


# FORM OF ORDER SHEET

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

**Appeal No.** 1282/2023

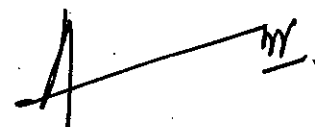
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/06/2023	<p>The appeal of Mst. Farzana resubmitted today by registered post through Muhammad Arshad Khan Tanoli Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mst. Farzana wife of Abdul Hafeez PST GGPS Chuchang Upper Kohistan received today i.e on 29.05.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of appointment order dated 29.11.1994 and termination order dated 13.2.1998 mentioned in the heading of the appeal is not attached with the appeal which be placed on it.
- 2- Copy of departmental appeal for counting of previous service towards pensioners benefit is not attached with the appeal be placed on it. Annexure-D is application for her nearest adjustment but not a departmental appeal.

No. 1544 /S.T.

Dt. 29/05 /2023.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. M.Arshad Khan Tanoli Adv.  
High Court A.Abad.

*Sir,*

*case is re-submitted  
duly rectified as desired.  
Available documents are  
attached.*

*16  
2023*



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

Service Appeal No. 1282 2023

Farzana wife of Abdul Hafeez, PST GGPS Chuchang Upper Kohistan.

....APPELLANT

**V E R S U S**

Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

**SERVICE APPEAL**

**INDEX**

S.#	Description	Page No.	Annexure
1.	Service appeal along with affidavit	1 to 6	
2.	Copy of appointment order dated 29.01.1995 and termination order dated 13.02.1998 of the appellant	7-10	"A"
3.	Copy of KP Sacked Employees Appointment Act 2012	11-20	"B"
4.	Copy of appointment order dated 22/10/2020 of the appellant	20-A	"C"
5.	Copy of department appeal	21-22	"D"
6.	Copy of judgment of KP Service Tribunal and the Apex Court	23-31	"E"
7.	Wakalatnama	32	

*Farzana*  
...APPELLANT

Dated; 27/5 /2023

Through;

*(Muhammad Arshad Khan Tanoli)*  
Advocate Supreme Court of Pakistan

&

*(Muhammad Ibrahim Khan)*  
Advocate High Court, Abbottabad

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

Service Appeal No. 1282 2023

Farzana wife of Abdul Hafeez, PST GGPS Chuchang Upper Kohistan.

....APPELLANT

**V E R S U S**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director, Elementary & Secondary Education (E&SE), Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) Upper Kohistan.

...RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT 1974 FOR DECLARATION  
TO THE EFFECT THAT THE APPELLANT  
WAS APPOINTED ON 29/01/1995 AND WAS  
TERMINATED FROM SERVICE ON  
13.02.1998. THEREAFTER, THE APPELLANT  
GOT APPOINTMENT AS PST ON 22/10/2020,  
AS PER KP SACKED EMPLOYEES**

APPOINTMENT ACT 2012, BUT PREVIOUS SERVICE W.E.F 29.01.1995 TO 13.02.1998 AND 2012 TO 22/10/2020 HAS NOT BEEN COUNTED TOWARDS CALCULATION OF PENSION BY THE DEPARTMENT.

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**PRAYER:** ON ACCEPTANCE OF INSTANT SERVICE APPEAL, THE RESPONDENTS' DEPARTMENT MAY GRACIOUSLY BE DIRECTED TO COUNT PREVIOUS SERVICE W.E.F 29.01.1995 TO 13.02.1998 AND 2012 TO 22/10/2020 OF THE APPELLANT TOWARDS CALCULATION OF PENSION AND COMMUTATION.

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Respectfully Sheweth;-

The facts forming the background of the instant service appeal are arrayed as under;

1. That the appellant got appointment in the respondents' department on 29.01.1995 and his service was terminated on 13.02.1998. Copy of appointment order dated 29.01.1995 and termination order dated 13.02.1998 of the appellant is annexed as Annexure "A".

2. That, the Government of Khyber Pakhtunkhwa announced KP Sacked Employees Appointment Act 2012, wherein, the employees appointed in the year 1994-95 and was terminated in the year 1997-98 were to be re-instated in service. Copy of KP Sacked Employees Appointment Act 2012 is annexed as Annexure "B".
3. That, as per KP Sacked Employees Appointment Act 2012, the appellant was appointed PST on the 22/10/2020, but their previous service w.e.f 29.01.1995 to 13.02.1998 and 2012 to 22/10/2020 has not been counted towards calculation of pension/commutation of the appellant. Copy of appointment order dated 22/10/2020 of the appellant is annexed as Annexure "C".
4. That, the appellant filed departmental appeal to respondents' department but of no avail. Copy of department appeal is annexed as Annexure "D". Hence, the instant service appeal is filed inter-alia on the following grounds.

**GROUNDS:-**

- a. That as per judgment of service tribunal as well as of the Apex Court protected period of service has been declared to be counted towards calculation of pension/commutation of the sacked employees. Therefore, the appellant is entitled to have the period w.e.f 29.01.1995 to 13.02.1998 AND 2012 to 22/10/2020 counted towards calculation of pension and commutation. Copy of judgment of KP Service Tribunal and the Apex Court is annexed as Annexure "E".
- b. That, department was supposed to count the above mentioned period of the appellant towards calculation of pension etc on the analogy of similar and similarly placed employees.
- c. That the respondents' department is supposed to have one yard stick while dealing with the employees who are similarly placed. Besides, once a point of

law is decided by the Superior Courts that must be made applicable to all the employees who are similarly placed and no discrimination may be made out.

- d. That the matter in issue relates to the terms and conditions of service, therefore, the Honourable Tribunal has jurisdiction to entertain the lis under Article 212 of the Constitution.

It is therefore, very humbly prayed, that on acceptance of instant service appeal, the respondents' department may graciously be directed to count previous service w.e.f 29.01.1995 to 13.02.1998 and 2012 to 22/10/2020 of the appellant towards calculation of pension and commutation.

  
...APPELLANT

Through;

Dated; 27/5 /2023

  
(Muhammad Arshad Khan Tanoli)  
Advocate Supreme Court of Pakistan

&  
  
(Muhammad Ibrahim Khan)  
Advocate High Court, Abbottabad



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

Service Appeal No. \_\_\_\_\_ 2023

Farzana wife of Abdul Hafeez, PST GGPS Chuchang Upper Kohistan.

....APPELLANT

**V E R S U S**

Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

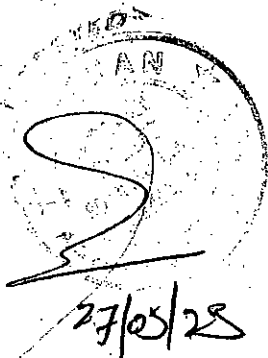
**SERVICE APPEAL**

**AFFIDAVIT**

I, Farzana wife of Abdul Hafeez, PST GGPS Chuchang Upper Kohistan, do hereby solemnly affirm and declare that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

*Farzana*

**DEPONENT**

  
27/05/23

# Annex-A

MINISTRY OF EDUCATION GOVT. OF PUNJAB (P) PRIMARY EDUCATION KHISHTAN DISTRICT

R-7

In partial modification of this Office Order No. 713-730/  
105-P/1/1994 dated 29.11.1994.

One candidate for exam B/o Abdul Wahid at S/NO 23 instead of  
B/NO 23 of the name of Aslam.

Sd/-  
DISTRICT EDUCATION OFFICER  
PRIMARY KHISHTAN AT DESSU.

1130-33 Dated Khushon the 29/11/1995

Copy of the above is forwarded to the:-

1. Director of Primary Education NWFP Hayatabad Peshawar.
2. District Account Officer Khishtan at Dessu.
3. Sub-Divisional Education Officer (K) Khishtan at Patten.
4. Candidate concerned.

Attested



29/11/95

# Annex - 2

No. 797-596

DIVISIONAL DIRECTOR OFFICE OF  
HAZARDOUS DIVISION, BOSTON, MA  
O. O. No. 797-596  
Dated: 5/7/1997

All personnel in the Divisional Office of Hazardous Division, Boston, MA, are advised that all the personnel appointments made from 1/1/93 to date have been furnished to this office and as well as pointed out by the original committees and inspectors. This, if any irregular appointment has been left and detected later in the conduct of the work, will be held responsible for the consequences. In case where a duty regarding regular or irregular appointments, the staff will be verified from this office within a week time.

Wherever in the past such efforts made by this office/department, any irregular appointments detected, the concerned staff will be held responsible for the consequences.

*Attested*

*[Signature]*

Assistant Director (Estt)

Divisional Director of Education

Encl: No. 797-596

Dated: 5/7/1997

Copy:

1. The Director, Boston (Secy) HWP, Boston, MA
2. [Illegible]
3. O. O. [Illegible]

Assistant Director (Estt)

Divisional Director of Education

*[Signature]*

P. 9

BETTER COPY

No. 7097-0290

Divisional Directorate of Edu:  
Hazara Division Abbottabad  
O.O No. 12  
Dated: 05/04/1997

To,

All the D.E.Os (M&F),  
Hazara Division, Abbottabad.  
All the Principals/ Headmasters/ Headmistresses,  
GHSS, GGHSS, GHS, & GGHS in Hazara Division.

Subject: IRREGULAR APPOINTMENTS

I am directed to refer Director of Education, (secy) NWFP, Peshawar's No. 4392-438 dated 31/03/1997 and to say that all the irregular appointments made from 01/11/1993 to date have been terminated by this office and as well as pointed out by the enquiry committees and inspite of this if any irregular appointee has been left and detected later on, the concerned will be held responsible for the consequences. In case there is any ambiguity regarding regular or irregular appointee, the fact can be verified from this office within a week time.

Therefore, after all such efforts made by this office/ depart: if any irregular appointee is detected the concerned DDO will be held personally responsible for the consequences.

Attested

Sd/-  
ASSISTANT DIRECTOR (ESTT)  
DIVISIONAL DIRECTOR OF EDU: ATD.

UM

Endst: No. 8297-99

Dated 05/04/1997

Copy of:-

1. The Director of Edu: (Secy) NWFP, Peshawar w/r to his No. mentioned above.
2. ADE Local Directorate.
3. O.O File.

all

Sd/-  
ASSISTANT DIRECTOR (ESTT)  
DIVISIONAL DIRECTOR OF EDU: ATD.

سین سماجہ رسالہ دھرتی کے لکھنے اور پڑھنے کے لئے

سنی 22 مارچ 1995ء کو حکم ڈی۔ ای۔ ای۔

پبلک کوشیاں آفس آرڈر 33-30/11/1995

تحت 22 مارچ 1995ء کو حکم آ. ای. ای.

پبلک کوشیاں آفس آرڈر 33-30/11/1995

...

جارج رپورٹ ایس۔ ڈی۔ ای۔ ای۔

...

جارج رپورٹ

جارج رپورٹ

...

...

Attested

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Annex-3

P-11

EXTRAORDINARY  
GOVERNMENT



REGISTERED NO. P.H.  
GAZETTE

**KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, THURSDAY 20th SEPTEMBER, 2012.

PROVINCIAL ASSEMBLY SECRETARIAT,  
KHYBER PAKHTUNKHWA

**NOTIFICATION**

Dated Peshawar, the 20th September, 2012.

No. PA/Khyber Pakhtunkhwa/Bills/2012/6877. The Khyber Pakhtunkhwa Sacked Employees (Appointment) Bill, 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 10th September, 2012 and assented to by the Governor of the Khyber Pakhtunkhwa on 17th September, 2012 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA SACKED EMPLOYEES (APPOINTMENT) ACT, 2012**

(KHYBER PAKHTUNKHWA ACT NO. XVI OF 2012)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa (Extraordinary), dated the 20th September, 2012).

AN  
ACT

to provide relief to those sacked employees in the Government service, who were dismissed, removed or terminated from service, by appointing them into the Government service.

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1999 on various grounds;

WHEREAS the Federal Government has also given relief to the sacked employees by enactment;

Attested

*Ull*

P-12 T  
(2)

146 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 20th SEPTEMBER, 2012.

AND WHEREAS the Government of the Khyber Pakhtunkhwa has also decided to appoint these sacked employees on regular basis in the public interest;

It is hereby enacted as follows:

1. Short title, extent and commencement---(1) This Act may be called the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.
- (2) It shall apply to all those sacked employees, who were holding various civil posts during the period from 1<sup>st</sup> day of November, 1993 to 30<sup>th</sup> day of November, 1996 (both days inclusive).
- (3) It shall come into force at once.

2. Definitions--- In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say:-

- (a) "civil post" means a post created by the Finance Department of Government for the members of Civil service of the Province;
- (b) "Department" means the Department and the Attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, including the Divisional and District offices working thereunder;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "Prescribed" means prescribed by rules;
- (e) "Province" means the Province of the Khyber Pakhtunkhwa;
- (f) "rules" means the rules made under this Act; and
- (g) "sacked employee" means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1<sup>st</sup> day of November, 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November, 1996 to 31<sup>st</sup> day of December, 1998 on the ground of irregular appointments.

3. Appointment of sacked employees--- Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department;

Provided further that the appointment of sacked employees shall be subject to the medical fitness and verification of their character antecedents in the satisfaction of the concerned competent authority.

Attested  
[Signature]

P-13

3

- 4. Age relaxation— The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.
- 5. Sacked employees shall not be entitled to claim seniority and other such benefits— A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other such benefits and his appointment shall be considered as fresh appointment.
- 6. Preference on the basis of age— On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.
- 7. Procedure for appointment— (1) A sacked employee, may file an application, to the concerned Department within a period of thirty days from the date of commencement of this Act, for his appointment in the said Department.

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted in the prescribed manner, for appointment.

Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(4) The concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. Removal of difficulties— If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act, as may appear to him to be necessary for the purpose of removing the difficulty.

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.

Attested

*[Signature]*



P-14

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KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 20th SEPTEMBER, 2012.

9. Act to override other laws.— Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.

10. Power to make rules.— Government may make rules for carrying out the purpose of this Act.

BY ORDER OF MR. SPEAKER  
PROVINCIAL ASSEMBLY OF KHYBER  
PAKHTUNKHWA

(AMIRULLAH)  
Secretary  
Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by the Director,  
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar.

Attested

*[Signature]*

P-15

**KHYBER PAKHTUNKHWA**  
**PUBLISHED BY AUTHORITY**  
**PESHAWAR, THURSDAY, 20<sup>TH</sup> SEPTEMBER 2012**  
**PROVINCIAL ASSEMBLY SECRETARIAT**  
**KHYBER PAKHTUNKHWA**

**NOTIFICATION**

Dated Peshawar, the 20<sup>th</sup> September, 2012.

No. PA/Khyber Pakhtunkhwa/Bills/2012/6077. The Khyber Pakhtunkhwa Sacked Employees (Appointment) Bills, 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 10<sup>th</sup> September 2012 and assented to by the Governor of the Khyber Pakhtunkhwa on 17<sup>th</sup> September, 2012 is hereby published as an Act of the Provincial legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA SACKED EMPLOYEES**  
**(APPOINTMENT) ACT, 2012**

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

(First Published after having received the assent of the Governor of the  
(Khyber Pakhtunkhwa in the Gazettes of the Khyber Pakhtunkhwa  
(Extraordinary), dated the 20<sup>th</sup> September, 2012).

AN

ACT

To provide relief to those sacked employees in the Government service who was dismissed moved or terminated from service by appointing them into the Government service.

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the regular basis qualification and

*Attested*

*[Signature]*

P-13

experience required for the said post. During the period from 1<sup>st</sup> day of November, 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive), and were dismissed removed, or terminated from service during the period from 1<sup>st</sup> November, 1996 to 31<sup>st</sup> day of December, 1998 on various grounds;

WHEREAS the Federal Government has also gives relief to the sacked employees by enactment;

Khyber Pakhtunkhwa Government Gazette, Extraordinary, 20<sup>th</sup> September, 2012.

AND WHERE AS the Government of Khyber Pakhtunkhwa has also decided to appoint these sacked employees on regular basis in the public interest.

It is hereby enacted as follows:

1. Short title and commencement. (1) This Act may be called the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.
2. It shall apply to all those sacked employees, who were holding various civil posts during the period from 1<sup>st</sup> day of November, 1993 to 30<sup>th</sup> day of November, 1996 (both days inclusive).
3. It shall come into force at once.

**DEFINITIONS:** In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say.

- a. Civil post means a post created by the Finance Department of Government for the members of civil service of the Province.

*Attested*

*[Signature]*

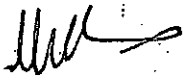
P-17

- b. Department in clause the Department and the attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, including the Divisional and District offices working there under.
- c. Government means the Government of the Khyber Pakhtunkhwa.
- d. Prescribed means prescribed by rules.
- e. Province means the Province of the Khyber Pakhtunkhwa.
- f. Rules means the rules made under this act. And
- g. Sacked employee means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that time. During the period from 1<sup>st</sup> day of November, 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and was dismissed removed or terminated from service during the period from 1<sup>st</sup> day of November, 1996 to 31<sup>st</sup> day of December, 1998 on the ground of irregular appointments.

Appointment of sacked employees. Not with standing contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7 may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal removal and termination from service.

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

Provided further that the appointment of sacked employees shall be subject to the medical fitness and

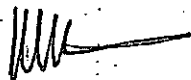
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verification of their character antecedents to the satisfaction of the concerned competent authority.

**KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE**  
**EXTRAORDINARY, 20<sup>TH</sup> SEPTEMBER 2012.**

4. **Me relaxation:-** The period during which a sacked employee remained dismissed removed or terminated from service till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.
5. **SACKED EMPLOYEES SHALL NOT BE ENTITLED TO CLAIM SENIORITY AND OTHER BACK BENEFITS:** A sacked employee appointed under section 3, shall not be entitled to any claim of seniority promotion or other back benefits and his appointment shall be considered as fresh appointment.
6. **PREFERENCE ON THE BASIS OF AGE:-** On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share preference shall be given to the sacked employee who is older in age.
7. **PROCEDURE FOR APPOINTMENT:-** A sacked employee may file an application to the concerned Department within a period of thirty days from the date of commencement of this Act, for his appointment in the said Department:  
Provided that no application for appointment received after the due date shall be entertained.

*Attested*



(2). The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3). If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the district Selection Committee, as the case may be to be constituted in the prescribed manner for appointment.

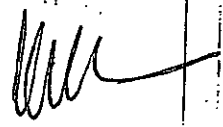
(4). The concerned Departmental Selection Committee or District Selection Committee as the case may be will determine the suitability or eligibility of the sacked employee.

(5). The sacked employee is available against thirty percent vacancy reserved irrespective cadre in a Department, then the post shall be filled through initial recruitment.

**REMOVAL OF DIFFICULTIES:-** Any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act, as may appear to him to be necessary for the purpose of removing the difficulty.

Provide that no such power shall be exercised after the expiry of one year from coming into force of this Act.

KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 20<sup>TH</sup> SEPTEMBER 2012.

*Attested*  


P-20

ACT TO OVERRIDE OTHER LAWS:- No by the standing any thing to the contrary contained in any other law or rules for the time being in force the provision of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency of this Act, shall cease to have effect.

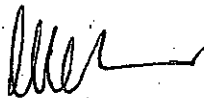
POWER TO MAKE RULES:- Government may make over for carrying out the purpose of this act.

BY ORDER OF MR SPEAKER

PROVINCIAL ASSEMBLY OF KHYBER  
PAKHTUNKHWA

(AMANULLAH)  
SECRETARY  
PROVINCIAL ASSEMBLY OF KHYBER  
PAKHTUNKHWA

Attested



Annex-C

OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE KOHISTAN

P-20-1

OFFICE ORDER

Whereas the MST Farzana PST GGPS Morogah filed writ petition No 195 A/2018 before the Honorable High Court Peshawar Abbottabad bench. The Honorable Peshawar High Court Abbottabad bench accepted and the passed decision in the favor of the appellant teacher on 19-2-2020 and set-aside the impugned office order.

Whereas the teacher filed the application in this office on 28-3-2020 for adjustment in the light of Honorable Court decision in any school on vacant post for on ward duty.

Whereas the competent authority is pleased to adjust the teacher at GGPS Jalkot Village w.e.f 29-3-2020 following the Honorable Court decision.

The pay will be released after issuing the duty certificate from the field staff.

Terms & Conditions:

1. No TA /DA is allowed.
2. Charge report should be submitted to all concerned
3. Their pay will not be drawn until and unless certificate/Documents are verified.
4. The order will automatically stand cancelled if any kind of record found fake and bogus.
5. The sonority and benefits of intervention period further kept under the court directions.

District Education Officer  
(Female) Kohistan

E/No 7898-9966 Dated DEO (F) KH 22/10 2020.

Copy of the above is forwarded to:

1. Director E&SE Khyber Pakhtunkhwa Peshawar
2. Deputy Commissioner Kohistan
3. Registrar High Court Peshawar Bench Abbottabad
4. District Account Officer Kohistan
5. District Monitoring Officer (IMU) Kohistan
6. Head Teacher Concerned schools
7. Teachers concerned
8. PA to DEO Local Office
9. Office record

Attested

UW

District Education Officer  
(Female) Kohistan

22/10/20



خدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحبہ (زبان) پرائمری ایمری ایماں

Annex-D

P-21

مفتوں :- سروں کا وینٹ کیٹے جانے بظاہر قانونی

جناب عالی :- نذیر احمد صاحبہ سائنڈ ٹورنٹ 20/9/20 کو محمد نعیم نے  
زیر سایہ بطور PST تعیناتی ہوئی اور دوران سروس

PST پوسٹ سے ٹورنٹ 22/9/20 Terminate کیا گیا

جس پر سائنڈ نے عالی گورٹ Writ Petition نمبری  
195-1/2018 دائر کی جس کا فیصلہ ٹورنٹ 18/2/20 کو سائنڈ

کا حق میں صادر شدہ ہے۔ کاپی منسلک ہے۔

یہ کہ سائنڈ نے ٹورنٹ 29.2.20 کو ایک درخواست جناب کو  
دی تھی جس پر نا حال کوئی کارروائی نہ ہو سکی۔  
کاپی درخواست منٹ ہے جس پر سائنڈ کی کاپی ہوئی

سید احمد صاحبہ سائنڈ کی نوکری 29/95 تا 29/97  
اور سال 2012 سے 22/10/20 تک پنشن کے لیے  
کارڈنگ دی جائے

امرفوم 31-1-23

سماہ فرزانہ دستر عبد الوحید کنہ لوج رہا پورہ  
محمد گوپیار مائسٹرہ ... سائنڈ  
ڈاک پتہ: بی بی خیرل شہور محمد گوپیار  
لوہڑ سائڈہ

رابطہ 0345-9614251  
0303-5335630

M/003/0000

**Dist. Govt. KP-Provincial**  
**District Accounts Office Kohistan at Das**  
**Monthly Salary Statement (November-2022)**

P-22



**Personal Information of Mr FARZANA, d/w/s of ABDUL WAHEED**

Personnel Number: 00995229 CNIC: 1350305958462 NIN:  
 Date of Birth: 05/06/1976 Entry into Govt. Service: 25/10/2020 Length of Service: 02 Years 01 Months 009 Days

**Employment Category: Vocational Permanent**

Designation: PRIMARY SCHOOL TEACHER 80802563-DISTRICT GOVERNMENT KHYBE

DDO Code: KD6016-DY.DO PRIMARY (FEMALE) KOHISTAN DASSU

Payroll Section: 001 GPF Section: 001 Cash Center:

GPF A.C No: GPF Interest applied: **GPF Balance: 0.00 (provisional)**

Vendor Number:

**Pay and Allowances:** Pay scale: BPS For - 2022 Pay-Scale Type: Civil BPS 12 Pay Stage: 0

Wage type		Amount	Wage type		Amount
0001	Basic Pay	19,770.00	1001	House Rent Allowance 45%	2,940.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1550	Special Allowance	800.00	1920	UAA-KOHISTAN 40%(1-15)	1,500.00
2316	Teaching Allowance 2021	2,664.00	2347	Adhoc Rel Al 15% 22(PS17)	1,998.00

**Deductions - General**

Wage type	Amount	Wage type	Amount
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**Deductions - Loans and Advances**

Loan	Description	Principal amount	Deduction	Balance
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**Deductions - Income Tax**

Payable: 0.00 Recovered till NOV-2022: 0.00 Exempted: 0.00 Recoverable: 0.00

**Gross Pay (Rs.): 34,028.00 Deductions: (Rs.): 0.00 Net Pay: (Rs.): 34,028.00**

Payee Name: FARZANA

Account Number: 004169311728

Bank Details: NATIONAL BANK OF PAKISTAN, 230364 MAIN BRANCH MANSEHRA MAIN BRANCH MANSEHRA, MANSEHRA

**Leaves:** Opening Balance: Aailed: Earned: Balance:

**Permanent Address:**

City: KOHISTAN Domicile: Housing Status: No Official

**Temp Address:**

City: Email: farzanatanoli76@gmail.com

*Attested*

Annex E

P. 23

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



Service Appeal No. 572/2019

Muhammad Haroon son of Khalil ur Rehman, GPS Phulra District Mansehra.

...APPELLANT

Khyber Pakhtunkhwa  
Service Tribunal

VERSUS

Salary No. 641

Dated 22/4/2019

1. Government of KPK through Secretary Elementary and Secondary Education, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) District Mansehra.

...RESPONDENTS

Re-submitted to -day  
22/4/19

SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974 FOR DECLARATION TO THE EFFECT THAT THE APPELLANT WAS REINSTATED IN SERVICE WITH EFFECT FROM 04/12/2017 VIDE APPOINTMENT ORDER ENDST NO. 20672-702 DATED 04/12/2017 UNDER THE KHYBER PAKHTUNKHWA SACKED EMPLOYEES APPOINTMENT ACT 2012, AS WELL AS IN THE LIGHT OF JUDGEMENT OF PESHAWAR HIGH

Re-submitted to -day  
and filed

Registrar  
3/5/19

ATTESTED

EXC. MANSHERA  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

Attested

*[Handwritten signature]*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 572/2019



Date of Institution ... 22.04.2019  
Date of Decision ... 18.03.2021

Muhammad Haroon son of Khalil ur. Rehman, G.P.S. Phulra  
District Mansehra.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary  
Elementary & Secondary Education Peshawar and two others.

(Respondents)

Muhammad Arshad Khan Tanoli,  
Advocate ... For appellant.

Riaz Khan Paindakheil,  
Assistant Advocate General ... For respondents.

ROZINA REHMAN ... MEMBER (J)  
ATIQU UR REHMAN WAZIR ... MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER: This judgment is intended to dispose of  
04 connected service appeals which are:

1. Service Appeal No.572/2019
2. Service Appeal No. 573/2019
3. Service Appeal No. 574/2019
4. Service Appeal No. 575/2019

ATTESTED  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

*Attested*

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In view of common questions of law and facts, the above captioned appeals are being disposed of by this order.

2. The relevant facts leading to filing of instant appeals are that appellants were appointed as C.Ts in the year 1993-94 and were terminated from service in the year 1997-98. After the announcement of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, they were required to be reinstated in service but the appellants were not appointed accordingly, therefore, they filed Writ Petition before the Hon'ble High Court for their appointment under the said Act and it was during the pendency of the Writ Petition when appointment orders were accordingly issued on 04.12.2017. Some of the employees under the said Act were appointed in 2012-13 but the appellants were appointed on 04.12.2017, therefore, they filed departmental appeal which was not responded to, hence the present service appeal.

3. We have heard Muhammad Arshad Khan Tanoli Advocate for appellants and Riaz Khan Paindakheil learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Muhammad Arshad Khan Tanoli Advocate learned counsel appearing on behalf of appellants, inter-alia, argued that the respondent No.3 was supposed to appoint appellants under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 when the said Act was promulgated in the year 2012 but their appointment order was issued on 04.12.2017 which is against law and discriminatory.

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ATTESTED  
*Signature*  
EXAMINER  
KHYBER Pakhtunkhwa  
Service Tribunal  
Peshawar

Learned counsel further argued that some of the employees who were juniors to appellants were appointed, whereas, appellants were reinstated later on which act is against the principle of equality and natural justice. He submitted that appellants are to be treated at par with other employees in the said Department and lastly, he submitted that similar employees were given benefit by the Apex Court by counting of their service for the protected period for payment of pensionary benefits, therefore, request was made for the stated relief.

5. As against that, learned A.A.G submitted that appellants were appointed as P.S.Ts but later on, their appointments were declared illegal and they were terminated. The Government of Khyber Pakhtunkhwa promulgated Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 and the appellants were appointed as P.S.Ts under Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 as well as upon the direction of august High Court Abbottabad Bench. He submitted that as per Section-5 of the Sacked Employees (Appointment) Act, 2012, sacked employees shall not be entitled to seniority and other back benefits and that such nature cases were dismissed by the Service Tribunal. He, therefore, requested for dismissal of instant service appeals.

6. From the record, it is evident that appellants and others who were appointed back in 1994-95 were terminated in 1996-97. Sacked Employees (Appointment) Act, 2012 was specifically promulgated to extend relief to such sacked employees. Appellants were not

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**ATTESTED**  
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 MEMBER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

*[Signature]*

considered for the reason best known to the respondents. The respondents however, considered other similar cases just after promulgation of the Act ibid which was discriminatory on the part of respondents. It was upon the intervention of the Hon'ble Peshawar High Court that appellants were reinstated at a belated stage in 2017 but with immediate effect. The main concern of the appellants is that such employees would reach the age of superannuation before earning qualifying service for pensionary benefits. We have observed that appellants had possessed all the qualifications as prescribed in the Act like others. It is also on record that co-employees tried their level best for back benefits and their cases were dismissed by this Tribunal as their earlier stance<sup>was</sup> to get all service benefits. Feeling aggrieved from the judgment of this Tribunal CPLAs were filed in the Apex Court and relief of back benefits to co-employees was refused by the Apex Court too. However, Apex Court allowed counting of their service for the protected period for payment of pensionary benefits. The present appellants have a strong case as they had every right to be reinstated just after promulgation of the Act as they were having requisite qualification as prescribed in the Act. Their claim was accepted by the august High Court and reinstatement was ordered.

7. The present appellants have also prayed for all service back benefits with a request for counting of their service for the protected period in the light of judgment of the Apex Court which was passed in the case of co-employees. So, from the record, it is crystal clear that

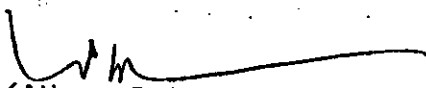
*8/11/17*

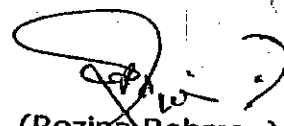
*Attested*  
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**ATTESTED**  
*[Signature]*  
Member Peshawar  
Service Tribunal  
Peshawar

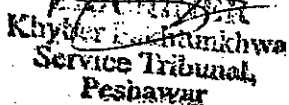
despite promulgation of an Act in the year 2012, appointment order of the appellants were issued in the year 2017 and that too, on the directions of the august High Court. No doubt, similar appeals of the sacked employees were dismissed regarding the back benefits but the Apex Court allowed the co-employees counting of their service for the protected period for payment of pensionary benefits only. Case of the present appellants is at par with those sacked employees who were granted this benefit by the Apex Court, therefore, these appeals are accepted to the extent that appellants are allowed counting of their services from the date of promulgation of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 only for payment of pensionary benefits. No order as to costs. File be consigned to the record room.

ANNOUNCED.  
18.03.2021

  
(Atiq ur Rehman Wazir)  
Member (E)  
Camp Court, Abbottabad

  
(Rozina Rehman)  
Member (J)  
Camp Court, Abbottabad

Certified to be true copy

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 06/4/21  
Number of Words 2000  
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Urgent \_\_\_\_\_  
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Date of Completion of Copy 06/4/21  
Date of Delivery of Copy 06/4/21

Attested





IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

PRESENT:  
MR. JUSTICE GULZAR AHMED, HCJ  
MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITIONS NO. 468-P, 469-P, 471-P & 472-P OF  
2016,

(Against the judgment dated 12.07.2016 passed by the Khyber Pakhtunkhwa  
Service Tribunal Camp Court, Swat in Appeals No. 1202 and 1203 of 2013).

Muhammad Sheryar  
(in CP 468-P/16)

Anwar Zeb  
(in CP 469-P/16)

The Secretary to Education (E&S), Government of Khyber  
Pakhtunkhwa, Peshawar and others  
(in CPs 471-P & 472-P/16)

...Petitioner(s)

Versus

The Secretary to Education (E&S), Government of Khyber  
Pakhtunkhwa, Peshawar and others  
(in CPs 468-P & 469-P/16)

Muhammad Sheryar  
(in CP 471-P/16)

Anwar Zeb  
(in CP 472-P/16)

Respondent(s)

For the Petitioner(s)

Mr. M. Asif, ASC  
(For Petitioners in CPs 468-P & 469-P/16 &  
For Respondents in CPs 471-P & 472-P/16)

Barrister Qasim Wadood, Addl.  
A.G. KP  
(in CPs 471-P & 472-P/16)

Date of Hearing

27.03.2020

ORDER

GULZAR AHMED, CJ: We have heard the learned  
Additional Advocate General, Khyber Pakhtunkhwa appearing  
for the Petitioners in Civil Petitions No. 471-P and 472-P of

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2016 as well as Mr. Muhammad Asif, learned ASC for the petitioners in Civil Petitions No. 468-P and 469-P of 2016. The petitioners in Civil Petitions No. 468-P and 469-P of 2016 (to be referred as the petitioners) were employed as PTC Teachers. Their services were terminated in the year 1997 against which they filed service appeals before the Khyber Pakhtunkhwa Service Tribunal ("the Tribunal") which vide judgment dated 04.01.2013 accepted the appeals with direction to the Respondents to consider their grievances. Pursuant to this direction of the Tribunal, the petitioners were reinstated in service, vide Office Order dated 05.07.2013 from the date of their taking charge but back benefits were not allowed to them for the period they remained out of service. The petitioners again filed service appeals before the Tribunal which vide impugned judgment dated 12.07.2016 accepted the appeals.

2. The learned counsel for the petitioners contends that the petitioners were entitled to grant of back benefits but we are unable to see as to how such back benefits could have been allowed to them more so when in the earlier judgment of the Tribunal dated 04.01.2013 no such relief was allowed to the petitioners and by the impugned judgment dated 12.07.2016 also apparently no such relief has been granted to them. He adds that some other similarly placed employees have been given back benefits.

3. We have asked the learned counsel for the petitioners to show us as to whether in the memo of appeal

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before the Tribunal such point has been urged on any other ground in this regard was taken. He went through the memo of appeal and conceded that no such assertion in the memo of appeal was taken by the petitioners. The Tribunal has disallowed back benefits to the petitioners twice and it is obvious that such has been disallowed to the petitioners for the reason that they have not served the department for the said period and there is no material on record on the basis of which relief of back benefits could be allowed to them. There appears no illegality in the impugned judgment. Even otherwise, no substantial question of law of public importance in terms of Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973 has been raised.

5. For what has been discussed above, all the listed petitions being devoid of merit stand dismissed and leave to appeal is refused.

6. It is however observed that the petitioners will be allowed counting of their service for the protected period for payment of pensionary benefits.

*M. Akbar*

*W. M. Khan*

ISLAMABAD

27-03-2020

ZR/

Not Approved for Reporting

*W. M. Khan*  
*M. Akbar*

کورٹ فیس

وکالت نامہ

Peshawar High Court Abbottabad Bench

Farzana Court of QPC etc

Appellant

Service Appeal

Farzana باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے اسے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام  
Abbottabad M. Arshad Khan Tanoli, Asst. Secy

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالاش بصیغہ مفلسی کے دائر کرنے اور اس کے پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 27 مئی 2023

بمقام: Abbottabad

Accepted

Muhammad Ibrahim Khan  
Advocate etc etc

Accepted

M. Arshad Khan Tanoli  
Asst. Secy Peshawar  
Abbottabad