

BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 2815/2021

MUHAMMAD ISRAR PST

VERSUS

E&SE DEPARTMENT

I N D E X

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**DISTRICT EDUCATION
OFFICER (MALE BANNU)**

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK
PESHAWAR

Service Appeal No. 2815 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6414

Muhammad Israr PST posted at GPS Nekum Kakki District Bannu

Dated 12/07/23

.....Appellant

VERSUS

District Education Officer(M) Bannu

.....Respondent

Parawise reply on behalf of respondents

PRELIMINARY OBJECTIONS ON APPEAL:

- 1- That service appeal of the appellant is not maintainable in its present form.
- 2- That the appellant has got no cause of action to lodge the instant appeal.
- 3- That the appellant is not entitled for the arrears/back benefits as the appellant has not been appointed in the year 1999.
- 4- That the appellant has tried to conceal the material facts from this Honourable Tribunal as he has not performed a single day official duty of the said period before his appointment.
- 5- That since the appellant was not appointed in the year 1999, therefore, the question of his back
- 6- That the para pertains to the personal record of appellant, however, the appellant is not an aggrieved person and is not entitled to the relief claimed by him.
- 7- That the appellant is legally and lawfully bound to abide by the terms and conditions of the appointment letter issued to him and thereafter, the appellant has made compliance of he said appointment letter.
- 8- That such like service appeals have been dismissed by this Honourable Tribunal.
- 9- That the appellant by filling the instant appeal is going to waste the precious time of this Honourable Tribunal as well as the Govt; Functionary body.
- 10- That the instant service appeal would definitely violate the terms and conditions of service/appointment letter of the appellant.

FACTS

- 1- That first para of the appeal is relevant to official record of this office, however, the appellant was not appointed in the year 1999.
- 2- That second para of the appeal also pertains to the record of this office.

3- That the instant para of the appeal pertains to the record of Apex Court verdicts, however, the appellant is not entitled to the relief as claimed by him in his service appeal. Since the appellant was not appointed to the post of PTC/PST in the year 1999, hence, the appellant's seniority would also not arise. Reference is made to appeal No.191/2012 titled Farhatullah V/S Govt of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar announced by this Honourable Tribunal dated 19-08-2016, wherein, the same question of law and fact has been resolved by this Honourable Tribunal (See Annex -- A Appeal No. 191/2012).

4- That correct that the respondent department in reference of court decree and directions appointed the appellant to the post of PST BPS-12, however, the terms and conditions of the said appointment letter are very much clear and transparent as the appointment order of the appellant has been made and ordered with immediate effect. Anti-dating appointments are not possible to be made as per prevailing rules and policy of the govt. according to clause/condition No.10 of the appointment order of the appellant it has been vividly mentioned that if the above terms and conditions of the appointment are acceptable to the appellant then he should assume the charge of the post and report of office within 15 days accordingly. (See Annex -- B Appointment letter).

That this Honourable Tribunal has set aside numerous identical nature of appeals wherein, the appellants were seeking anti-dating seniority of their service after when their appointments has been made in compliance and reference of the court verdicts. Since the appellant was not appointed in the year 1999, therefore, the question of his seniority would also not arise.

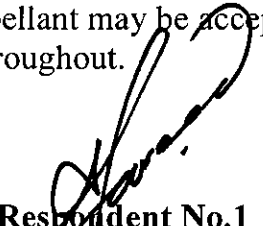
5- That the instant para also pertains to official record of this office as well courts however, the facts and circumstances of the present appellant and appeal is altogether different and separate than that of the respondents No.5 to 7.

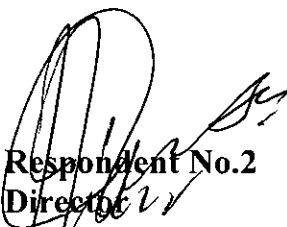
6- That the para pertains to the personal record of the appellant, however, the appellant is not an aggrieved person and is not entitled to the relief claimed by him.


GROUNDS

- (A) That incorrect and not admitted. The respondents are duty bound to act in accordance of rules and law and the material facts in field.
- (B) That the para is not admitted and is incorrect; the appellant is not legally and lawfully entitled to be granted back benefits cum seniority of his service after his appointment order in light of court directions. Again, on plain reading of all the courts decree and judgments no where it has been mentioned that the appellant be also granted/entitled the back benefits as well as seniority. The facts and circumstances of the present appellant and appeal is altogether different and separate than that of the respondents No.5 to 7.
- (C) That incorrect; As explained in the above para.
- (D) That incorrect; That since the appellant was not appointed back in the year 1999 but was appointed in reference of below learned court decree in 2015, hence question of his seniority cum financial benefits would not raise.
- (E) That no indiscrimination or ill treatment has ever been made or exercised with the appellant by the respondents.

It is therefore, humbly prayed that the para wise reply in response to service appeal of the appellant may be accepted and appeal of the appellant may kindly be set aside with heavy cost throughout.


Respondent No.1
Secretary
Elementary & Secondary Education
KPK Peshawar.


Respondent No.2
Director
Elementary & Secondary Education
KPK Peshawar.


Respondent No.3
District Education Officer(Male)
Bannu

Before the KPK Service Tribunal Peshawar (6)

Appeal No. 191 /2012

Farhat Ullah, AT, Govt. High School Koti Sadat District Bannu

..... Appellant

Versus

1. Government of KPK through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary and Secondary Education Peshawar.
3. Executive District officer, District Bannu.
4. District co-ordination officer, District Bannu.
5. Departmental selection committee, Elementary and Secondary Education Peshawar.
6. Amir Sabir Shah S/O Amir Yousaf Shah, AT, Govt. High School Jan killa, Tehsil and District Bannu.
7. Asad Ullah Khan s/O Shams-ul-Islam, AT, Govt High School Bezin Khel, Tehsil and district Bannu.
8. Nisar Khan S/O Jehan Sardar, AT, Govt High School, Jani Khel, Tehsil and district Bannu.
9. Muhammad Umar S/O Sher Bahadar, AT, Govt High School Bhangi Khan Khojerri, Tehsil and district Bannu.

..... Respondents

Appeal under section 4 of KPK Service Tribunal Act, 1974 whereby the appellant who possessed high merit As compared to respondents No.6 to 9 as revealed from merit list at annexure 'F' was ignored from appointment on Arabic teacher post and respondents No. 6 to 9 were appointed vide annexure 'A' and the appellant was also deprived from seniority over them.

Respectfully Shewith:

The appellant respectfully submits as under:

1. That the respondent No.2 had advertised Arabic teacher Posts and other vide annexure 'B'.
2. That the appellant with the following qualification had applied for appointment on Arabic post.
 - a. MA Islamivat

5

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Date of
order
proceeding
s

Order or other proceedings with signature of judge or Magistrate

1

2

3

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

APPEAL NO. 191/2012

(Farhat Ullah-vs- Govt: of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education Peshawar and others)

19.08.2016

JUDGMENT

PIR BAKHSH SHAH, MEMBER:

Counsel for the appellant (Mr. Aslam Khan Khattak, Advocate) and
Mr. Usman Ghani, Senior GP for official respondents present.

2. The following prayer has been made by the appellant in this appeal
as:-

"It is therefore, prayed that on acceptance of appeal,
the official respondents may be directed to issue the
appointment order of appellant on at post, from
05.04.1999 with all back benefits and also he may be
declared senior to respondents No.6 to 9 in the
seniority list of Arabic Teachers to meet the ends of
justice".

3. The facts narrated by learned counsel for the appellant were that
some posts of the Arabic Teacher were advertized by the official
respondents as a result whereof appellant and private respondents No.6 to 9
applied for the same. That in the merit list, the appellant scored higher

19/08/2016

position than the private respondents but objection was raised on testimonial of the appellant for which reason he was not appointed. That finally, proved to be an invalid objection. That private respondents were appointed in the year 1999 whereas the appellant was finally appointed in the year 2011 on the order of the Hon'able High Court and thus the appellant suffered financially as well as in seniority, hence this appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

4. Arguments heard and record perused.

5. A careful perusal of the record reveals that the appellant, to seek the relief, went before the learned Civil Court which round of litigation culminated into the judgment dated 02.11.2010 of the Hon'able High Court, D.I Khan Bench vide which the respondents were directed to appoint the petitioner against the vacant post. Consequently, the appellant was appointed vide order dated 24.02.2011. The above situation clearly shows that at the relevant time the appellant was not a Civil Servant therefore, his prayer on this count cannot be treated to be from a Civil Servant and competent. Since the appellant was not appointed in the year 1999, therefore, the question of his seniority would also not arise. The Tribunal is of the considered view that there is no merit in this appeal, the same is, therefore, dismissed. Parties are left to bear their own cost. File be consigned to the record room.

Announced
19/08/2016
Sd/- P. Bakhsh Shah
Member

Sd/- M. Aamir Nazki,
Member

Handwritten notes and signatures at the bottom right.

Certified true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Vertical handwritten notes on the left margin:
1200
06-10-16
06-10-16
06-10-16

7

Amar D

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BANNU

Outside Miryan Gate Bannu, Khyber Pakhtunkhwa, Pakistan

Email: bannuedu@yahoo.com

Phone: & Fax: 0928-660005

APPOINTMENT ORDER.

In light of minutes of the meeting held on 19/07-2019 in connection with implementation of the judgment dated 09-05-2019 of Learned District Judge Bannu and consequent upon the recommendation of the Departmental Recruitment Committee in presence of execution proceedings before the CJ IV, the undersigned is pleased to issue appointment order in respect of the below mentioned candidate on conditional basis as Civil Revision is pending adjudication in the light of ibid judgment against the vacant post of PST B-12 plus usual allowances as admissible under the rules in the best interest of public service with immediate effect or from the date of taking over charge subject to the terms & conditions given below.

S.NO	Name & Father's Name	Union Council	Place of Posting	BPS	Remarks
1	Muhammad Taroq Khan S/O Muhammad Aiaz Khan R/O Salih Khan Kakki	Kakki	GPS Khairullah	12	A.V Post
2	Muhammad Israr Khan S/O Rais Khan R/O Kakki Khass	Kakki	BPS Nekun kakki	12	A.V Post

Terms & Conditions:

1. The appointment order will be effective w.e.f 01-09-2019 after summer vacation.
2. That Civil Revision has been pending since 18-03-2019 in the court of Additional Registrar and after acceptance/proceedings the appointment order of the petitioner shall be reconsidered in the light of decision.
3. His /Their services will be liable to termination on one month's notice from either side, in case of resignation without notice his one month's pay & allowances shall be forfeited in favour of Govt.
4. His/their services can be terminated at any time; in case his performance is found unsatisfactory during probationary period. In case of misconduct he will be proceeded under E&D Rules 2011 & the rules framed from time to time.
5. The decree holders have no need of relaxation of upper age as they were within age at the time of submission of application.
6. In case of any fake document, certificates, Domicile, NIC or any other mistake in the said appointment order, detected later on, the undersigned reserves the right of amendment in the appointment order accordingly.
7. In case the candidate has provided fake/fabricated documents information then his order will be withdrawn from the date of issue, he will have to deposit all the salaries in favor of Govt.
8. His degrees/certificates and testimonials will be verified by his office, however if verification charges are involved then the appointee concerned will bear himself.
9. He will produce Health & Fitness certificates from MS DHQ Hospital Bannu before taking over charge.
10. Seniority will be reckoned from the date of appointment.
11. The Drawing & Disbursing Officer concerned should check their original documents before taking over charge and also pay the monthly salary to original person/ concerned Govt servant each month otherwise he will be responsible for any wrong drawl.
12. If the above terms and conditions are accepted to him then he should join the post and submit their charge report within 15 days positively.
13. NO TA/DA is admissible.

District Education Officer
(Male) Bannu.

Dated: Bannu the, 09/08/2019

Enclst. No: 11523-35/AE-I (M) Pny
Copy for information to the.

1. Registrar Peshawar High Court Bannu Bench.
2. Director, Elementary & Secondary Education KPK Peshawar.
3. Civil Judge NO.XI Bannu.
4. Deputy Commissioner Bannu.
5. District Accounts Officer, Bannu.
6. SDEO(M) Bannu with the remarks that his pay shall be released by the undersigned after due course of procedure.
7. District Attorney Bannu.
8. Teacher Concerned.
9. Office copy

District Education Officer
(Male) Bannu.

(2)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No: 2814/2021

Muhammad Farooq PST posted at GPS Khair ullah Kakki District
Bannu.....Appellant

VERSUS

District Education Officer (Male) BannuRespondent

AFFIDAVIT

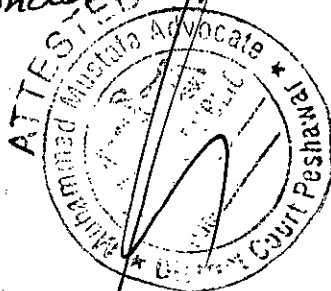
I, *Bakhmal Jan* Litigation Officer office of the District Education officer
(Male) Bannu, do hereby solemnly affirm & declare on oath that the contents of the
instant para wise Comments are true & correct to the best of my knowledge & belief.


Deponent

NOTE:

It is submitted that Service Appeal No.2815/2021 are identical in both
question of Law & facts of the case, hence, these may also be treated to have been
vetted with the titled case please on the analogy of rules consistency please.

*It is further stated that on oath in this appeal
the answering respondents have not
been placed ex parte
nor their defence has
struck off/cost.*



**District Education Officer
(Male) Bannu**



(9)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BANNU

Outside Miryan Gate Bannu, Khyber Pakhtunkhwa, Pakistan

Authority Letter

It is certified that Mr. Bakhmal Jan is hereby authorized to attend the

Service Tribunal KP Dist on behalf of District Education

Officer (Male) Bannu in the case title... Mulla Israr.....

S/ANo - 2815
V/S Government of KP.

**District Education Officer
(Male) Bannu.**