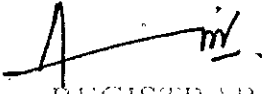


FORM OF ORDER SHEET

Court of

Appeal No. 1297/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/06/2023	<p>The appeal of Mr. Qaiser Rehman received today by registered post through Mr. 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>

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

S.A No. 1297 /2023

Qasir Rehman son of Sher Zaman, resident of Mohallah Noor Ellahi Road,
Abbottabad.

...PETITIONERS

VERSUS

Govt. of Khyber Pakhtunkhwa, through Senior Member Board of Revenue,
Revenue & Estate Department, KPK, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

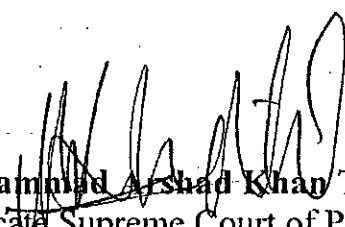
INDEX

S.#	Description	Page No.	Annexure
1.	Service appeal along with affidavit	1 to 6	
2.	of appointment order and termination order of the appellant	7-10	"A"
3.	Copy of appointment order dated 03.04.2019 of the appellant	11	"B"
4.	Copy of departmental appeal	12	"C"
5.	Copy of judgment of KP Service Tribunal and the Apex Court	13-21	"D"
6.	Wakalatnama	22	


..APPELLANT

Dated; _____/2023

Through;


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

&


(Muhammad Ibrahim Khan)
Advocate High Court, Abbottabad

1

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

S.A No. 1297/2023

Qasir Rehman son of Sher Zaman, resident of Mohallah Noor Ellahi Road,
Abbottabad.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Senior Member Board of Revenue, Revenue & Estate Department, KPK, Peshawar.
2. Deputy Commissioner, Mansehra.
3. Commissioner Hazara Division, Abbottabad.
4. Assistant Commissioner, Abbottabad.

...RESPONDENT/ CONTEMNOR

SERVICE APPEAL UNDER SECTION 4 OF
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
ACT 1974 FOR DECLARATION TO THE EFFECT
THAT THE APPELLANT WAS APPOINTED ON
14/10/1996 AND WAS TERMINATED FROM THE
SERVICE ON 19/05/1997 THEREAFTER, THE
APPELLANT GOT APPOINTED AS JUNIOR CLERK
PER KP SACKED EMPLOYEES APPOINTMENT
ACT 2012, BUT PREVIOUS SERVICE W.E.F
19/05/1997 AND 2012 TO 03.07.2019 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 14/10/1994 TO 19/05/1997 AND 2012 TO 03.07.2019 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 14/10/1996 and his service was terminated on 19/05/1997. Copy of appointment order and termination order 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 14/10/1996 and was terminated in the year 19/05/1997 were to be re-instated in service.

3. That, as per KP Sacked Employees appointment Act 2012, the appellant was appointed Junior Clerk on the 03.04.2018, but his previous service w.e.f 19/05/1997 and 2012 to 07.04.2019 has not been counted towards calculation of pension/commutation of the appellant. Copy of appointment order dated 03.07.2019 of the appellant is annexed as Annexure "B".

4. That, the appellant filed departmental appeal to respondents' department but of no avail. Copy of departmental appeal is annexed as Annexure "C". Hence, the instant service appeal is filed inter-alia on the following grounds.

GROUND:-

- 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 19/05/1997 to 03.07.2019

counted towards calculation of pension and commutation.

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 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 14/10/1996 to 19/05/1997

AND 2012 to 03/04/2019 counted towards calculation of pension and commutation. Copy of judgment of KP Service Tribunal and the Apex Court is annexed as Annexure "D".

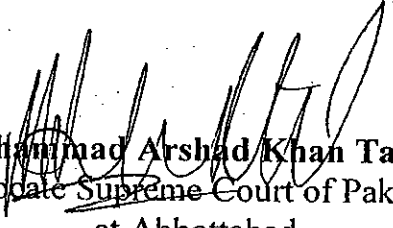
- e. That the matter in issue relates to the terms and conditions of service, therefore, the Honourable Tribunal has jurisdiction to entertain the lis under Article 212 of the Constitution.

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 14/10/1996 and 19/05/1997 and 2012 to 03.07.2019 of the appellant towards calculation of pension and commutation.



..APPELLANT

Through;

Dated; _____/2023


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

&


(Muhammad Ibraim Khan)
Advocate High Court, Abbottabad

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

S.A No. _____/2023

Qasir Rehman son of Sher Zaman, resident of Mohallah Noor Ellahi Road,
 Abbottabad.

...PETITIONERS

VERSUS

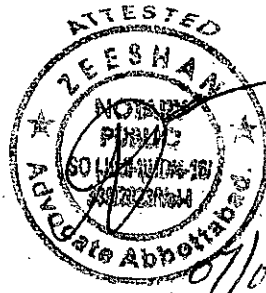
Govt. of Khyber Pakhtunkhwa, through Senior Member Board of Revenue,
 Revenue & Estate Department, KPK, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, *Qasir Rehman son of Sher Zaman, resident of Mohallah Noor Ellahi Road, Abbottabad*, 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.



Qasir
 DEPONENT

Annex-A

P-7

LETTER OF THE DEPUTY COMMISSIONER ABBOTTABAD.

WAZIR

Mr. Qasim ur Rehman son of Mher Nazam resident of Bara Darya Bahail & District Abbottabad is hereby appointed as Junior Clerk in SPS-9 with immediate effect against leave vacancy subject to:-

- a) Good conduct & behaviour,
- b) Production of age & health certificate.

His services are purely temporary and are liable to be terminated at any subsequent stage without assigning notice.

(Signature)
(MOHAMMAD RIYAZ KHAN)
Deputy Commissioner, Abbottabad.

WAZIR/1953/Nov/24/16 dated at Abbottabad the 14/10/16
Copy forwarded to:-

- 1. The District Accounts Officer Abbottabad.
- 2. Person concerned.
- 3. Accounts branch (local).

(Signature)
(MOHAMMAD RIYAZ KHAN)
Deputy Commissioner, Abbottabad.

Attested

(Signature)

OFFICE OF THE DEPUTY COMMISSIONER ABBOTTABADORDER

Qasir Rehman son of Sher Zaman, resident of Mohallah Noor Illahi Road, Abbottabad in hereby appointed an Junior Clerk in BPS-5 with immediate effect against Vacant Post subject to:-

- a) Good conduct & bahaviour.
- b) Production of age & health certificate.

His services are perment and are liable to be terminated as any subsequent stage without assigning notice.

(Muhammad Riaz Khan)
Deputy Commissioner, Abbottabad.

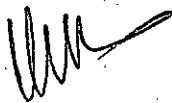
No. 53/19(5)Rev: _____ /As dated A/Abad the _____

Copy forwarded to:-

1. The District Accounts Officer Abbottabad.
2. Person concerned.
3. Accounts branch (local).

(Muhammad Riaz Khan)
Deputy Commissioner, Abbottabad.

Attested



in Secretary Board of Revenue, N.W.F.P. Peshawar letter No. 8574-80/Admn:VI/79 dated 08.5.1997, the services of the following officials are hereby terminated with immediate effect on the ground that their appointments were made in violation of the prescribed recruitment rules/procedure of the Provincial Government.

P-9

S.N.	Name of Official	Designation	Date of Appointment.
1.	Mukhtar Ahmed.	Junior Clerk (RPS-5)	24.7.1994
2.	Muhammad Hussain.	-do-	13.7.1995
3.	Ashiq Yousaf.	-do-	10.4.1996
4.	Asim Khan.	-do-	14.10.1996
5.	Qaiser Rehman.	-do-	14.10.1996
6.	Muhammad Farooq.	-do-	12.1.1997
7.	Amanat Khan.	Chowkidar (RPS-1)	05.9.1994
8.	Waqar Ahmad.	Naib Qasid -do-	19.10.1994
9.	Dabar Ali.	Mali -do-	06.3.1995
10.	Muhammad Ramzan.	Naib Qasid -do-	27.12.1994
11.	Saeed-ur-Rehman.	Naib Qasid -do-	27.12.1994
12.	Faisal Khan.	Naib Qasid -do-	27.12.1994
13.	Muhammad Ilyas.	Naib Qasid -do-	05.7.1995
14.	Zia-ud-Din.	Naib Qasid -do-	08.10.1995
15.	Shorafa Khan.	Naib Qasid -do-	21.3.1996
16.	Muhammad Arif.	Naib Qasid -do-	06.7.1996
17.	Fiaz Gul.	Naib Qasid -do-	09.7.1996
18.	Shafiq-ur-Rehman.	Naib Qasid -do-	28.7.1996
19.	Hadeem Khan.	Naib Qasid -do-	19.8.1996
20.	Daud Khan.	Mali -do-	19.8.1996
21.	Saeed-ur-Rehman.	Chowkidar -do-	19.9.1996
22.	Abdul Naeem.	Mali -do-	14.10.1996
23.	Rashad Khan.	Naib Qasid -do-	03.12.1996

[Signature]
Deputy Commissioner,
Abbottabad

- No. 93/19(5) Rev. 4595-46-4/AB dated 19-05-1997
- Copy forwarded to:-
- The Commissioner, Hazara Division Abbottabad for information with reference to his Endat. No. E/2(45)79 5562-66 dated 10.5.1997. A copy of statement is enclosed.
 - The Secretary Board of Revenue, NWFP Peshawar with reference to Memo. No. 8574-80/Admn:VI/79 dated 08-5-1997. A copy of statement is enclosed.
 - The District Accounts Officer, Abbottabad.
 - Officials concerned.
 - Accounts branch, (Local).

[Handwritten signatures]

In Secretary Board of Revenue, N.W.F.P Peshawar letter No. 8574-80/Admn:VI/79 dated 08.05.1997, the services of the following officials are hereby terminated with immediate effect, on the ground that their appointment were made in-violation of the prescribed recruitment rules/ procedure or the Provincial Government.

S.No.	Name of Official	Designation	Late of Appoint.
1.	Mukhtiar Ahmad.	Junior Clerk (BPS-5)	24.07.1994
2.	Zulfiqar Hussain.	-do-	13.07.1995
3.	Ashiq Yousaf.	-do-	10.04.1996
4.	Asim Khan.	-do-	14.10.1996
5.	Qaiser Rehman.	-do-	14.10.1996
6.	Muhammad Farooq.	-do-	12.01.1997
7.	Amanat Khan	Chowkidar (BPS-1)	05.09.1994
8.	Waqar Ahmad.	Naib Qasid -do-	19.10.1994
9.	Babar Ali.	Mali -do-	06.03.1995
10.	Muhammad Ramzan.	Naib Qasid -do-	27.12.1994
11.	Saeed-ur-Rehman.	Naib Qasid -do-	27.12.1994
12.	Faisal Khan.	Naib Qasid -do-	27.12.1994
13.	Muhammad Ilyas	Naib Qasid -do-	05.07.1995
14.	Ziafet Khan	Naib Qasid -do-	08.10.1995
15.	Sharaft Khan	Naib Qasid -do-	21.03.1996
16.	Muhammad Arif.	Naib Qasid -do-	06.07.1996
17.	Fiaz Gul	Naib Qasid -do-	09.07.1996
18.	Shafiq-ur-Rehman	Naib Qasid -do-	28.07.1996
19.	Nadeem Khan.	Naib Qasid -do-	19.08.1996
20.	Daud Khan.	Mali -do-	19.08.1996
21.	Saeed-ur-Rehman	Chowkidar -do-	19.09.1996
22.	Abdul Hameed	Mali -do-	14.10.1996
23.	Rashad Khan.	Naib Qasid -do-	03.12.1995

Deputy Commissioner,
Abbottabad

No.93/19(5)Rev:4595-4624/AE

Dated 19-05-97

Copy of forwarded to:-

1. The Commissioner, Hazara Division Abbottabad for information with reference to his Endst: No.E/2(45)75562-66 dated 10.05.1997. A copy of statement is enclosed.
2. The Secretary Board of Revenue, NWFP Peshawar with reference to letter No. 8574-80/Admn:VI/79 dated 08.05.1997. A Copy statement is enclosed.
3. The District Accounts Officer Abbottabad.
4. Officials concerned.
5. Account branch (local).

Deputy Commissioner,
Abbottabad

Allexed
W



OFFICE OF THE
DEPUTY COMMISSIONER
ABBOTTABAD

No. S 220-23 /471AE
Dated: 03 / 01 / 2019

P-11

ORDER:

Annex 'B'

Consequent upon the recommendations of Departmental Selection Committee (DSC) meeting held on 22.04.2019 in the light of Khyber Pakhtunkhwa, Sacked Employees Act 2012 and in pursuance of High Court Peshawar Bench Abbottabad Judgment dated 3.4.2018 in W.P No. 396-A/2015 & 740-A/2016 (COC No.15-A/2018) the following 02 sacked employees are hereby appointed as Junior Clerks (BPS-11) with immediate effect against the vacant posts on 30% quota basis on the terms & conditions mentioned below:-

1. Mukhtiar Ahmad S/O Muhammad Jan R/O Galli Banian, Tehsil & District Abbottabad.
2. Qaiser Rehman S/O Sher Zaman R/O Mohallah Noor Ellahi Road Banda Sappa, Tehsil & District, Abbottabad.

Terms & Conditions

1. Good behavior/ conduct
2. Production of health Certificate from the Medical Superintendent DHQ Hospital, Abbottabad.
3. They will have no right of claiming seniority in the cadre.
4. The period between the termination and their appointment order shall not be counted for any service benefits and not they will claim such as.
5. Their services will be governed by the rules specified for their cadre employee and the above act.

Endst: No. & Date Even:

Copy to:-

1. District Comptroller of Accounts, Abbottabad.
2. Accounts Officer, DC Office, Abbottabad.
3. Official concerned for immediate compliance.


DEPUTY COMMISSIONER


DEPUTY COMMISSIONER

Attested



بخدمت جناب سینئر ممبر بورڈ آف ریونیو خیبر پختونخواہ پشاور

درخواست براد اکاؤنٹ کیے جانے protected پیرینڈ تحت ایکٹ 2012ء فیصلہ سپریم کورٹ آف پاکستان

جناب عالی!

گزارش ہے کہ سائل کو 24/07/1994 جو نیئر کلرک کی پوسٹ پر بھرتی کیا گیا اور پھر 19/05/1997 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 ڈپٹی کمشنر آفس ایبٹ آباد نے برطبق قانون 2012ء کے بحال نہیں کیا جس کی وجہ سے سائل نے پشاور ہائی کورٹ ایبٹ آباد بینچ میں W.P No. 396-A/2015 دائر کی جس کا فیصلہ 03/04/2018 کو سائل کے حق میں ہوا اور بعد ازاں سپریم کورٹ آف پاکستان نے بھی ہائی کورٹ کے فیصلہ کو بحال رکھا۔ لہذا سائل کو بروئے حکم عدالت عالیہ مورخہ 03/04/2018 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 اکاؤنٹ کیے جانے Protected پیرینڈ تحت ایکٹ 2012ء فیصلہ سپریم کورٹ آف پاکستان 14/10/1996 اور 19/05/1997ء سے 03/04/2019 تک پنشن کیلئے اکاؤنٹ دیا جاوے۔

المرقوم؛ 18/2/23

ارض

قیصر الرحمن، جو نیئر کلرک۔۔۔۔۔ (سائل)





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

Slary No. 641

Date: 20/4/2019

VERSUS

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

Received
20/4/19

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

[Signature]
Khyber Pakhtunkhwa Service Tribunal
Peshawar

Attested
[Signature]

P-14

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

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Attested

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ATTESTED
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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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.

Attested

ATTESTED

 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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ATTESTED
 SEAL AND SIGNATURE OF
 MEMBER
 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

8/11/17

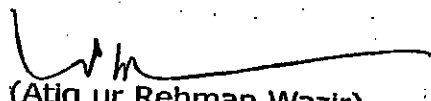
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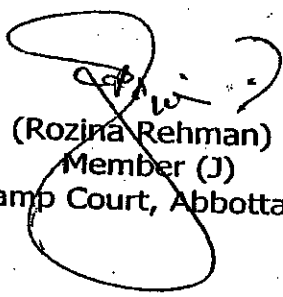
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ATTESTED

 MEMBER
 Director of Peshawar
 Service Tribunal
 Peshawar

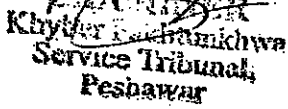
despite promulgation of an Act in the year 2012, appointment order of the appellants were issued in the year 2017 and that too, on the directions of the august High Court. No doubt, similar appeals of the sacked employees were dismissed regarding the back benefits but the Apex Court allowed the co-employees 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

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 06/4/21

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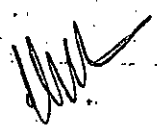
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IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

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

Alleged
Law

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2015 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

Alleged
 W.K.

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.

ISLAMABAD

27.03.2020

ZR/

Not Approved for Reporting

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کورٹ فیس

وکالت نامہ

Services Tribunal KP Peshawar

بعدالت

Oasir Rehman

نام: Cross of the etc

عنوان:

Appellant

منجانب:

نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

Atto M. Arshad Khan Tanoli Asc & Pw

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 برحلف و 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 جز و بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست براد استجارت نالش بصبغہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سندر ہے۔

المرقوم: 6 جون 2022

بمقام: Abbottabad

Accepted

M. Arshad Khan Tanoli, Asc