

28th April, 2023

1. Register

2. Learned counsel for the appellant present.

3. The office has reported that the appeal was returned to the learned counsel for the appellant on 23.11.2022 for completion and resubmission within fifteen days but the appeal was re-filed on 03.02.2023 i.e after 57 days and that too without removal of objections. Learned counsel for the appellant submits that it was a financial matter and no limitation ran. Let pre-admission notice be given to the other side to file reply also responding the late/ resubmission of file on or before 20.06.2023 before S.B at camp court Abbottabad. The appellant shall deposit the expenses of TCS for summoning of respondents. P.P given to the parties.





(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

Adnan Shah, P.A

Form-A
FORM OF ORDERSHEET

Court of _____

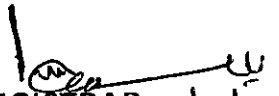
Case No. _____ /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15.02.2023	<p>As per direction of the Worthy Chairman counsel for the appellant is directed to argue the case before the Hon'ble Court on Office Objection on dated <u>22-2-2023</u></p> <p> REGISTRAR</p>
	23 rd Feb, 2023	<p>Learned counsel for the appellant present.</p> <p>Learned counsel for the appellant wants time to address the office objection. To come up on 28.04.2023 before S.B at camp court Abbottabad.</p> <p> (Kalim Arshad Khan) Chairman Camp Court Abbottabad</p>

Respected Sir,

It is submitted that the present appeal was received on 22.11.2022 after thoroughly scrutinizing the same many deficiencies were found in it which was returned to the counsel for the appellant for completion and resubmission within 15 days which was to be resubmitted on 07-12-2022 but counsel for the appellant re-filed the same today on 03.02.2023 late by 57 days without removing the objection no.1 & 3.

The appeal is submitted to your Honour under rule-7(c) of Khyber Pakhtunkhwa Service Tribunal rules 1974 for appropriate order please.


REGISTRAR 3/2/2023

Worthy Chairman

The appeal of Mr. Muhammad Pervaiz C.T GHS Chinarkot, District Mansehra received today i.e. on 22.11.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures-A & C of the appeal are illegible which may be replaced by legible/better one.
- 2- In appointment and termination orders the name of the appellant may be highlighted with clear ink.
- 3- Copy of termination order is not attached with the appeal which may be placed on it.

No. 3347 /S.T,

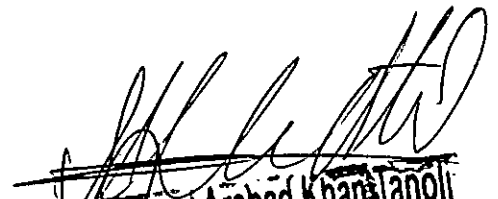
Dt. 23/11 /2022


REGISTRAR

SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M. Arshad Khan Tanoli Adv. A.Abad.

*the documents obtained
with hectic efforts. the
case is re-submitted*


Muhammad Arshad Khan Tanoli
Advocate Supreme Court of Pakistan
Office 33 Jinnah Plaza Adjacent to
Distt Bar, Abbottabad

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

Case Title: Muhammad Perwaiz vs Govt of KP

S.#	Contents	Yes	No
1.	This appeal has been presented by: <u>Muhammad Perwaiz</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.	Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.	Whether Appeal is within time?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.	Whether the enactment under which the appeal is filed mentioned?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.	Whether the enactment under which the appeal is filed is correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.	Whether affidavit is appended?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.	Whether affidavit is duly attested by competent oath commissioner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.	Whether appeal/annexures are properly paged?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10.	Whether annexures are legible?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11.	Whether annexures are attested?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12.	Whether copies of annexures are readable/clear?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13.	Whether copy of appeal is delivered to A.G/D.A.G?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
15.	Whether numbers of referred cases given are correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16.	Whether appeal contains cuttings/overwriting?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17.	Whether list of books has been provided at the end of the appeal?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
18.	Whether case relate to this Court?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19.	Whether requisite number of spare copies attached?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20.	Whether complete spare copy is filed in separate file cover?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
21.	Whether addresses of parties given are complete?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
22.	Whether index filed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
23.	Whether index is correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
24.	Whether Security and Process Fee deposited? on	<input checked="" type="checkbox"/>	<input type="checkbox"/>
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? on	<input checked="" type="checkbox"/>	<input type="checkbox"/>
26.	Whether copies of comments/reply/rejoinder submitted? on	<input type="checkbox"/>	<input type="checkbox"/>
27.	Whether copies of comments/reply/rejoinder provided to opposite party? on	<input type="checkbox"/>	<input type="checkbox"/>

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

Zahid

Signature:

[Signature]

Dated:

22/11/22

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

Service Appeal No. 9642022

Muhammad Pervaiz Cf, Government High School Chinarkot, District
Manshra.

....APPELLANT

VERSUS

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 30/05/1995 and termination order dated 01/12/1996 of the appellant	7-12	"A"
3.	Copy of KP sacked employees Appointment Act 2012	13-22	"B"
4.	Copy of appointment order dated 20/06/2019 of the appellant	23	"C"
5.	Copy of department appeal	24	"D"
6.	Copy of judgment of KP service Tribunal and the Apex Court	25-33	"E"
7.	Wakalatnama	34	

.....
...APPELLANT

Dated:/2022

Through


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
At Abbottabad

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

Service Appeal No. _____ 2022

Muhammad Pervaiz CT, Government High School Chinarkot, District
Mansehra.

....APPELLANT

VERSUS

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 (Male) Mansehra.

....RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974 FOR DECLARATION
TO THE EFFECT THAT THE APPELLANT
WAS APPOINTED ON 30/05/1995 AND WAS
TERMINATED FROM THE SERVICE ON
01/12/1996. THEREAFTER, THE APPELLANT
GOT APPOINTMENT AS CT ON 20/06/2019,**

AS PER KP SACKED EMPLOYEES APPOINTMENT ACT 2012, BUT PREVIOUS SERVICE W.E.F 30/05/1995 TO 01/12/1996 AND 2012 TO 20/06/2019 HAS NOT BEEN COUNTED TOWARDS CALCULATION OF PENSION BY THE DEPARTMENT.

PRAYER; ON ACCEPTANCE OF INSTANT SERVICE APPEAL, THE RESPONDENTS' DEPARTMENT MAY GRACIOUSLY BE DIRECTED TO COUNT PREVIOUS SERVICE W.E.F 30/05/1995 TO 01/12/1996 AND 2012 TO 20/06/2019 OF THE APPELLANT TOWARDS CALCULATION OF PENSION AND COMMUTATION.

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 30/05/1995 and his service was terminated on 01/12/1996. Copy of

appointment order dated 30/05/1995 and termination order dated 01/12/1996 of the appellant is annexed as Annexure "A".

2. That, the Khyber Pakhtunkhwa announced KP Sacked Employees appointment Act 2012, wherein, the employees appointed in the year 1993-94 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 appointment PST on the 20/06/2019, but their previous service w.e.f 30/05/1995 TO 01/12/1996 and 2012 to 20/06/2019 has not been counted towards calculation of pension/commutation of the appellant. Copy of appointment order dated 20/06/2019 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 30/05/1995 to 01/12/1996 and 2012 to 20/06/2019 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 30/05/1995 to 01/12/1996 and 2012 to 20/06/2019 of the appellant towards calculation of pension and commutation.


..APPELLANT

Through;

Dated; _____/2022


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan

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

Service Appeal No. _____ 2022

Muhammad Pervaiz CT, Government High School Chinarkot, District
Mansehra.

....APPELLANT

VERSUS

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

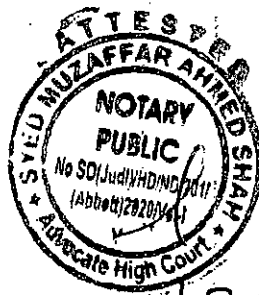
...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, *Muhammad Pervaiz CT, Government High School Chinarkot, District
Mansehra*, 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.

محمد پervaيز
DEPONENT



Annex - A

P-7

THE DIVL: DIRECTOR OF EDUCATION(S) HAZARA DIVISION, ABBOTTABAD.

OFFICE ORDER NO: 166 / AE- III OT(M).
DATED ABBOTTABAD THE 28/5/98.

APPOINTMENT:-

The following appointment of 01 candidates are hereby ordered on 01 post as noted against each in KPS-7 (No. 1695-34-3060) and BPS-14 (Rs. 2065-161-4480) in case of trd: / R.A.B. Sp with end Divn: + usual allowances as admissible under the rules on the following terms and conditions:-

16.07.98
file

S.No.	Name of candidate with qualification & address.	School where appointed.	Remarks.
1.	Muhammad Farooq Parvoor SA S/O Mr Duriman Khan R/O Farhana (Manshra).	Farhana (Manshra).	Post Vacant OT post.

CONDITIONS:-

- The appointments are purely on temporary basis and liable to termination at any time without notice or assigning reasons.
- They should produce their age and health certificate from the concerned Medical Superintendent.
- The Head of Institutions/Office are required to check all the original Educational Qualification/Professional Certificates before handing over charge.
- The ~~Head~~ Head of Institution/Office are required to get verify their academic certificate from Board/University concerned.
- Appointment of trained candidates who passed their Professional Exam from other than NWFP, is provisional & subject to the verification of certificate.
- In case they wish to resign from service/post they will have to give one month's prior notice or forfeit one month's pay in lieu of short notice.
- The appointment shall stand automatically cancelled if they failed to join the post within 15 days of the issue of this order.
- Special relaxation of upper age limit for 2 yrs has already been allowed vide Govt: of NWFP, S&GAD letter No: SOS-III (S&GAD) n(4) J4, dated 10.7.1994.
- They should not be handed over charge if their age exceed 30 years or below 18 years.
- No TA/DA is allowed on 1st appointment.
- Charge reports should be sent to all concerned.

ATTESTED

(HAJI SAFRAZ KHAN)
DIVL: DIRECTOR OF EDUCATION(S)
HAZARA DIVISION, ABBOTTABAD.
Dated A/Abad the 28/5/98.

Encl: No: 12324-26

- Copy of the above is forwarded to the:-
- P/S to Minister for Education (S/O) NWFP, Peshawar.
 - P/S to Minister for
 - Director Secy: Education, NWFP, Peshawar.
 - District Education Officer (Male/Female) A/Abad, Manshra, Haripur & Kohistan.
 - Principal, Headmaster, Headmistress, GISS/ OMS/ GNS
 - District Accounts Officer, A/Abad, Manshra, Haripur & Kohistan.
 - Candidate concerned. (A) A.D.E.O. (B) Local Office. (C) P/A to DNE(S) Hazara.
 - Office order file.

For/Divl: Director of Edu(S)
Hazara Division, Abbottabad.

Annex - A P-7

OFFICE OF THE DIVL. DIRECTOR OF EDUCATION(S) HAZARA DIVISION, ABBOTTABAD.

OFFICE ORDER NO: 166 / AE- III CT(M).
 DATED ABBOTTABAD THE 28/8 / 98.

APPOINTMENT:-

The following appointment of 01 candidates are hereby ordered on CT post as noted against each in RPS-III (Rs. 1695-37-3060) and BPS-14 (Rs. 2065-161-4480) in case of trd./B.A.B. So with end Divn: + usual allowances as admissible under the rules on the following terms and conditions:-

1607-PA
 Jital

S.No.	Name of candidate with qualification & address.	School where appointed.	Remarks.
1.	Muhammad Zameer Parvoaz BA S/O AA Duriman Khan R/O Parhanna (Manshehra).	Parhanna (Manshehra).	Age: Vacant CT post.

CONDITIONS:-

1. The appointments are purely on temporarily basis and liable to termination at any time without notice or assigning reasons.
2. They should produce their age and health certificate from the concerned Medical Superintendent.
3. The Head of Institutions/Office are required to check all the original Educational Qualification/Professional Certificates before handing over charge.
4. The newly appointed Head of Institution/Office are required to get verify their academic certificate from Board/University concerned.
5. Appointment of trained candidates who passed their Professional Exam from other than NWFP, is provisional & subject to the verification of certificates.
6. In case they wish to resign from service/post they will have to give one month's prior notice or forfeit one month's pay in lieu of short notice.
7. The appointment shall stand automatically cancelled if they failed to join the post within 15 days of the issue of this order.
8. Special relaxation of upper age limit for 2 yrs has already been allowed vide Govt. of NWFP, S&GAD letter No: SOS-III (S&GAD) 3(4) 24, dated 18.7.1994.
9. They should not be handed over charge if their age exceed 30 years or below 18 years.
10. No TA/DA is allowed on Ist appointment.
11. Charge reports should be sent to all concerned.

(HAJI SARFRAZ KHAN)
 DIVL. DIRECTOR OF EDUCATION(S)
 HAZARA DIVISION, ABBOTTABAD.
 Dated A/Abad the 20/5/98.

Post No: 12324-26 / AE- / Apptt: (M)
 Copy of the above is forwarded to the:-
 P/S to Minister for Education (S/O) NWFP, Peshawar.
 P/S to Minister for

- Director Secy. Education, NWFP, Peshawar.
- District Education Officer (Male/Female) A/Abad, Manshehra, Haripur & Kohistan.
- Principal, Headmaster, Headmistress, GISS/O/S/GIS Manshehra, Parhanna
- District Accounts Officer, A/Abad, Manshehra, Haripur & Kohistan.
- Candidate concerned. (A) A.D.E.O. (B) Local Office. (C) I/A to DPE(S) Hazara.
- Office order file.

Handwritten Signature
 Advocate Supreme Court of Pakistan
 Office # 33 Jinnah Plaza Adjacent to
 District Bar, Abbottabad

For/Divl: Director of Edu: (S)
 Hazara Division, Abbottabad.

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MANSEHRA
APPLICATION FORM FOR THE RE-APPOINTMENT OF SACLED EMPLOYEES
DISTRICT MANSEHRA

P-7-
'A'

1. Name: MUHAMMAD PERVEZ
2. Father's Name: DURIAMAIN
3. D/o Birth: 05-06-1963
4. Domicile: MANSEHRA
5. Village: PATHANI SERI
6. Union Council: Parhina
7. CNIC: 73503-0535178-1
8. Permanent Home Address: Village Pathani Sari Parhina Mansehra
9. Professional Qualification: (PTC, CT, DM, PET, AT, TT & QARI)
 Academic Qualification:-

S#	Qualification	Session	Total Marks	Marks Obt	Board/University
1	SSC	1981	850	305	Peshawar
2	F/AFSc				
3	BA/BSc	1988	550	247	Peshawar
4	MA/MSc				
5	PTC/CT etc				

10. Date of 1st Appt: as (PTC, CT, DM, PET, AT, TT & QARI with No. & Date:
116/AE-I.T.T. CT (M) 30-05-1995 (Copy attached)
11. Name of School where appointed: GHSS Parhina (Copy attached)
12. Period of Duty performed: From 1/6/95 To 12/2/97 (Copy attached)
13. Pay drawn for the period From 1/6/95 To 12/2/97 (Copy attached)
14. Pay not drawn for the period From 2/2/97 To 12/2/13 (Copy attached)
15. D/o Termination 12/2/97 No. _____ (Copy attached)
16. Name of authority whom terminated: _____
17. Termination Order No. & Date: _____ (Copy attached)
18. Copy of Service Book: _____

Attested by H/M/ADO School last attended:-

[Handwritten Signature]
[Handwritten Signature]
 H/M/ADO School last attended

Attested

[Handwritten Signature]
Principal
GHSS Parhina
Mansehra

Signature of Applicant

[Handwritten Signature]

Name: Muhammed Pervez

Designation: CT

Stamp: _____

[Handwritten Signature]
 Muhammad Arshad Khan
 Advocate Supreme Court of Pakistan
 Office # 33 Jinnah Plaza adjacent to
 District Bar, Abbottabad

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MANSEHRA
APPLICATION FORM FOR THE RE-APPOINTMENT OF SACKED EMPLOYEES
DISTRICT MANSEHRA

1. Name: MUHAMMAD PERVEZ
2. Father's Name: DURIAMAN
3. D/o Birth: 05-06-1963
4. Domicile: MANSEHRA
5. Village: PATHANI SERI
6. Union Council: Parhina
7. CNIC: 73503-0535178-1
8. Permanent Home Address: Village Pathani Seri Parhina Mansehra
9. Professional Qualification: (PTC,CT,DM,PET,AT,TT & QARI)

Academic Qualification:-

S#	Qualification	Session	Total Marks	Marks Obt	Board/University
1	SSC	1981	830	505	Peshawar
2	FA/FSc				
3	BA/BSc	1988	550	247	Peshawar
4	MAM/Sc				
5	PTC/CT etc				

10. Date of 1st Appt: as (PTC,CT,DM,PET,AT,TT & QARI with No. & Date: 11/1/95 - T.T. CT (M) 30-05-1995 (Copy attached)
11. Name of School where appointed: G.H.S.S Parhina (Copy attached)
12. Period of Duty performed: From 1/6/95 To 12/2/97 (Copy attached)
13. Pay drawn for the period From 1/6/95 To 12/2/97 (Copy attached)
14. Pay not drawn for the period From 12/2/97 To 12/2/13 (Copy attached)
15. D/o Termination: 12/2/97 No. _____ (Copy attached)
16. Name of authority whom terminated: _____
17. Termination Order No. & Date: _____ (Copy attached)
18. Copy of Service Book: _____

Attested by H/M/ADO School last attended:-

[Handwritten signature]
[Handwritten signature]

Signature of Applicant

[Handwritten signature]

Name: Muhammad Pervez

Designation: C-T

Stamp: _____

[Handwritten signature]

(For use in Police Department only)

Notes

P-9

Hours:—

1.

2.

3.

Verification Roll No. dated received back.

Left Thumb-Impression

Qualifications	Date	Qualifications	Date
English	Passed S.S.C (A) Examinations under Roll No. 39182	1981 First Arts	Passed under B.A. Examinations from the University of Peshawar under Roll No. 15465
Pushto	505/850 Marks Passed from the BISE Peshawar	C ^o Grade B.L. or B.A.	For year 1988 obtained 247/550 Marks.
Urdu	<i>[Signature]</i>	Pledership Examination	<i>[Signature]</i>
Plan-Drawing	Govt. Higher Secondary School FARHINA (Manshara)	Training School	Govt. Higher Secondary School Farahina (Manshara)
Finger Print	Passed D. Govt. Examinations Roll No. 3139 obtained from the Board of Technical Education Peshawar.	Other Qualifications:—	
Drill Instructing	<i>[Signature]</i>		
Court Duties	<i>[Signature]</i> Printed		
Reserve Duties	Govt. Higher Secondary School FARHINA (Manshara)		

N.B.— Line to be drawn under the qualification possessed.

[Signature]
 Advocate Supreme Court of Pakistan
 Office # 33 Jinnah Plaza Adjacent to
 District Administration

P-10

ATTESTED

[Handwritten signature]

Office of the Court of Pakistan
Office of the Court of Pakistan

Note:— The entries in this page should be renewed or re-attested at least every five years and the signature to lines 9 and 10 should be dated.

1. Name: MUHAMMAD PARVEZ.

2. Race Tauoli.

3. Residence village Pathani Seri Post Office Manserwah -
Tehsil & District Muzaffargarh.

4. Father's name and residence Durr-e-Awar.
village Pathani Seri P.O Kadian Manserwah (Muzaffargarh)

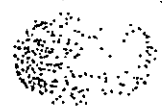
5. Date of birth by Christian era as nearly as can be ascertained 5.6.1963
Fifth of June N.H & Sixty three.

6. Exact height by measurement. A mole on face near nose.
5-6 1/2

7. Personal marks for Identification 5-6 1/2
A mole on face near nose

B.A
8. Left hand thumb and Finger Impression of (Non-Gazetted) Officer.

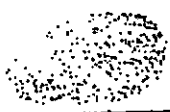
Little Finger



Ring Finger



Middle Finger



Fore Finger



Thumb



Signature of Government Servant

M. Pervez

9. Signature and Designation of the Head of the Office, or other Attesting Officer.

[Signature]
Principal
Govt. Higher Secondary School
Manserwah (Muzaffargarh)

Special Retention of apparatus limit for 24 years has already been allowed vide Govt. NVA, SEGAO's letter No. 505-10 (SEGAO) S (4) 94 dt. 18/7/94

9 Signature and designation of the head of the office or other attesting officer in column 1 to 8	10 Date of termination of appointment	11 Reason of termination (etc.)	12 Signature of the attesting officer	13 Nature of the appointment	14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Service
1 Principal Parbhina Manshira	30/11/95	Fixed			Appointed as C.T. in B.P.S 9	
2 Principal Parbhina Manshira	30/11/96	Fixed			R.S. 16.05 P.M. Fixed vide D.D.F (S) 403/2000 Dinsara	Tobacco Control C.O. No. 166/ A.R. III et (Male) dt. 30/5/1995
3 Principal Parbhina Manshira	12/22/97	Sacked		Secondary School Parbhina Manshira	Issued under Govt. No. 1234-26 dt. 30/5/1995 & Govt. No. 17800-5 dt. 19/7/1995	Issued vide D.D.F (S) 115/2000 O.P. No. 243/AE-III et (M) dt. 19/7/1995 issued under Govt. No. 17800-5 dt. 19/7/1995
					 Govt. Higher Secondary School Parbhina Manshira	
					Served verified w.e.f. 1.6.95 to 31.12.95 from Acq Roll and other office record of this School.	
					 Govt. Higher Secondary School Parbhina Manshira	
					1-2-97	
					 Govt. Higher Secondary School Parbhina Manshira	
					1/12-18/1997	
					Served verified w.e.f. 1/12-18/1997 from Acq Roll and other office record of this School.	
					 Govt. Higher Secondary School Parbhina Manshira	

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary	3 If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	4 Pay in Substantive Post	5 Additional Pay for officiating	6 Other emolument filling under the term "Pay"	7 Date of Appointment	8 Signature of Government Servant Signature and designation of the head of the office or other attesting officer in columns 1 to 8
C.T. G.H.S.S. Doshiwala	P/T Per m.	-	1605/-	-	-	1-6-95	M. Perwani Principal G.H.S.S. Doshiwala
"	"	-	1605/-	-	-	1-12-95	M. Perwani Principal G.H.S.S. Doshiwala
"	"	-	1605/-	-	-	1-12-96	M. Perwani Principal G.H.S.S. Doshiwala

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MINEX - D,

P-24 P-13

Annexure

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/2012/6077, 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. XVII 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).

AM
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, 1998 on various grounds;

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

P-22 P-14

(11)

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

AND WIFE(S) 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 1st day of November, 1993 to 30th 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;

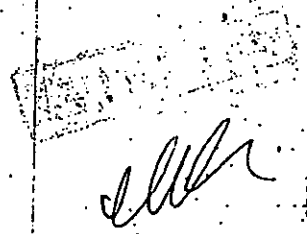
(f) "rules" means the rules made under this Act; and

(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 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st 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 to the satisfaction of the concerned competent authority.



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- 4. Act 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— (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.

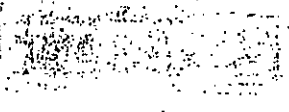
Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(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.



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- 10. 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.
- 11. 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

(AMAMULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by the Manager,
Sole A. P. Press, Khyber Pakhtunkhwa, Swatara.

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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/2012/6077. The Khyber Pakhtunkhwa Sacked Employees (Appointment) Bills, 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. XVII OF 2012)

(First Published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazets of the Khyber Pakhtunkhwa (Extraordinary), dated the 20th 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

Signature

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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 November, 1996 to 31st 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, 20th 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 1st day of November, 1993 to 30th 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.
- [Handwritten signature]*

- b. Department in case 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 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed removed or terminated from service during the period from 1st day of November, 1996 to 31st 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, 20TH 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.



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(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 the 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, 20TH SEPTEMBER 2012.

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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

all

APPOINTMENT

Annex- C

In pursuance of Khyber Pakhtunkhwa Sacked Employees (Appointment) 2012 and Consolidate Judgment passed by Honorable Peshawar High Court Abbottabad Bench Abbottabad vide Dated 24-05-2016, 27-03-2013, 03-04-2013 & 07-03-2019 in W/P No 516-A/2013, 676-A/2015, 20-A/2014, 16-A/2015, 1155-A/2015, 732-A/2014, 115-A/2014, and orders of Honorable High Court in COC No. 22-A/2016, COC No. 47-A/2016, COC No. 58-A/2016, COC No. 53-A/2016, COC 14/2019, and recommendation of the Departmental Selection Committee the appointment of the following candidates are hereby ordered against the vacant post of **CERTIFIED TEACHER (CT), GTS-15 (Rs.16120-19330-56030)** plus usual allowances as admissible under the rules, under the existing policy of the Provincial Government, on the terms and condition given below with effect from the date of their taking over charge:-

S. No.	Name	Father's Name	Date Of Birth	Domicile	Permanent Address	Place of posting	Remarks
1	M. PERVAZ	DURIAMAN	MANSEHRA	05-05-1963	VILLAGE PATHANI P/O SERI PERHINMA TEHSIL & DISTRICT MANSEHRA.	GHS CHINARKOT	AGAINST VACANT POST
2	M. HAWAZ	M. MUMTAZ	MANSEHRA	01-02-1972	VILLAGE DADAR NOORI MAHDAN P/O DHARYAL TEHSIL & DISTRICT MANSEHRA.	GMS MAITHAL JABBOBI	AGAINST VACANT POST
3	MUHAMMAD SAHD	M. SADIQ	MANSEHRA	01-03-1971	VILLAGE & P/O UPPER CHANNAE TEHSIL & DISTRICT MANSEHRA	GMS BAI PAIEN	AGAINST VACANT POST
4	SHEHARAL	SHEH MUHAMMAD	MANSEHRA	23-02-1972	VILLAGE RAHAMKOT TEHSIL, OCHI DISTRICT MANSEHRA I	GMS KHANIAN KHAI	AGAINST VACANT POST
5	RAMAZAN	KYANZAMA R	MANSEHRA	10-3-1972	VILLAGE AHD P/O KANSHAN TEHSIL BALAKOT DISTRICT MANSEHRA	GHS BAILA MANOOR	AGAINST VACANT POST
6	EMRAN AHMED	M. QASIM	MANSEHRA	02-03-1973	VILLAGE KANSHAN P/O BALAKOT TEHSIL BALAKOT DISTRICT MANSEHRA	GMS BATANGI	AGAINST VACANT POST
7	MUNIR AHMED	HABIBULLAH	MANSEHRA	01-01-1969	VILLAGE NARAL P/O GARHI HABIBULLAH TEHSIL BALAKOT DISTRICT MANSEHRA	GHS KHAIRSAD	AGAINST VACANT POST
8	ZARFAE KHAN.	MADATYULLAH	MANSEHRA	03-08-1965	VILLAGE LASS MAIRA BARARKOT P/O GARHI HABIBULLAH TEHSIL BALAKOT DISTRICT MANSEHRA	GMS GHORY PHAIR	AGAINST VACANT POST
9	ABDUL MALIK	IGHANGUL	MANSEHRA	06-02-1976	VILLAGE KHABA KHATTA GALI P/O SA' BANI TEHSIL BALAKOT DISTRICT MANSEHRA	GMS SERI MANOOR	AGAINST VACANT POST
10	SHAH ZAMAN	BACA	MANSEHRA	08-05-1977	VILLAGE BATSANGRA TEHSIL BALAKOT DISTRICT MANSEHRA	GHS PARAS	AGAINST VACANT POST

TERMS & CONDITIONS

1. NO TA/DA etc is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. Their Appointment are subject are condition that their certificates/document and domicile be verify from the concerned authority before releasing their salary in the light of Section 3 of the said ACT.
4. They will be governed by such rules & regulation enforce and as may be prescribed by the Government time to time for the category of the Government servant to which they belong.
5. Their appointment has been made in pursuance of Khyber Pakhtunkhwa, Sacked Employee (appointment) ACT 2012. Hence under Section 5 of the said ACT they shall not be entitled to any claim of the seniority, promotion and back benefits.
6. Their appointment has been made in pursuance of Khyber Pakhtunkhwa, Sacked Employee (appointment) ACT 2012. Hence Section 4 of the said ACT period during which they remained dismissed, removed or terminated from services, till the date of their appointment shall have been deemed atomically relaxed.
7. Their appointment is subject to the condition that the certificates/documents must be verified from the concerned authorities by the DEO. Anyone found producing bogus Certificate will be reported to the law enforcing agencies for further action.
8. Their services are liable to termination on one month's prior notice from either side. In case of resignation without notice his one-month pay/allowances shall be forfeited to the Government.
9. Their pay will not be drawn until and unless a certificate to the effect by DEO is issued that his certificates/degree are verified from the concerned board/university.
10. The Principal / Headmaster School concern is directed to submit their Degrees /Certificates etc to this office for verification from Board /University/Institutions before any payment made to them.

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بخدمت جناب ڈائریکٹر صاحب ایلیمینٹری اینڈ سیکنڈری ایجوکیشن پشاور

P-24

درخواست بمراد ادا کا وٹ کیے جانے protected پیریئڈ تحت ایکٹ 2012ء فیصلہ سپریم کورٹ آف پاکستان

جناب عالی!

گزارش ہے کہ سائل کو PST 20/11/1994 کی پوسٹ پر بھرتی کیا گیا اور پھر 13/02/1997 کو سائل کو ملازمت سے برطرف کر دیا گیا تھا اور بعد ازاں حکومت نے 2012 Sacked Employees Act کا نفاذ کرتے ہوئے 1993-94ء میں بھرتی ہونے والے اور 1997-98ء میں برطرف شدہ ملازمین کی بحالی کا حکم نامہ جاری کیا گیا سائل کو DEO منسہرہ نے برطبق قانون 2012ء کے بحال نہیں کیا جس کی وجہ سے سائل نے پشاور ہائی کورٹ ایپٹ آباد بیچ میں W.P No. 516-A/2013 دائر کی جس کا فیصلہ 24/05/2017 کو سائل کے حق میں ہوا اور بعد ازاں سپریم کورٹ آف پاکستان نے بھی 24/05/2017 کو ہائی کورٹ کے فیصلہ کو بحال رکھا۔ لہذا سائل کو بروئے حکم عدالت عالیہ مورخہ 06/12/2017 کو بحال کر دیا سائل 2012 سے نوکری کا حق رکھتا تھا اور یہ کہ وفاقی حکومت نے اپنے تمام ملازمین کو ریمینیشن کی تاریخ سے بحال کیا۔

لہذا استدعا ہے کہ ادا وٹ کیے جانے protected پیریئڈ تحت ایکٹ 2012ء فیصلہ

سپریم کورٹ آف پاکستان۔

المرقوم: 20/8/2022

ارض

محمد پرویز PST

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Annex - E

K-25



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

Diary No. 641

Date: 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

File into day
3/5/19

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

[Signature]
Registrar
Khyber Pakhtunkhwa Service Tribunal
Peshawar

[Signature]

P. 26

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
ATIQU UR REHMAN WAZIR

... MEMBER (J)
... 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

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ATTESTED
[Handwritten signature]
EXAMINER
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

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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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CLERK
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

ATTESTED

THE GOVERNOR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
Peshawar

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 ^{was} 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

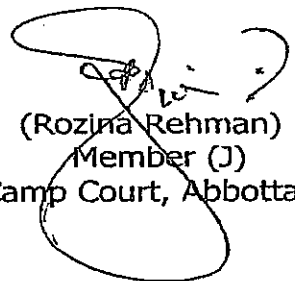
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 PESHAWAR


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.

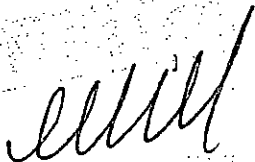
ANNOUNCED.
18.03.2021


(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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 Name of Applicant _____
 Date of Completion of Copy 06/4/21
 Date of Delivery of Copy 06/4/21

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Annex-9
P-62

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 or 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.



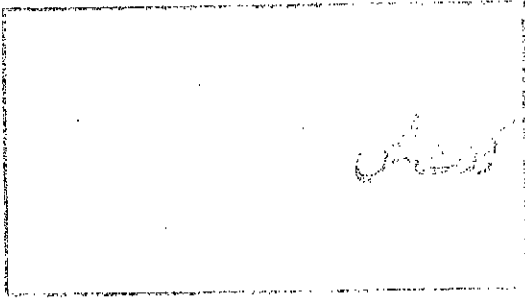
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27.03.2020.

ZR/

Not Approved For Reporting

19/4/20



وکالت نامہ
کوشش

Peshawar High Service Tribunal UPIC Peshawar
M. Pervez vs Govt etc
Appellant

پیشنہ

مقدمہ میں اپنی طرف سے صاحب نے جواب دیں کہ ان کا راولی متعلقہ آن مقام
M. Arshad Khan Tanzeel ASC ATO
کو رول میں حضور کے لئے اپنی طرف سے درخواست کی کہ ان کو راولی کا کابل اختیار دیا جائے اور ان کی صاحب
موجودہ کے لئے راولی نامہ راولی کے لئے درخواست ہے اقبال دکانی اور صورت دیکھ ڈگری کے لئے ابراہ
میرا چاہتا ہے کہ راولی کے لئے اپنی طرف سے درخواست کی جائے کہ ان کو راولی کا کابل اختیار دیا جائے اور ان کی صاحب
کابل کی درخواستوں کے لئے یہ درخواستیں منظور کی جائیں اور ان کی صاحب کو اپنے حوالہ اپنی بجائے تقریر کا اختیار
کے لئے منظور کیا جائے اور ان کی صاحب کو اپنے حوالہ اپنی بجائے تقریر کا اختیار
تقریر کا اختیار دیا جائے اور ان کی صاحب کو اپنے حوالہ اپنی بجائے تقریر کا اختیار
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تقریر کا اختیار دیا جائے اور ان کی صاحب کو اپنے حوالہ اپنی بجائے تقریر کا اختیار

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Accepted
[Signature]

