07.11.2013 and the judgment passed in WP No.2307-P/2013 on 06.11.2014 whereby contract and daily wages employees of FATA were given status of regular employees whereas petitioners in the instant writ petition were initially appointed on "Adhoc basis" as lecturer subject to arrival of nominee from Khyber Pakhtunkhwa Public Service Commission. Thus in view of above, the petitioners filed CM No.1211/2016 seeking relief for amendment in the instant writ petition , which was allowed vide order dated 29.06.2016, therefore, the petitioners filed amended writ petition with following prayer:

> "Because without prejudice to the above but in addition thereto, the petitioners are employees of Higher Education Department KPK working in FATA as evident from the decision arrived at in a aforementioned meeting held on 16.02.2016, summary for

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Chief Minister and the comments filed by the respondent No.6, then the petitioners are entitled for regularization as similarly placed adhoc lecturers of Higher Education Department working in settled areas in the province has already been regularized by

the respondents."

7. From the perusal of record it is an admitted position that the petitioners were appointed vide above said notifications. Similarly according to minutes of meeting held on 16.02.2016 for regularization of adhoc lecturers in FATA and Teaching Assistants of Higher Education Department a Committee comprising members of Establishment Department, Law Department, Finance Department and Khyber Pakhtunkhwa Public Service Commission was constituted under the Chairmanship of Higher Education Department to prepare a comprehensive case for regularization of services of above said

employees/petitioners.

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In the meanwhile Federal Government introduced a policy to regularize all contract and daily whether working in wages employees Ministries/Divisions etc and for this purpose a Sub-Committee of Cabinet Division was constituted with a clear mandate to consider and regularize contract and daily wages employees and in this respect a meeting of Cabinet Sub-Committee on "regularization" was held on 13th of March 2013 under the Chairmanship of the then Federal Minister of Religious Affairs so vide agenda item No.247 all those above said employees who served for more than one year were recommended by Sub-Committee under the said policy for regularization. Consequently, in view of Cabinet Sub-Committee decision dated 13.03.2013 as many as 1282 employees of FATA were regularized but inspite of decision of Cabinet Sub-Committee, the matter of regularization of 1282 employees of FATA working as lecturers was delayed on one pretext or other, therefore, WP No.969-P/2010 was filed for which a larger bench of this Court was constituted who gave its verdict on 07:11.2013 wherein it was held that the services of all the petitioners including those who are

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similarly placed persons and are serving on contract basis shall be regularized in the light of Cabinet Sub-Committee decision conveyed to FATA Secretariat by the Cabinet Division meeting held on 13.03.2013 but the services of present petitioners were not regularized despite clear directions of the Cabinet Sub-Committee. It is noticed that Provincial Assembly of Khyber Pakhtunkhwa also passed an Act "Khyber Pakhtunkhwa (Regularization Service Act, 2014)" whereby services of 195 Male and 46 Female lecturers. were regularized but petitioner's regularization was not considered. It is also an admitted position that the petitioners according to decision held in minutes of meeting on 16.02.2016 are employees of Higher Education Department, Govt. of Khyber Pakhtunkhwa working in FATA and PATA. Similarly the argument of learned counsel for petitioners that the petitioners became prey to discrimination in the context that most of the employees of higher education department had been regularized vide ibid act 2014 while the employees working in FATA have not been regularized despite the decision of Cabinet Sub-Committee. Even some lecturers working in some ATTASTED

FESTON JUN 2017

The Director, Higher Education Department, Khyber Pakhtunkhwa, Peshawar.

Subject:

Ο.

DEPARTMENTAL APPEAL FOR FIXATION OF PAY IN BPS-17 w.e.f. 04-11-2010 i.e. FROM THE DATE OF INITIAL APPOINTMENT ADHOC BASIS TO THE POST OF LECTURER

Respected Sir,

With due regard it is stated that I have join the Higher Education Department as lecturer in Statistic vide order dated 04-11-2010 on adhoc basis as a stop gap arrangement. That after completion of one year my services were further extended for one year vide order dated 07/02/2012. That later on consequent upon the recommendations of KP public service commission the concerned authority appointed me as lecturer in Statistic against regular post in GDC Barkhalozai District Bajaur vide order dated .02/07/2012, that in follow to the aforementioned appointment order i took over the charge as lecturer in Statistic in GDC Barkhalozai District Bajaur on 03/07/2012. That I have the apprehension that if the respondents allowed back benefits and seniority to the colleagues and juniors colleagues then I will definitely be suffered. That from the date of my regularization I am requesting the concerned authority for counting of my previous service w.e.f the date of my first appointment i.e. 04.11.2010 but no response has been given to my repeated requests. That feeling aggrieved I preferred the instant Departmental appeal before your good self for protection of my seniority and counting my previous service w.e.f 04.11.2010.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal my previous service w.e.f 04.11.2010 may very kindly be count with all back benefits. Any other remedy which your good self deems fit that may also be awarded in my favor.

Dated: 26.02.2020

Your Sincerely

GDC Barkhalozai, District Bajaur

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

_____ OF 2020

Tauf 19

(APPELLANT) _(PLAINTIFF) (PETITIONER)

(RESPONDENT)

(DEFENDANT)

VERSUS

Education Dept:

I/We <u>faufig</u> 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.___/2020

CLIENI

ACCEPTED NOOR MOHAMMAD KHATTAK

KAMRAN KHAN MIR ZAMAN SAFI

AFRASIAB KHAN WAZIR ADVOCATES

OFFICE:

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

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA TRIBUNAL, PESHAWAR

S.A.6274/2020 Mr. Taufiq

Appellant

Versus

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Respondents Superintendent

Directorate of Higher Education Khyber Pakhtunkhwa Peshawar

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR

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S.A # 6274/2020			
Mr. Taufiq	·····		Appellant
		Versus	

Govt. of Khyber Pakhtunkhwa Through Secretary and Director, Higher Education Peshawar......

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1,2 & 3

Respectfully Sheweth: -

Preliminary Objections:-

- 1. That the appellant has got neither cause of action nor locus standi to file the instant Service Appeal.
- 2. That the appellant has not come to this Tribunal with clean hands.
- That the instant appeal is hit by doctrine/principle of laches as the appellant has filed the Service Appeal after 08 years of his appointment through Public Service Commission.
- 4. That the appellant is estopped by his own conduct to file the instant appeal.
- 5. That the appellant has not filed any departmental appeal before the departmental/appellant authority, hence this tribunal lacks jurisdiction under section 4(a) of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 to entertain the instant appeal.
- 6. That the instant appeal is badly time-barred.

Facts: -

- Incorrect. That the appellant was not appointed as Lecturer in computer science, instead he was appointed as Lecturer in statistics on Adhoc basis as a stop gap arrangements for a period of one year up to 04-11-2011 or till the availability of selectees of Khyber Pakhtunkhwa, Public Service Commission whichever is earlier vide order dated: 04-11-2010. (Annex-A)
- 2) Correct to the extent that the appellant was re-appointed on Adhoc basis vide order dated: 07-02-2012.(Annex-B)
- Correct to the extent that the appellant was appointed as Lecturer on the recommendation of Public Service Commission vide order dated: 02-07-2012 (Annex-C) rest of the Para pertains to the record.
- 4) Incorrect. That the appellant is appointed on regular basis in 2012 through Public Service Commission and inter-se- seniority has been prepared according to his merit position. (Annex-D). Moreover, feeling aggrieved with decision dated: 24-

- 05-2017 department has filed an appeal in the Supreme Court of Pakistan where leave to appeal has been granted. (Annex-E)
- 5) Incorrect. That the appellant has not filed any departmental appeal as no such appeal is available on the record. In Section 4(a) of Khyber Pakhtunkhwa Service Tribunal Act 1974, it is clearly mentioned that

"No appeal shall lie to a Tribunal unless the aggrieved Civil Servant has preferred an appeal or application for review or representation to departmental authority."

(Annex-F)

As no departmental appeal is filed by the appellant, hence the instant service appeal is not maintainable. The appellant was appointed on regular basis by the Khyber Pakhtunkhwa Public Service Commission and his inter-se-seniority has been prepared by the Khyber Pakhtunkhwa Public Service Commission as per his overall merit position. Moreover, the appellant quit the adhoc Service before joining the regular one.

6). Incorrect. As already explained in Para 5.

Grounds:-

- A. Incorrect, That the period of Adhoc service is not countable towards the seniority and inter-se- seniority has been prepared by Khyber Pakhtunkhwa Public Service Commission among the successful candidates as per their overall merit position.
- B. Incorrect. That the appellant has been treated in accordance with law and rules.
- C. Incorrect. That the appellant is trying to mislead the Honorable Tribunal. The appellant is treated in accordance with law.
- D. Incorrect. As already explained in preceding Paras.
- E. Incorrect. As already explained in preceding Paras.
- F. Incorrect. That appellant was appointed on Adhoc basis on 04-11-2010 upto 04-11-2011 for one year till arrival of the selectees of the Khyber Pakhtunkhwa Public Service Commission whichever is earlier as already mentioned in the terms and condition of the notification and re-appointed on Adhoc basis vide notification dated: 07-02-2012 w.e.f 25-11-2011 with the gap of two weeks on the same terms and conditions. Thereafter the appellant was recommended by Khyber Pakhtunkhwa Public Service and appointed vide notification dated: 02-07-2012.
- G. Incorrect. That the Appellant is not entitled under the said rules as already explained.
- H. That the respondents may be allowed to raise additional grounds at the time of arguments.

Prayer:-

It is, therefore, humbly prayed that the instant Service Appeal is based on misconception/misstatements hence may graciously be dismissed.

Secretary,

Higher Department Education Khyber Pakhtunkhwa Respondent No. 1

Finance Department Khyper Pakhtunkhwa Respondent No. 2

Director,

Higher Education Khyber Pakhtunkhwa Respondent No. 3

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S:Á	6274/2020				
Mr.	Taufiq	•••••	 	 •••••	. Appellant

Versus

Govt. of Khyber Pakhtunkhwa Through Secretary, Higher Education Department, Peshawar & OthersRespondents

<u>AFFIDAVIT</u>

I, Jehanzeb Khan Superintendent (Litigation) Higher Education Department do hereby declare and affirm on oath that the contents of Para Wise Comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

Identified by:

Deponent Superintendent Directorate of Higher Education Khyber Pakhtunkhwa Peshawar GOVT. OF KHYBER DEPARTMENT

Dated Peshawa: the November 04th, 2010.

NOTIFICATION

No.SO(COLLEGES)2-5/2010. Consequent upon the recommendations of Departmental Selection Committee, the Competent Authority is pleased to appoint the following Male lecturers (BPS-17) on adhcc basis as a stop gap arrangements for a period of one year or till the availability of selectees of Khyber Pakhtunkhwa Public Service Commission whichever is earlier and to post / adjust them in the colleges mentioned against each:

S# Name & Address Computer Disable GRCVE Saldu A.V.P. 1. Amir Dost Khan S/o Muhammadr Shamkanra, Tehsil Natta, District Computer. Disable GRCVE Saldu A.V.P. 2. Tarveer Usman S/o Usman Ghahi, Motralla Shaban, Village & P.O. Kharubad, Nowshera. Maths Disable GPGC Mardan A V.P. 3. Ubaid All S/o Abdul Ghafoor, Moh. Badham Khel, V.P.O. Gojar Garhi, Tehsil & District Mardan. Maths Disable GPGC Mardan A.V.P. 4. Muhammad Wardan Mardan GPGC Mardan A.V.P. 7. Ubaid All S/o Abdul Ghafoor, Moh. Badham Khel, V.P.O. Gojar Garhi, Takht Bal, District Mardan. Computer Disable GPGC Mardan A.V.P. 4. Muhammad Shah, Dhard, Village & P/o Lund Khwar, Tahsil Computer Disable GDC Dagger, A.V.P. 5. Syeri Hamid All Shah, S/q Muhammad Sha', Village Pak Study Disable GDC Mardan A.V.P. 6. Muhammad Sta', Village Syeri Hamid All Shah, S/q Pak Study Disable GDC Maryin, A.V.P. 5. Syeri Hamid All Shah, P/q <td< th=""><th>s</th><th></th><th></th><th>and the second se</th><th>Zone</th><th>Rosted at</th><th>Remarks</th></td<>	s			and the second se	Zone	Rosted at	Remarks
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Directorate of Higher Education Kinyber Pakitunkhwa Peshawar

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		Chamiali Teh & Distt Abbottabad		r 1			

ADJUSTMENT:-

Consequent upon the above, the following

made in the best public interest

S. #	Name // Designation // present posting	Posted at	Remarks
1.	Attique uz Zaman, lecturer in Statistics, GDC Oghi, Mansehra	GPGC Haripur.	Against vacani post
2	Sajjad Ahmad, lecturer in Maths, GDC Samarbagh, Dir Lower.	GPGC Timergara, Dir Lower	Against vacan post
· -3.	Ijaz Ahmad, lecturer in Economics, GDC Ahmadabad, Karak.	GPGC Kohat	Against'vacan post
4.	Ikram Ullah, lecturer in Political Science, GDC Totakan, Malakand	GPGC Timergara, Dir Lower.	Against vacan post
5.	Agency. Dilawar Khan, lecturer in Chemistry GDC Dara Adam Khel, FR Kohat	GDC Hangu	Against vacan post
6.	Rashid Ahmad, lecturer in Pak Study, GDC Puran, Shangla.	GDC Matta, Swat.	Against vacan post
7.	Murad Ali, lecturer in Chemistry, GPGC Khar, Bajaur Agency	GPGC Timergara, Dir Lower.	Against vacan post

The appointment of the above lecturers from S. No. 01 to 352 will be subject to

the following terms and conditions:-

TERMS AND CONDITIONS

11.

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The appointment of the above candidates will be on Adhoc basis for a period of one year upto 4,11.2011 or till the arrival of the selectees of the Khyber Pakhtunkhwa Public Service Commission, whichever is earlier. They will get pay and allowances in BPS-17. No TA/DA will be allowed for their first appointment.

The appointment of the candidates mentioned in Para.1 above is subject to the condition that they bear the Domicile of Khyber Pakhtunkhwa.

Superintendent Directorate of Higher Education Khyber Pakhtunkhwa Peshawar

and to term nate their contract before expiry of the term, they all move to most notice in advance failing which they will have to deposit month octice in advance failing which they will have to deposit Bee of such nonce in the Govt. Treasury.

set set make any request for transfer from the college where the a set occurrence, their services shall stand terminated.

they shall you their post within 15-days of the issuance of this Notif --., They show were Education. Ktyper Pakhtunkhwa Peshawar, should furnish a strate where that the cardinates have joined the post or otherwise after 15-00-00 ul the

They shall execute an agreement with the Government before taking over charge to be issuance of this Notificat or signed by the Director Higher Education Khyber Pakhtunkhwa, on behat of the

re, shall not be entitled to any pension or gratuity for the service render. Gelennert.

<u>.</u> -

range report in duplicate should be submitted to all concerned. service shall be terminated if they violate any provision of the terms & inditions Lected in the Agreement Bond.

> SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION DEPARTMENT

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Convict the above is forwarded to the: -

Finister, to Govt, of Khyber Pakhtunkhwa, Establishment Department, Per

mitteary to Govt. of Khyber Pakhtunkhwa, Finance Department.

20 ²⁴ nt bal Secretary to Chief Minister, Khyber Pakhtunkhwa. 4.

Secretary to Governor, Khyber Pakhtunkhwa.

S. Accountant General Khyber Pakhtunkhwa Peshawar. 6.

Director Higher Education Khyber Pakhtunkhwa Peshawar, with the request the request topies of the Agreement Bond to all Principals of the Government Colleges opncerned mediatery. 2

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Districts | Agency Accounts Officers, concerned. Э.

Director Information for wide publicity through media. 휷

Principals Government Colleges (Male) concerned. 11

Section Officer (FATA) Education Wing, Governor's Secretariat (FATA) 200 - Roace Anatiawar. ;) Deputy Director (IT), Plaining Cell, Higher Education Department.

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Superintendent Directorate of Higher Education Khyber Pakhtunkhwa Peshawar

(BASHIR AHMAD) SECTION OFFICER (COLLE 04111X



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GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

Dated Peshawar the February 7th, 2012.

NOTIFICATION

NO. SO(COLLEGES)2-5/2010. In continuation of this Department Notification of even number dated 04.11.2010, the Competent Authority is pleased to re-appoint the following Male lecturers (BPS-17) for a period of one year in various subjects on adhoc basis as purely temporary and stop-gap arrangements for Govt. Colleges of Khyber Pakhtunkhwa. Their salaries will be started from the dates noted against each in Column-4:-

1.	2	3.	4
S. #	Name & Designation	Posting station	Date from which re- appointed
1.	Amir Dost Khan, adhoc lecturer in Computer Science	GPGJC Saidu Sharif, I Swat	10-11-2011
2. 3.	Ubaid Ali, adhoc lecturer in Economics. Syed Hamid Ali Shah, adhoc lecturer in Pak Study.	GPGC Nowshera GDC Dagger Buner	17-11-2011 10-11-2011
4 <u>.</u> 5, 6. 7.	Muhammad Siraj, adhoc lecturer in Law. Ihsan Ullah, adhoc lecturer in Physics. Nazif Ullah, adhoc lecturer in Biology Muhammad Naeem Khan, adhoc lecturer in Biology	GDC Madyan, Swat. GDC No.3 D.1 Khan. GPGC Miranshah S.W.A GDC Ghari Kapoora, Mardan.	12-12-2011 12-11-2011 0 02-01-2012 16-11-2011
8. 9. 10.	Qaksar Zaman adhoc lecturer in Biology Ishtiaq Ahmad adhoc lecturer in Botany Rafi Ullah adhoc lecturer in Botany	GDC Dagger Buner GDC Chitral GDC Gulabad, D. Lower.	10-11-2011 16-11-2011 05-11-2011
11.	Muhammad Usman Khan adhoc lecturer in	GDC Paniala, D.I. Khan	26-11-2011
12.	Muhammad Israr, adhoc lecturer in Botany	GDC Akora Khattak Nowshehra	11-11-2011
<u>13.</u> <u>14.</u> 15.	Sabtain Adil, adhoc lecturer in Botany Taseer Ullah Shah, adhoc lecturer in Botany Muhammad Aamir, adhoc lecturer in Botany	GPGC No.1 Abbotabad GDC No.3 D.1 Khan GDC Sherwan, Abbottabad	05-11-2011 12-11-2011 14-11-2011
18. 19.	Murad Ali adhoc lecturer in Chemistry Asif Khan adhoc lecturer in Chemistry Majid Ali adhoc lecturer in Chemistry Muhammad Imran adhoc lecturer in Chemistry Sheher yar, adhoc lecturer in Chemistry.	GDC Zaida Swabi GDC Thall Hangu	11-11-2011 12-11-2011 05-12-2011 11-11-2011 25-11-2011
2.1.	Ibrahim Khan adhoc lecturer in Chemistry Ahmag Khan adhoc lecturer in Chemistry	Bannu	-14-11-2011
23. 24. 25.	Pazel Dadi adhoc lecturer in Chemistry Ibrahim Khani adhoc lecturer in Chemistry Mansoor Ali adhoc lecturer in Chemistry	GDC Zarobi Swabi GPGC Mardan GPGC Mardan	10-11-2011 05-11-2011 05-11-2011 10-11-2011
	Naseeb Rawan adhoc lecturer in Chemistry Asad Aii adhoc lecturer in Chemistry	GDC Matta, Swat	10-11-2012

Superintendent Directorate of Higher Education Khyber Pakhtunkhwa Peshawar

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	214.	Muhammad Sohaib adhoc locturer in GPGC Charsadda.	
W.	1	Political Science	und 07-01-2012
	215.	Shabir Khan adnoc lecture in Mohmand Adency	ad 11-11-2011
	216.	Science Sohrab Ahmad adhoc lecturer in GPGC No. 1 Abbotab	
		Political Science	10,11-2011
	217.	Guimudant adhoc rector at the	kand 10-11-2011
-	218.	Fahim Ullah Khan adhoc lecturer in Anearcy	
	· · ·	Political Science GDG Kakki Bannu	05-12-2011
	219. i	- potenti Science	pan, 25-11-2011
	220	Homayun Khan, adhoc lecturer in	
	· · · ·	Abdut Nasir Khan adhoc lecturer in GDC Dara Adam	
. •	221.	Political Science Govi. Akhtar N	lawaz 05-12-2013
	222.	Muhammad Amir adnoc lecturer in khali Degree Ci	bilege
•			sehra (2-11-20))
•	223.	Sajid Waseem adhoc recruiter in a same	
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	1225	Agency	
an saite	226.	Manzoor Ul Hassan adhoc leccorer in	
		Statistics Rab Nawaz Khan -adhoc lecturer in GDC Gandaf Swat	
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	228	Subhan Ullah adhoc lecturer in Statistics GDC Garhi Ki	apoora, 25-1(-2011
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	230	Muliammad Abid, adhoc lecturer in Agency	
•	2.71	Statistics Ansar Ullah adhoc lecturer in Statistics Ansar Ullah adhoc lecturer in Statistics GDC Miranshah N GDC Landi Kotal	
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		GPGC Khar	Bajur 25-11-2011
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	2	po Raza Ullah Khan adnoc lectorer in	1011
		Statistics , GDC Kulachi D.	10-11-2011
		41. Adil Mehmood Khan autoe leasan	
		Statistics 42. Muhammad Riaz adhoc lecturer in Urdu GDC Darazind Khan.	
-	. 2		Havelian 13-11-2011
		243. Qazi Amjid adhoc fecturer in Urdu Abbotabad GDC Tank GDC Tank	13-11-2011
	-		gai Bajur 25-11-2011
		245. Imran Khan adhoc lecturer in olda Agency	abibuilah 25-11-2011
0		246. Addui Amini adhoc lecturer in Urdu GPGC Charsa	dda. 12-11-2011
<u>ч</u> ,			dda 6212 2024
		248. Irfan Ullah adhoc lecturer in Urdu GDC	Wadbaga 1 1/11 2011
		249. Waheed Murad adhoc lecturer in ords Peshawar	ATTESTED
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Superintendent Directorate of Higher Education Khyber Pakhtunkhwa Peshawar

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-	250.	Sved Sultan Zaib Bacha adhoc lecturer in	GDC Danger Buner	10-11-2011
	1. -	1 Urdu	obe bugger, bundri	
	251.	Sajid Ghani adhoc lecturer in Urdu	GDC Dir Upper	16-11-2011
	252.	Muslim Shah adhoc lecturer in Urdu	GDC Ghari Kapora,	10-11-2011
			Mardan .	
	253.1	Sohail Ahmad adhoc lecturer in Urdu	GDC Totakan,	10-11-2011
	1 .		Malakand, Agency.	
	254.	Renmat Ullah, adhoc lecturer in Urdu	GDC Tank	16-11-2011
	255.	Sher Bali Shah Jadhoc lecturer in Urdu	GPGC Bannu	03-12-2011
•	256.	; Khalil-ur-Rehman adhoc lecturer in	GDC Paniala D.I Khan	.10-11-2011
		Urdu .	i	
	257.	Asif Khan adhoc lecturer in Urdu	GDC Lassan Nawab	11-2011
		je 1. se	Mansehra GPGC No.1 Abbottabad	11-11-2011
	258.	Zafar Iqbal adhoc lecturer in Urdu	GDC No.1 Abbollabab	07-12-2011
	259.	Liagat Khan adhoc lecturer in Urdu	Abbottabad	V/-12-2VII
	260.	Bakht Tareen khan adhoc iecturer in	GDC Yar Hussain,	26-11-2011
	200.	Zoology	-Swabi.	20 11 0011
ĺ	261	Jehangir Khan adhoc lecturer in Zoology	GPGC Nowshera.	30-11-2011
	262.	Abdul Khalig adhoc lecturer in Zoology	GDC No. 1 D. I Khan	11 11-2011
!	263.	Sharatat Ali adhoc fectorer in Zoology	GDC Motta Swat	03-12-2011
ļ	264.	Hezb Ullah, adhoc lecturer in Zoology	GDC Bagan, Kurram	25.11.2011
;			Agency	
į	265.	Munammad Nisar adhoc lecturer in	GPGC Mardan.	24-11-2011
i		Zoology		
1	266.	Asmat Ullah adhoc lecturer in Zoology	GPGC Karak	11-11-2011
	267.	Ihsanullah, adhoc lecturer in Zoology,	GDC Latambar, Karak.	11.11.2011
	268.	Muhammad Ali adhoc lecturer in	GDC Toru Mardan	02-01-2012
i	,	Economics		28-01-2012
i	269.	Zohaib Akhtar adhoc lecturer in	GDC Zaida Swabi	20-01-2012
l	i	Economics	GPGC Mandian	05-01-2012
ł	270.	Mohammad Sabil-ur-Rehman adhoc	0.00	0.01-2012
		lecturer in Maths	Abbottabad GDC Agra Malakand	26-01-2012
Ì	271.	Muhammad Anwar adhoc locturer in		20 03 2034
ł	۲	English	· · · ·	

The appointment of the above lecturers from S. No. 01 to 271 will be subject

to the following terms and conditions:-

TERMS AND CONDITIONS

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IV.

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viii.

Their re-appointment will be on Adhoc basis for a period of one year upto the date of expiry as mentioned against each or till the arrival of the selectees of the Khyber Pakhtunkhwa Public Service Commission, whichever is earlier.

They will get pay and allowances in BPS-17.

No TA/DA will be allowed for their re-appointment.

The re-appointment of the candidates mentioned in Para.1 above is subject to the condition that they bear the Domicile of Khyber Pakhtunkhwa.

If they want to terminate their contract before expiry of the term, they will have to serve one month notice in advance failing which they will have to deposit one month pay in lieu of such notice in the Govt. Treasury.

they shall not make any request for transfer from the college where they are posted: In case of such occurrence, their services shall stand terminated. They shall join their post within 15-days of the issuance of this Notification. The Director Higher Education, Knyber Pakhtunkhwa Peshawar, should furnish a certificate to the effect that the candidates have joined the post or otherwise after 15-days of the issuance of this Notification.

They shall execute an agreement with the Government before taking over charge to be signed by the Director Higher Education Khyber Pakhtunkhwa. behall of the Government.

> Superintendent Directorate of Higher Education Khyber Pakhtunkhwa Peshawar

- They shall not be entitled to any pension or gratuity for the service rend by them on Adhoc basis, nor they will claim any right of regularization.
- Charge report in dublicate should be submitted to all concerned. Their service shall be terminated if they violate any provision of the terms.
 - conditions specified in the Agreement Bond.

14 young to be

SECRETARY TO GOVE OF KHYBER PAKHTUNKHWA HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even.

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Copy of the above is forwarded to the: -

- 1. Accountant General, Knyber Pakhtunkhwa, Peshawar
- 2. Director Higher Education, Khyber Pakhtunkhwa Peshawara
- 3. Director of Education (FATA), Warsak Road Pesnawar.
- 4. Director Recruitment, Khyber Pakhtunkhwa Public Service Commissik Peshawar.
- 5. Districts / Agency Accounts Officers concerned.
- 6. Principals of the Government Colleges concerned.
- 7. Section Officer (Estab-II) FATA Secretariat, Coordination & Administration Department, Warsak Road Peshawar.
- 8. P.S. to Secretary Higher Education Department.
- 9. Lecturers concerned.

ATTESTED

Superintendent Directorate of Higher Education Rhyber Pakhtunkhwa Peshawar (WAHEED KHAN) SECTION OFFICER (COLLEGES-II)



FAIA SECRETARIAT Social Sectors Department Warsak Road Peshawar

ė,

Notification

Dated Peshawar the 02/07/2012

No.SO(Edu:SSD)/1-1/Apptt:Lect:////i582-98 Consequent upon the recommendations of Khyber Pakhtunkhwa Public Service Commission, the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) is pleased to appoint the following (Male/Female) candidates as lecturar in Higher Education, Archives & Libraries Department, Khyber Pakhtunkhwa in ElS-17 (16000-1200-40000) plus usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government subject to the conditions inter-alia specified at Para-2 and posted them in the Colleges mentioned against their names below.

5#	Name and Eather's Name	Subject	Posted at	Remarks
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4	Shali Kor Samad Kor		Barkhlozai,	occupied by him on
1	Tehsil Ghallanai Mohmand		Bajaur	adhoc basis
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*****	Mr.Muhammad Ismail S/O	Statistics 8 8 1	GPGC Khar,	Post already
	Bakht Munir village and		Bajaur	occupied by him on
2	Post office Harrichand Nehir	~		adhoc basis
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,m	Mr.Asadullah S/O Hukarn	Statistics	GDC	Post already occupied by him on
3	Dad, Domail Zirraki District		Darazinda FR	adhoc basis
1600 - 243, Your Hold State	and Tehsil Bannu		D.I.Khan	Post already
	Mr.Adnan Khan S/O Wasal	Statistics	GPGC Khar, Bajaur	occupied by han on
4	Khan, Warsak Road Ghalgi		Dajaur	adhoc basis
	Kandar Khel P/O Mathra			
	Peshawar. Mr. Ajmir Khan S¿O Anwar	Statistics	GDC	Post already
	Khan, Village Qandhari Wali	Vinnanoo	Landikotal,	occupied by him on
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	Nawab Ali Khan, House No.		Jannukl,	5 x x x x x x x x x x x x x x x x x x x
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	Mst. Romana Khan Mahsud	English	GGDC	Against vacant post
	D/O Din Ghulam Mahsud		Jandola, FR	
7	Mahsud, House, No. 13		Tank	, , , , , , , , , , , , , , , , , , ,
•	LALAZAR Colony Near			Superintend
	Govt. College No. 1 (For			Directorate of Higher Khyber Pakhtunkhwa
	Boys) Dera Ismail Khan.	ان میروند. مراجع در میروند بر میروند میروند. مراجع در میروند میروند میروند میروند.	And the first state of the second state where the	en alle and the second second second second second second and the second s
	Mst. Hina D/O Farid Ullah,	English	GGDC	Vice Nausheen Gul,
8	House # 141/C, Mohallah		Miranshah,	Adhoe Lecturer
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	- A State		1	[be terminated ·

TERMS & CONDITIONS

- meir services will be considered regular but without Pension & Gratuity in terms of Section-19 of the NWEP Civil Servants Act 1973 as amended vide NWFP Givil Servants (Amendment) Act 2005. They will however be entitled to Contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
- The Lecturers who are already in Government Service and are working against 2. pensionable posts on regular basis before 1sl day of July 2001, without any service break, on application to Khyber Pakhtunkhwa Public Service Commission through proper channel are allowed choice of option either to retain benefit of pension & gratuity as allowed to them under their previous terms of appointment or to avail the benefit of Contributory Provident Fund allowed to them under the new appointment.
 - Their services are liable to termination on one month's notice from either side. 3. In case of resignation without notice, their one month pay/allowances shall be forfeited to the Government.
 - The appointees should join their posts within 30 days of the issuance of this 4. Notification. The Director Education (FATA) would furnish a certificate to the effect that the candidate have joined the post or otherwise, after one month of the issuance of this Notification, failing which their candidature will expire automatically and no subsequent appeal etc shall be entertained.
 - They would be on probation for a period of one year extendable for another 5. period of one year.
 - They will be governed by such rules and regulations as may be issued from 6. time to time by the Government.
 - Their services can be terminated at any time, in case their performance is 7. found unsatisfactory during probationary period.
 - Charge report should be submitted to all concerned. 8.
 - They will not be entitled to any TA/DA on their first appointment as Lecturer. 9.

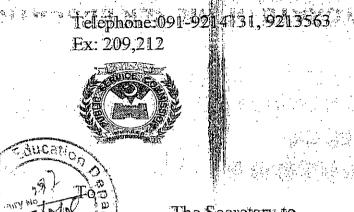
Secretary Social Sectors Department

Endst No. & Dated Even

Copy forwarded to the:-.

- Secretary Higher Education, Archives & Libraries Department Khybor 1. Pakhtunkhwa.
- Director Education FATA, Peshawar. 2.
- Accountant General Khyber Pakhtunkhwa 3.
- Addl: Accountant General (PR) Sub Office Penhawar. 4.
- PS to Chief Secretary Khyber Pakhtunkhwa. 5.
- PS to Secretary Social Sectors Department, FATA Secretariat, Peshawar. 6.
- Individuals concerned. 7.
- Personal File. 8.

Superintendent Directorate of Higher Education Khyber Pakhtunkhwa Peshawar



Khyber Pakhtunkhwa Public Service Commission Road Peshawar. C 2 Font Governor House SR-VII- No. 002343 Dated: 61 2.1.19

The Secretary to, Govt: of Khyber Pakhtunkhwa, Higher Education Department Peshawar.

Subject: -

- <u>REVISED INTER SE MERIT (COMBINED) OF MALE LEG</u> VARIOUS SUBJECTS (BPS-17) IN HIGHER E DEPARTMENT (ADVERTISEMENT 04/2010).

ED DA

Dear Sir,

In an directed to refer to your letter No. so(C-II)/12-6/2 khan dated 18/12 2018 on the subject noted above and to enclose herewi copy of Combine Revised Inter Se Merit of Male Lecturers in varia (BPS-17) of Advertisement No 04/2010 for your further necessary action.

ATTESTED

Superintencent Directorate of Higher Education Khyber Pakhtunkhwa Peshawar

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Yours Faithfully

(SHER AJMAL AFRID) ASSISTANT DIRECTOF

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NTER-SE-MERIT OF MALE LECTURERS (BPS-17) IN VA

Subject

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IN THE SUPREME COURT OF PAKISTAN (Appellate Jurisdiction)

7612

PRESENT: Mr. Justice Gulzar Ahmed Mr. Justice Blunib Akhtar

Civil Petition No. 385-P of 2017

(On appeal from the order dated 24.5.2017 passed by the Peshawar High Court, Peshawar in W.P.2039-P of 2014)

Govt. of KPK thr. Dhief Secretary, KPK, Civil Scoretarint, Pechawar and others

...Petitioner (s)

Versus

Asfar Khan and others.

...Respondent (s)

For the Petitioner (s)	:	Mr. Zahid Yousuf Qureshi, Addl. A.G KPK. Mr. Khushi Muhammad S.O. Lit.
Respondent No.1	.;	in person.
Date of hearing	:	17.09.2019

ORDER

Gulzer Ahmed. J .- Learned additional Advocate General contends that in the first place a Committee of Cabinet Division was constituted to consider the regularization of the employees of FATA Colleges but the Committee did not recommend their regularization as they were appointed on ad-hoc basis in FATA. Learned Additional Advocate General further contends that no discrimination can be attributed to the legislation made by the Provincial Government i.e. KPK Ad hoc Lecturers (Regularization of Services) Act, 2014 and thus the Peshawar High Court could not

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Superinténdent Directorate of Higher Education. Khyber Pakhtunkhwa Peshawar

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CP 385-P/17

have given a decision by ignoring these two valid pieces of documents where discrimination was not at all established. He further contends that at the time when the writ petition was filed, the High Court had no jurisdiction to adjudicate the matter relating to FATA and in terms of Article 247 of the Constitution such jurisdiction was barred. He further contends that this Act, as referred to above, was also not applicable to the employees working in FATA.

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Leave to appeal is granted inter alia to consider the above submissions of the learned Additional Advocate General, KPK.

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Superintendent Directorate of Higher Education Khyber Pakhtunkhwa Peshaway

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THE ¹[KHYBER PAKHTUNKHWA] SERVICE TRIBUNALS ACT, 1974.

²[KHYBER PAKHTUNKHWA] ACT NO. I OF 1974.

CONTENTS.

PREAMBLE

[28th March, 1974]

SECTIONS:

- 1. Short title, commencement and application.
- 2. Definitions.

3. Tribunals.

3A. Adhoc Appointment.

3B. Tenure, Terms and condition of service of Chairman and member.

- 4. Appeals to Tribunals.
- 5. Constitution of Benches.

6. Hearing of appeals and, their disposals.

7. Power of Tribunals.

8. Abatement of Suits and other proceeding.

- 9. Limitation.
- 10. Re-appeal and transfer of cases.
- 11. Power to make Rules.
- 12. Repeal.

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Superintendent Directorate of Higher Education Khyber Pakhtunkhwa Peshawar

¹ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011. ² Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011. ¹[(4) The Chairman and members of a Tribunal shall be appointed by the Governor in consultation with the Chief Justice of the Peshawar High Court.]

(5) The Chairman or a member of a Tribunal may resign his office by writing under his hand addressed to the Governor.

(6) The Chairman or a member of a Tribunal may be appointed by name or by designation.

²[3-A Adhoc appointment.—The Governor may, if necessary or expedient, for a particular case or cases, make an ad hoc appointment on the Tribunal of person qualified to be Chairman or a member as the case may be.]

³[3-B Tenure, Terms and conditions of service of Chairman and members._(1) The Chairman and a member shall hold office for a period of three years or until he attains the age of sixty years, whichever is earlier, and shall not be eligible for re-appointment:

Provided that if a judge of the High Court is appointed as Chairman, he shall hold office for a period of three years or until he attains the age of superannuation as judge of the High Court whichever is earlier.

(2) In case, a retired judge of the High Court is appointed as Chairman under clause (a) of sub-section (3) of section 3, he shall hold office for a period of three years and shall not be eligible for re-appointment.

(3) The other terms and conditions of service of the Chairman and members shall be such as may be determined by the Governor.]

Any civil servant aggrieved by any final order, whether original or appellate made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him ⁴[or within six months of the establishment of the appropriate Tribunal, whichever is later], prefer an appearl to the Tribunal having jurisdiction in the matter:

Provided that ----

ATTESTED

SupeNintendent Directorate of Higher Education Khyber Pakhtunkhwa Peshawar

¹ Substituted vide Khyber Pakhtunkhwa Act No. XXII of 2013, S.2(b).
 ²Inserted vide Khyber Pakhtunkhwa Act No. XIII of 1976, S.2.
 ³Inserted vide Khyber Pakhtunkhwa Act No. XXII of 2013, S.3.
 ⁴Inserted vide Khyber Pakhtunkhwa Act No. IX of 1974, S.3 (a).

Tenure, Terms and conditions of service of Chairman and members.

Appeals to Tribunals. 5 | Page

(a)

5.

Where an appeal, review or representation to a departmental authority is provided under the¹[Khyber Pakhtunkhwa]Civil Servants Act, 1973, or any rules against any such order, no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date on which such appeal, application or representation was preferred;²

no appeal shall lie to a Tribunal against an order or decision of a (b) departmental authority determining-

the fitness or otherwise of a person to be appointed to or (i) hold a particular post or to be promoted to a higher post or grade :or

- the quantum of departmental punishment or penalty imposed (ii) on a civil servant as a result of a departmental inquiry, except where the penalty imposed is dismissal from service, removal from service or compulsory retirement ³[; and].
- no appeal shall lie to a Tribunal against an order or decision of a ⁴[(c) departmental authority made at any time before the 1st July, 1969.]

Explanation.-In this section, "departmental authority" means any authority other than a Tribunal which is competent to make an order in respect of any of the terms and conditions of service of civil servants.

There may be constituted one or more Benches, each consisting of ____ Constitution of (1)

Benches.

Superintendent

Directorate of Higher Education

Khyber Pakhtunkhwa Peshawar

the Chairman alone ; or (a)

the Chairman and one or more members ; or (b)

o[one preferably judicial member] or more member, (c)

¹ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011. ² Omitted vide Khyber Pakhtunkhwa Act No. IX of 1974, S.3(b)(i).

³ Replaced vide Act No IX of 1974, S.3 (b)(ii). ⁴ Added vide Khyber Pakhtunkhwa Act No IX of 1974, S.3 (b) (iii).

⁵ Substituted vide Khyber Pakhtunkhwa Act No. XXII of 2013, S.4(i)(a)