

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD.

Appeal No. 148/2020

Khawaja Waqar AhmadAppellant

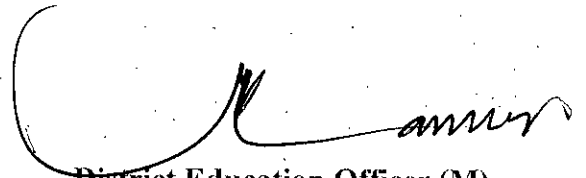
VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

INDEX

Sr.No	Description	Page Nos	Annexures
1	Comments alongwith affidavit.	01 to 04	
2	Copy of Notification dated 30-01-2018	05 to 08	"A"



District Education Officer (M)
Abbottabad.
(Respondent No. 3)

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Respectfully Sheweth:-

Comments on behalf of Respondents are submitted as under:-

Preliminary objection:-

1. That the appellant has no cause of action to file the instant appeal.
2. That the appeal is hopelessly time barred hence, liable to be dismissed.
3. That the instant appeal is hit by the Principal of Latches.
4. That the instant appeal is not maintainable in its present form.
5. That the appellant has no locus standi to file instant appeal.
6. That the appellant has filed the present appeal just to pressurize the respondents.
7. That the appellant has not come to this Honorable Tribunal with clean hands hence, not entitled for any relief.
8. That the appellant is estopped to sue due to his own conduct.
9. That the instant appeal is not maintainable due to mis-joinder and non-joinder of necessary parties.
10. That the instant appeal is against the Law, Rules and Policy hence, liable to be dismissed.
11. That in view of Notification No. SO (PE)4-5/SSRC/Meeting/2012/Teaching Cadre/2017 dated 30-01-2018 appellant do not fulfill the requisite criteria for promotion as the

prescribed qualification were enhanced from intermediate to Graduation hence, appellant is not eligible for promotion.

12. That the appellant did not challenge Notification No. SO (PE)4-5/SSRC/Meeting/2012/Teaching Cadre/2017 dated 30-01-2018 hence, instant appeal is liable to be dismissed.
13. That it is the sole prerogative of the Executive Authorities to frame policy or amend rules in accordance with the exigencies of service to cope up with the ever changing requirements and they cannot substitute their views in the decision of the government with regard to the policy matters.

Factual Objections:-

1. That the Para No. 1, of the service appeal relates to the service record. Hence, need no further comment.
2. That the Para No. 2, of the service appeal relates to academic record.
3. That the Para No. 3, relates to record.
4. That the Para No. 4, of the service appeal is correct as amendments regarding requisite qualification were enhanced from intermediate to graduation vide Notification No. SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre/2017 dated 30-01-2018 as per Notification dated 30-01-2018 the requisite qualification for promotion is Bachelor Degree whereas, appellant do not fulfill the requisite qualification hence, instant appeal is against the policy and same may please be dismissed without any further proceedings. (Copy of Notification No. SO (PE) 4-5 / SSRC / Meeting / 2012 / Teaching Cadre / 2017 dated 30-01-2018 is annexed herewith as annexure "A").

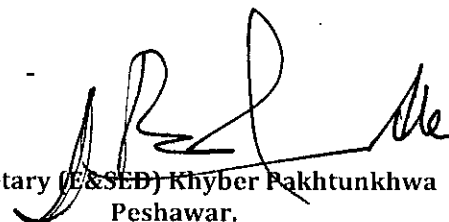
Grounds:

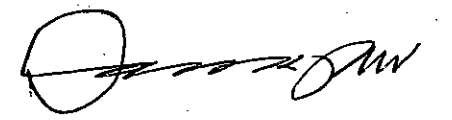
- a. That ground a, is as composed is incorrect, hence, denied.
- b. That ground b, is as composed is incorrect, hence, denied.
- c. That ground c, is as composed is incorrect, hence, denied.
- d. That ground d, is as composed is incorrect, hence, denied.
- e. That ground e, is as composed is incorrect, hence, denied as appellant does not fulfill the requisite criteria for promotion.
- f. That ground f, as composed is incorrect hence, denied. As it is the sole prerogative of the Executive Authorities to frame policy or amend rules in accordance with the exigencies of service to cope up with the ever


changing requirements and the cannot substitute its views in the decision of the government with regard to the policy matters.

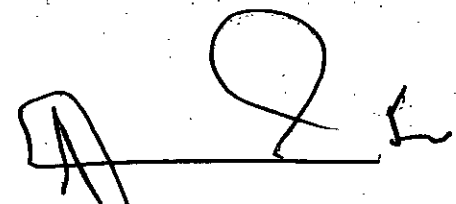
- g. That ground g, as composed is incorrect hence, denied. As replied above.
- h. That ground h, as composed is incorrect hence, denied. As replied above.
- i. In reply to ground i, it is submitted that judgment of this Honorable Tribunal dated 17-03-2021 has been challenged by the respondents before the August Supreme Court of Pakistan and filed CPLA which is subjudice.
- j. That respondents seek leave of this Honorable Tribunal to raise additional grounds during course of arguments with the permission of Honorable Tribunal.
- k. That the instant service appeal is hopelessly time barred.

Under the circumstances, it is humbly prayed that the instant appeal is meritless against the Law, Rules, Policy and facts hence, liable to be dismissed with cost.


Secretary (E&SE) Khyber Pakhtunkhwa
Peshawar.
(Respondent No. 1)


Director (E&SE) Khyber Pakhtunkhwa
Peshawar.
(Respondent No. 2)


District Education Officer (M)
Abbottabad.
(Respondent No. 3)


Sub Divisional Education Officer (M)
Lower Tanawal Abbottabad.
(Respondent No. 4)

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Khawaja Waqar AhmadAppellant

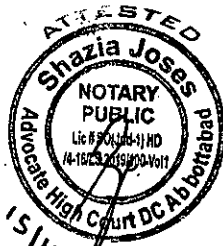
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JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

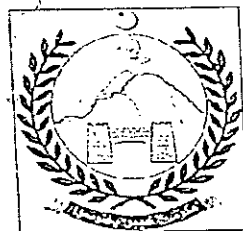
AFFIDAVIT

I, Mr. Muhammad Tanveer, District Education Officer (M) Abbottabad, do hereby affirm and declare on oath that the contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.



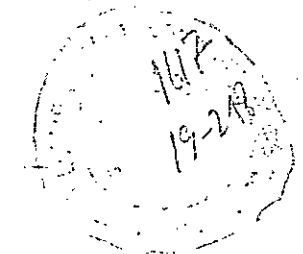
A handwritten signature in black ink, appearing to be 'Muhammad Tanveer', written over a horizontal line.

DEPONENT



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

Ann A 05



NOTIFICATION

Peshawar, dated the 30th January, 2018.

No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre/2017:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department, in consultation with the Establishment Department and the Finance Department hereby directs that, in this Department's Notification No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre, dated 13-11-2012, the following further amendments shall be made, namely:-

AMENDMENTS

In the Appendix,-

(i) against Serial No. I, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3	4
(i) At least Second Class Bachelor's Degree or four (4) years BS Degree in the relevant subject; and	21 to 35 years";
(ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	

(ii) against Serial No. IB, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3	4
(i) At least Second Class Bachelor's Degree from a recognized University from the following groups with two subject on need basis.	19 to 35 years";
(a) Chemistry, Botany or Zoology; or	

Signed/
ADORE
For Compliance
17/1/2018

<p>(b) Physics, Maths or Statistics; or (c) Humanities and other equivalent groups at degree level with English as subject; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).</p>	
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(iii) against Serial No. 10, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely: _____

3.	4.
<p>(i) At least Second Class Master's Degree in Arabic from a recognized University; or at least Second Class Bachelor's Degree from a recognized University with Shahadatul Alamia Fil Uloomul Arabia wal Islamia from a recognized Tanzimuatul Wafaqul Madaris; or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by Government from time to time; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).</p>	<p>19 to 35 years";</p>

(iv) against Serial No. 11, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely: _____

3.	4.
<p>(i) At least Second Class Master's Degree in Islamiyat from a recognized University; or at least Second Class Secondary School Certificate from a recognized Board with Shahadatul Alamia from a recognized Tanzimuatul Wafaqul Madaris; or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by Government from time to time; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).</p>	<p>19 to 35 years";</p>

(v) against Serial No. 13, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) Bachelor's Degree from a recognized University; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years";

(vi) against Serial No. 17, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) Bachelor's Degree from a recognized University; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years";

(vii) against Serial No. 18, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) Bachelor's Degree from a recognized University; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years";

(viii) against Serial No. 21, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) Bachelor's Degree from a recognized University; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years"; and

(ix) against Serial No.22, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

08

3.	4.
(i) Bachelor's Degree from a recognized University and Qirat Sanad from registered Institution; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years'

SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT.

Endst: of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education, Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (E&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officers (M&F) in Khyber Pakhtunkhwa. *A/A/abcd*
14. All District Accounts Officers in Khyber Pakhtunkhwa.
15. All Agency Education Officers/ Agency Accounts Officers in FATA.
16. PS to Governor Khyber Pakhtunkhwa, Peshawar.
17. PS to Chief Minister Khyber Pakhtunkhwa, Peshawar.
18. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
19. PS to Minister E&SE Khyber Pakhtunkhwa, Peshawar.
20. PS to Secretary E&SE Khyber Pakhtunkhwa, Peshawar.

[Signature]
SECTION OFFICER (Primary)