


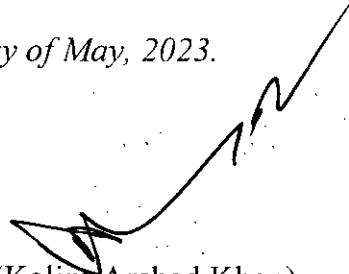
08th May, 2023

1. Learned Counsel for the appellant present. Mr. Fazal Shah Mohamand, Additional Advocate General for the respondents present.

2. Vide our detailed order of today placed in service appeal No. 1382/2019 titled "Usman Ghani Vs Government of Khyber Pakhtunkhwa through Secretary Education and others" (copy placed in this file), this appeal is also disposed of. Cost shall follow the event. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 08th day of May, 2023.*


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Kaleem Ullah

SCANNED
KPST
Peshawar

08th Feb, 2023

Junior of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant stated that similar appeals titled "Nisar Muhammad etc Versus Education Department" have been fixed on 17.04.2023 before Principal Bench of this august Tribunal at Peshawar, therefore, let this appeal be fixed on the said date at Principal Bench. In this respect, he also submitted a written application.

Let it be fixed at Principal seat of this august Tribunal for arguments on the application to see the nature of all the appeals at Peshawar for 17.04.2023.

SCANNED
KPST
Peshawar



(Safah-ud-Din)
Member (J)
Camp Court Swat



(Kalim Arshad Khan)
Chairman
Camp Court Swat

17th April, 2023

1. Counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Mr. Muhammad Zahid Khan, SDEO for the respondents present.

2. Arguments heard. Learned senior counsel for the appellant wants to make some more submission. He may do make on 08.05.2023 before the D.B. P.P given to the parties.

SCANNED
KPST
Peshawar



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman


04.01.2023


Junior to counsel for the appellant present.

Muhammad Riaz Khan Paindakhel learned Assistant Advocate General for respondents present.

At the very outset an application for adjournment of the appeal was filed on the ground that identical nature appeals are pending in this Tribunal and as per directions all the appeals were to be fixed at principal seat Peshawar to be decided once for all by submitting applications by the counsel for appellants. Till today no such application was filed before the learned Chairman and now another request had been made for adjournment which is allowed on cost of Rs. 2000/- to be paid on next date alongwith submission of copy of application addressed to learned Chairman for clubbing of this appeal for hearing at principal seat Peshawar alongwith other appeals. To come up for arguments on 08.02.2023 before D.B.

**SCANNED
KPST
Peshawar**

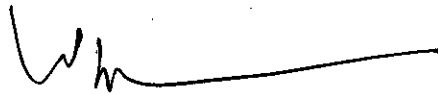

(Fareeha Paul)
Member (E)
(Camp Court Swat)


(Rozina Rehman)
Member (J)
(Camp Court Swat)

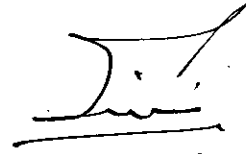
13.12.2021

Mr. Noor Muhammad Khattak, Advocate for the appellant present. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Hussain Ali, Litigation Officer for respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments before the D.B on 29.03.2022.



(Atiq Ur Rehman Wazir)
Member (E)

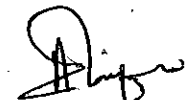


(Salah-ud-Din)
Member (J)

29-3-2022

Proper DB not available the case is adjourned to come up for the same as before

11-5-2022



Reader

11-5-22

Proper DB not available case is adjourned on 26-7-22


Reader

1-1.2020


Due to summer vacation, case is adjourned to 14.3.2021 for the same as before.


Reader

19.03.2021

Mr. Afrasyab Wazir, Advocate, on behalf of learned counsel for appellant and Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Former requests for adjournment due to illness of learned senior counsel today. Adjourned to 12.04.2021 for hearing before D.B.


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


CHAIRMAN.

12.4.21

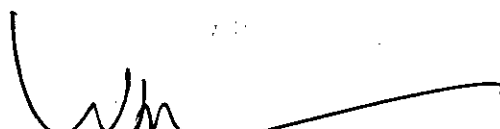
Due to COVID 19, the case is adjourned to 29.7.21 for the same,


Reader

29.07.2021

Mr. Noor Muhammad Khattak, Advocate, ~~present~~ for the appellant present. Mr. Hussain Ali, Litigation Officer alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for the appellant sought adjournment for arguments. Adjourned. To come up for the argument before the D.B on 13.12.2021.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

28.10.2020

Appellant present through representative.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Hussain Ali Litigation Officer for respondents present.

Representative of respondents submitted reply/comments. To come up for rejoinder, if any, and arguments on 01.01.2021 before D.B.



(Rozina Rehman)
Member (J)

13.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 08.07.2020 for the same. To come up for the same as before S.B.


Reader

08.07.2020

Counsel for the appellant present. Arguments heard and record perused.

Contends that essentially the appellant was in the promotion zone for SST (BPS-16) at the time when Regularization Act, 2009 was promulgated. ^{if} Any employee/teacher ^{is} ~~was~~ not promoted by the time when Act 2009 was enforced while he ^{was} ~~is~~ in the promotion zone, is a question of fact to be determined in individual cases.

To resolve the controversy, instant appeal is admitted to regular hearing subject to all legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Notice be issued to the respondents. To come up for written reply/comments on 03.09.2020 before S.B.




Member (J)

03.09.2020

Appellant alongwith counsel present.

The appellant has submitted an application for permission to deposit security and process fee as required on 08.07.2020, on the ground that the same could not be deposited in time due to unavoidable circumstances.

The application is allowed. The appellant shall deposit process fee and security within three working days from today. Thereafter, notices be issued to the respondents for submission of written reply/comments on 28.10.2020 before S.B.

Appellant Deposited
Security & Process Fee

03/9/20






Chairman

FORM-A

FORM OF ORDER SHEET

Court of _____

Case No. 64 / 2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1.	2/1/2020	<p>The appeal of Bahramand Khan resubmitted today by Noor Muhammad Khattak, Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 21/1/2020</p>
2.	06/01/20	<p>This case is entrusted to S.Bench for preliminary hearing to be put up there on <u>07/02/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
07.02.2020		<p>Counsel for the appellant present and requested for adjournment. Adjourned to 25.02.2020 for preliminary hearing before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>
25.02.2020		<p>Appellant absent. Learned counsel for the appellant absent. Adjourn. To come up for preliminary hearing on 13.04.2020 before S.B. Appellant be put to notice for the date fixed.</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. Bahramand Khan SCT GHS Cahil Madyan District Swat received today i.e. on 02.12.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Page Nos. 11, 42, 49 and 50 of the appeal are illegible which may be replaced by legible/better one.
- 2- Copy of promotion order mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

No. 2109 /S.T,

Dt. 3-12- /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv.

Note:
Sir,

Objection No. 1 has been removed while copy of promotion as objection No. 2 will be placed before the court. Therefore, the appeal in hand may be put up before the bench.

MJ
21/12/2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 64 /2020

BAHRAMAND KHAN VS EDUCATION DEPTT:

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11.	Departmental appeal	J	62- 63.
12.	Vakalat nama	64.

APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE

Room No. 3 & 4, Upper Floor,
Islamia Club Building,
Khyber Bazar, Peshawar
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 64 /2019

Diary No. 1702

Mr. Bahramand Khan, SCT (BPS-16),
GHS Cahil, Madyan, District Swat

Dated 02/12/2019

APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (M), District Swat.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT GRANTING/ALLOWING PROMOTION TO THE APPELLANT TO THE POST OF SECONDARY SCHOOL TEACHER (BPS-16) FROM THE DATE WHEN THE PROMOTION QUOTA WAS FILLED BY THE RESPONDENTS THROUGH INITIAL RECRUITMENT OR FROM THE DATE OF COMMENCEMENT OF THE ACT NO.XVI OF 2009 COMMONLY KNOWN AS REGULARIZATION OF SERVICES ACT, 2009 NOTIFIED IN THE OFFICIAL GAZETTE ON 24.10.2009 WITH ALL BACK BENEFITS INCLUDING SENIORITY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYERS:

That on acceptance of this appeal the respondents may kindly be directed to consider the appellant for promotion to the post of Secondary school Teacher (BPS-16) from the date when the promotion quota have been filled by the respondents through initial recruitment or from the date of Commencement of the Act No.XVI of 2009 commonly known as Regularization of Services Act, 2009 Notified in the official gazette on 24.10.2009 with all back benefits including seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

That initially the appellant was appointed as CT in the respondents Department vide order dated 21.08.1995 and right from the appellant is serving as CT quite efficiently and upto the entire satisfaction of his superiors. Copy of the service book is attached as annexure

A.

Filed to-day
Registrar
02/12/19

De-sub-itted
to-day 1-2/11/2020

- 2- That during service as certified teacher the appellant was in the promotion zone to the post of SST (BPS-16) but the respondents instead promoting the appellant advertised the said posts of SST (BPS-16) on adhoc/contract basis. Copy of the advertisement is attached as annexure **B.**
- 3- That under protest the appellant and his colleagues applied for the said post through initial recruitment but the same was also refused to the appellant and colleagues of the appellant on the pretext that regular employees are not entitle to apply for the adhoc/contract posts of SST (BPS-16) thus appellant and his colleagues were deprived from prospects of promotion. That it is pertinent to mention that at the time of above mentioned advertisement the post/cadre of C.T (BPS-15) to which the appellant belong have no prospects of promotion.
- 4- That in light of the said advertisement new appointments were made by the respondents on adhoc basis and even the promotion quota was also filled by the respondents though initial recruitment.
- 5- That in the meanwhile the Provincial Government Promulgated the employees regularization Act, 2009 whereby all the adhoc employees who were appointed as SST on temporary basis were regularized thus further affected the cadre to which the appellant belongs. That the promotion quota for which the appellant and his colleagues have waited for decades has been washed by operation of the said Act of 2009. Copy of the Act is attached as annexure **C.**
- 6- That feeling aggrieved the appellant and his colleagues knocked the door of the Peshawar High Court through various writ petitions including writ petition No.2905/2009. That vide consolidated judgments dated 26.1.2015 the said writ petitions were disposed of with the directions that:
(i)- The act.XVI of 2009, commonly known as (Regularization of services) act, 2009 is held as beneficial and remedial legislation, to which no interference is advisable hence, upheld.
(ii)- Official respondents are directed to work out the backlog of the promotion quota as per above mentioned example, within thirty days and consider the in service employees, till the backlog is washed out, till then there would be complete ban on fresh recruit.
Copy of the Judgment is attached as annexure D.
- 7- That the respondents assailed the said judgment of the august Peshawar High Court Peshawar in CPLAS No.127-P to 129-P/2015 but the same were dismissed as withdrawn vide judgment dated 20.9.2017. That then after the appellant and his colleagues time

and again visited the respondents for their promotion to the next higher scale but the respondents instead of redressing the grievance of the appellant and his colleagues advertised the posts through initial recruitment through various advertisements. Copies of the judgment and advertisements are attached as annexure **E & F.**

8- That it is pertinent to mention that during service the appellant was allowed up gradation/promotion to the newly up graded post of Senior Certified Teacher (BPS-16). That it is pertinent to mention that appellant is the senior most SCT (BPS-16) of the respondent department and also eligible in all respect for promotion to the post of SST (BPS-16). Copies of the service rules and educational testimonials are attached as Annexure **G & H.**

9- That feeling aggrieved the appellant and his colleagues knocked the door of august Peshawar high Court, Peshawar in various COC Petitions numbers including COC Petition No.105-P/2018 and the same has been disposed of vide judgment dated 8.11.2018 with directions to approached the august Service Tribunal for claiming of promotion and seniority. Copy of the judgment is attached as annexure **I.**

10- That feeling aggrieved the appellant preferred Departmental appeal but no response has been received so far, Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure **J.**

GROUND:

A- That the inaction of the respondents by not allowing/granting ante dated promotion to the appellant to the post of SST (BPS-16) is against the law, facts, norms of natural justice and materials on the record.

B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the inaction of the respondents by not allowing/granting ante dated promotion to the appellant to the post of SST (BPS-16) is based on mala fide and arbitrary intentions and as such the same is violative of the principle of natural justice.

- E- That the respondents acted in arbitrary and malafide manner by not ante dated promotion to appellant to the post of SST (BPS-16) despite the fact that the appellant was not allowed in the initial recruitment process because of the fact that he is in regular promotion zone and will soon be promoted to the post of SST (BPS-16).
- F- That the inaction of the respondents by not allowing/granting promotion to the appellant to the post of SST (BPS-16) is violative of section-9 of the Civil Servant Act 1973 read with Rule-7 of the (Appointment, Promotion & Transfer) Rules 1989.
- G- That as per Rules and regulation the appellant is entitle for promotion to the post of SST (BPS-16) with all consequential benefits including seniority.
- H- That according to Article 38(e) of the Constitution of Pakistan, 1973 the state is bound to reduce disparity in the income and earnings of individual including persons in the services of Federation.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 02.12.2019

APPELLANT


BAHRAMAND KHAN

THROUGH:


NOOR MOHAMMAD KHATTAK

&


MIR ZAMAN SAFI
ADVOCATES

①
SERVICE BOOK A-⑤

OF

Mr Bahramand Khan s/o
Haji Toor Khan V & pl. Chail
Tehsil Behrain Distt Swat
Pakistan)

75337

Alied

Principal
Govt. High School
Chail Swat

(6)

75337

قومی شافٹی کارڈ

116-88-002008

سر قمر خان
19/10/2008

پرنسپل

Cap. Fund No 12768
Edu. Deptt

Principal

Govt. High School
Chail Swat

Heirs,

- 1.
- 2.
- 3.

Passed m.ed from H. Govt Islamia
 marks obtained 201/300. Result declared on 17/3/2017 according to Roll No B.651
 Reg No 965

Verification Roll No. dated

received back

Left thumb-impression.

Qualification Date
 1- Passed S-Se (A) Exam 1987 from
 B.I.S.E Peshawar Under Roll No. 16927
 English
 Marks obtained 470/850 in 2nd Division

Qualifications Date
 First Arts
 Govt. High School,
 Chail, Dist. Swat

2- Passed F.A (A) Exam: 1989 from
 Pashtu
 B.I.S.E Peshawar Under Roll No. 73620
 Urdu
 Marks obtained 435/1100 in 2nd Division

B. L. or B. A.
 Leadership examination

3- Passed B.A (A) Exam 1996 from
 University of Peshawar Under Roll
 NO. 37789
 Plan-drawing
 Marks obtained 282/550
 in 2nd Division Result Declared on
 Finger print 8 February 1996.

Training School Initial examination
 Other qualifications

Drill-instructing

Court duties Dy. Dist. Education Officer (VI)
 Secondary Sect. at Gulkhail

Reserve duties

Passed CT Exam from
 AICU in 11th Div under
 R No F 6329602. Result
 declared on 31/3/98 and
 obtained 57% marks
 in 4.2.4 B's
 Dy: Dist. Education Officer (VI)
 Secondary Sect. at Gulkhail DBO
 Principal
 Govt. High School
 Chail Swat

85
151
29

2



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 .. *Bakramand* (3)
- 2. Race .. *Muslim.*
- 3. Residence .. *New Chail Madian Dist Swat*
- 4. Father's name and residence .. *Toon Khan new Chail Madian Dist Swat*
- 5. Date of birth by Christian era as nearly as can be ascertained *1st May Nineteen Hundred & Seventy only*
(1-5-1970)


6. Exact height by measurement *5' 6"*

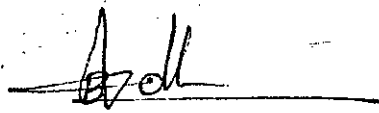
7. Personal marks for identification *NIL*

8. Left hand thumb and Finger impression of (non-gazetted) officer


Little Finger,  Ring Finger 

Middle Finger,  Fore Finger 

Thumb, 

9. Signature of Government servant 

10. Signature and designation of the Head of the Office, or other Attesting Officer. *AW Khan*
Dy. Dist. Education Officer (M)
Secondary Swat at Gulkadal


Principal
Govt. High School
Chail Swat

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
C.T							9
C.M.S. Arcom - Behrain e IT	Suff. Sp. Insr.		1605/-			21 ² / ₁₉₉₅	Adh
M.S. Dabas Jay	do	Rs. 1605/- (B.P.S No. 14 - 2065-161-4480)				13 ⁰² / ₉₆	Adh
do	do	Rs. 2065/-				31 ² / ₉₈	Adh
do	do	Rs. 2226/- p.m				1 ¹² / ₉₈	Adh
do	do	Rs. 2387/- p.m				1 ¹² / ₉₉	Adh
do	do	Rs. 2548/- p.m				1 ¹² / ₂₀₀	Adh
do	do						Adh
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do	do						Adh
do	do						Adh

Service Verified w e.f. 1-1-98 to 30-11-2000 from acc: Roll and other Record of this office.

Dy. District Education Officer (M) Secondary Swat at Galikadu.

cp 1/9800
 Draw abs of amulic
 for M.S. amounting to Rs. 172/-
 5/1/98

Service Verified w e.f. 1-1-98 to 30-11-99 from acc: Roll and other

District Education Officer (M) Secondary Swat

Principal Govt. High School Swat

9	10	11	12	13		14	15
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
Signature and designation of the head of office or other attesting officer in columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting Officer	Period	Government to which debitable	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
<i>[Signature]</i> D.E.O. (M) Secy. Swat	12 ⁰² / ₉₆	Transfer	<i>[Signature]</i> D.E.O. Saidu Sharif			<i>[Signature]</i> Dy. Distt. Education Officer (M) Secondary Swat at Gulkada	Appointed against vacant e.7 post at G.M.S Aron DISTE Swat vide DECS) MKd Div Endost No. 18628-33/ dated 20-8-1995.
<i>[Signature]</i> D.E.O. Saidu Sharif	30 ³ / ₉₈	Allowed BPS-14.	<i>[Signature]</i> D.E.O. Saidu Sharif				
<i>[Signature]</i> D.E.O. Saidu Sharif	30 ¹¹ / ₉₈	A/c	<i>[Signature]</i> D.E.O. (M) Secy. Swat				
<i>[Signature]</i> D.E.O. (M)	30 ¹¹ / ₉₉	A/c	<i>[Signature]</i> D.E.O. (M) Secy. Swat				
<i>[Signature]</i> D.E.O. (M)	30 ¹¹ / ₂₀₀₀	A/c	<i>[Signature]</i> D.E.O. (M) Secy. Swat				
<i>[Signature]</i> D.E.O. (M)	30 ¹¹ / ₂₀₀₁	A/c	<i>[Signature]</i> D.E.O. (Ad. Devt) Edu: Swat			<i>[Signature]</i> Dy. Distt. Education Officer (M) Secondary Swat at Gulkada	Services regularised w/f 20/8/95 vide DDE MKd Div at Gulkada 6295-96 dt 30/9/95
<i>[Signature]</i> D.E.O. (M)							
cp 8/75				Sanction accorded to the grant of graded pay scale BPS No. 14			
Drawn out of pay HRA 37% c/a due to award of B-14 1 ⁴ / ₉₈ to 31 ⁷ / ₉₈ amount Rs 2382/50				vid. DSE MKd: Saidu Sharif at Gulkada Snd. No-2026-29 dated 13-8-98 W. of from 31-3-98			
Service Verified w/e 21-8-95 to 30-11-98 by: Roll and other Record at Gulkada.				<i>[Signature]</i> Dy. Distt. Edu: Officer (M) Secondary, Swat.			
<i>[Signature]</i> District Education Officer (M) Secondary SWAT.				<i>[Signature]</i> Principal Govt. High School Chal Swat			

محکمہ مدارس و خواندگی صوبہ سرحد

آن لائن درخواستیں مطلوب ہیں

محکمہ مدارس و خواندگی میں یکنڈری سکول ٹیچرز (SST) B-16 اور سبیکٹ سپیشلسٹ (SS) B-17 کی خالی آسامیوں پر خالصتاً عارضی کنٹریکٹ اور طویل میرٹ کی بنیاد پر تعیناتی کیلئے 10 اگست 2007ء تک بکے تک صرف انٹرنیٹ پر محکمہ ہذا کی ویب سائٹ www.orwfp.com کے ذریعے صرف صوبہ سرحد اور فنانس کے سکونی باشندوں کو امیدواروں (خواتین، حضرات) سے آن لائن درخواستیں مطلوب ہیں۔

نمبر شمار / نام آسامی	کم از کم تعلیمی قابلیت	عمر کی حد	ماہانہ مشاہرہ	مدت ملازمت
1۔ یکنڈری سکول ٹیچر (سینئر انگلش ٹیچر) جنرل سائنس بنیادی تنخواہ سکیل	بی اے / بی ایس سی یکنڈ ڈویژن بمعہ بی ایڈ یکنڈ ڈویژن یا یکنڈ ڈویژن ایم اے ایجوکیشن	مرد 21 تا 35 سال خواتین 21 تا 40 سال	گریڈ 16 کی ابتدائی بنیادی تنخواہ کے برابر گلسڈ تنخواہ	6 ماہ یا پبلک سروس کمیشن یا ڈپارٹمنٹل پروموشن کمیشن یا ڈپارٹمنٹل پروموشن کمیشن کے نامزد کردہ امیدواروں کی آمد تک (ان میں سے جو بھی پہلے ہو)۔
2۔ سبیکٹ سپیشلسٹ (انگریزی، اردو، اسلامیات، ہسٹری، کم سوکس، پاک سٹیڈیز، آکٹا س، ریاضی، ساریات، فزکس، کیمسٹری، بیالوجی)	متعلقہ مضمون میں ماسٹرز ڈگری بمعہ بی ایڈ ایم اے ایجوکیشن یکنڈ ڈویژن (نوٹ) صرف ایم اے / ایم ایس سی بھی درخواستیں دے سکتے ہیں لیکن ان کی تقرری بی ایڈ ایم اے ایجوکیشن کی عدم دستیابی سے مشروط ہوگی۔	مرد 21 تا 35 سال خواتین 21 تا 40 سال	گریڈ 17 کی ابتدائی بنیادی تنخواہ کے برابر گلسڈ تنخواہ	6 ماہ یا پبلک سروس کمیشن یا ڈپارٹمنٹل پروموشن کمیشن یا ڈپارٹمنٹل پروموشن کمیشن کے نامزد کردہ امیدواروں کی آمد تک (ان میں سے جو بھی پہلے ہو)۔

دیگر شرائط (1) ایس ایس ٹی سائنس کیلئے امیدوار کا بی ایس سی میں فزکس، کیمسٹری، بیالوجی (زوالوجی، بائی، اردو، ریاضی، (اے یا بی) میں کم از کم دو مضامین میں پاس شدہ ہونا لازمی ہے۔ (2) صوبہ سرحد اور فنانس کے علاوہ کسی اور جگہ کے ڈیپارٹمنٹ رکھنے والے امیدوار درخواستیں دینے کے اہل نہیں۔ (3) کامیاب امیدواروں کی تقرری میرٹ لسٹ کی بنیاد پر امیدوار کے سکونی ضلع / ایجنسی میں مخصوص سکول میں ہوگی جو کہ ناقابل تبادلہ ہو گی۔ تاہم اگر کسی ضلع / ایجنسی میں موزوں امیدوار موجود نہ ہو تو دوسرے ضلع / ایجنسی میں مامی امیدواروں کی تعیناتی بھی ہو سکتی ہے جو ناقابل تبادلہ ہوگی۔ تاہم اگر کسی ضلع / ایجنسی میں موزوں امیدوار موجود نہ ہو تو دوسرے ضلع / ایجنسی کے امیدواروں کی تعیناتی بھی ہو سکتی ہے جو ناقابل تبادلہ ہوگی۔ (4) ایک سے زیادہ مضامین میں MA/MSc کی ڈگری رکھنے والے امیدوار ایک سے زیادہ SS آسامیوں (متعلقہ مضمون) کیلئے الگ الگ فارم جمع کر سکتے ہیں۔ اپنی زون میں خالی آسامیوں کی عدم دستیابی کی صورت میں کامیاب امیدواروں کو صوبے میں کہیں پر بھی تعینات کیا جاسکتا ہے مگر تعیناتی جو کہ ناقابل تبادلہ اور متعلقہ زون میں موزوں امیدوار عدم موجودگی سے مشروط ہوگی۔ (5) انٹرویو کے وقت دو عدد پاسپورٹ سائز مصدقہ تصاویر اور تمام اصل تعلیمی اسناد پیش دراند اسنادوں ڈویژنل ڈیپارٹمنٹ، کیمپوز اور ڈیوٹی شناختی کارڈ مع تمام دستاویزات کے دو عدد مصدقہ فتول بھی پیش کرنا لازمی ہوں گے۔ (6) محکمہ مدارس و خواندگی صوبہ سرحد میں مستقل بنیادوں پر تعینات اساتذہ درخواست دینے کے اہل نہیں ہیں، کیونکہ موجودہ آسامیوں پر تعیناتی خالصتاً کنٹریکٹ کے بنیادوں پر میرٹ کا تعین برائے تقرری بحیثیت سبیکٹ سپیشلسٹ

Qualification	Total Marks	1st Division	2nd Division	3rd Division
SSC	50			
MATRIC				

Qualification	Total Marks	1st Division	2nd Division	3rd Division
B.Ed	10	10	0	0
M.Ed	10	10	0	0

اس امر کی وضاحت ضروری ہے کہ اس اشتہار کے تحت منتخب شدہ امیدواروں کو بنیادی مراعات مثلاً طبی چھٹی، طبی سہولیات، پنشن وغیرہ حاصل نہیں ہوں گی اور ساتھ ساتھ یہ حق بھی حاصل نہیں ہوگا کہ ملازمت کو باقاعدہ بنانے اور دوسری مراعات حاصل کرنے کیلئے کسی بھی عدالت سے رجوع نہیں کر سکے گا۔ خواہشمند امیدوار مزید تفصیلات جاننے کیلئے ویب سائٹ www.cmdp.com سے رجوع کریں۔ آن لائن فارم پر کرتے وقت انتہائی احتیاط رہیں کہ وہی گئی معلومات کی تمام تر ذمہ داری درخواست دہندہ پر عائد ہوگی۔ محکمہ میں غلطی کے لئے ذمہ دار نہیں ہوگا اور نہ امیدوار کو آخری تاریخ کے تصحیح کا حق حاصل ہوگا۔ متعلقہ زون میں تمام اہل درخواست دہندہ گان کو انٹرویو میں شامل کیا جائے گا جس کی تفصیل 13 اگست 2007ء کو ویب سائٹ www.enwfp.com پر شائع کی جائے گی۔ انٹرویو کیلئے علیحدہ خطوط جاری نہیں کئے جائیں گے اور نہ سفری خرچہ یا جانے گا۔ کامیاب امیدواروں کو میڈیکل سٹیڈنگ ٹک میڈیکل بورڈ کا جاری کردہ سرٹیفکیٹس پیش کرنا لازمی ہوگا اور اسے ساتھ ایک معاہدہ پر دستخط کرنا ہوگا۔ انٹرویو کیلئے امیدواروں کو صبح 9:00 متعلقہ ضلعی دفتر کے دفتر میں ہزار سبکی کے رو برو درج ذیل تاریخوں پر حاضر ہونا ہوگا۔

نام آسامی	مردانہ	زنانہ
یکنڈری سکول ٹیچر (SST)	19 اگست 2007ء	21 اگست 2007ء
سبیکٹ سپیشلسٹ (SS)	13 اگست 2007ء	24 اگست 2007ء

درخواست فارم اور معاہدے میں درج شدہ تمام شرائط اشتہار کا حصہ تصور ہوں گی۔ امیدوار اپنی میرٹ پوزیشن مندرجہ بالا ویب سائٹ www.enwfp.com پر دیکھ سکتے ہیں۔

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**THE ³[KHYBER PAKHTUNKHWA]
EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009.
(⁴[KHYBER PAKHTUNKHWA] ACT NO. XVI OF 2009)**

[First published after having received the assent of the Governor of the ⁵[Khyber Pakhtunkhwa] in the Gazette of ⁶[Khyber Pakhtunkhwa] (Extraordinary), dated the 24th October, 2009]

**AN
ACT**

to provide for the regularization of the services of certain employees appointed on adhoc or contract basis.

WHEREAS it is expedient to provide for the regularization of the services of certain employees appointed on adhoc or contract basis, in the public interest, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.---(1) This Act may be called the ⁷[Khyber Pakhtunkhwa] Employees (Regularization of Services) Act, 2009.

(2) It shall come into force at once.

2. Definitions.---(1) In this Act, unless the context otherwise requires,-

- (a) "Commission" means the ⁸[Khyber Pakhtunkhwa] Public Service Commission;
- (aa) "contract appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment;
- (b) "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees for project post or appointed on work charge basis or who are paid out of contingencies;

³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁶Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁷Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁸Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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- (c) "Government" means the Government of the ⁹[Khyber Pakhtunkhwa];
- (d) "Government Department" means any department constituted under rule 3 of the ¹⁰[Khyber Pakhtunkhwa] Government Rules of Business, 1985, and does not include any section of a Department or an organization which is federally funded;
- (e) "law or rule" means the law or rule for the time being in force governing the selection and appointment of civil servants; and
- (f) "post" means a post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission.

(2) The expressions "ad hoc or contract appointment" and "civil servant" shall have the same meanings as respectively assigned to them in the ¹¹[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (¹²[Khyber Pakhtunkhwa] Act No. XVIII of 1973).

3. Regularization of services of certain employees.---All employees including recommendees of the High Court appointed on contract or ad hoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post:

Provided that the service promotion quota of all service cadres shall not be affected.

4. Determination of seniority.---(1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority interse of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

⁹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
¹⁰Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
¹¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
¹²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

4A. Overriding effect.---Notwithstanding any thing to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

5. Repeal.---The North-West Frontier Province Employees (Regularization of Services) Ordinance, 2009 (N.-W.F.P. Ordinance No. VII of 2009) is hereby repealed.

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JUDGMENT SHEET

PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)



Writ Petition No.2905 of 2009.

ATTA ULLAH AND OTHERS.....PETITIONERS.

VERSUS.

THE CHIEF SECRETARY KPK ETC....RESPONDENTS..

JUDGMENT.

Date of hearing

26.01.2015

Appellant/Petitioner

by Ghulam Nabi Khan Advocate.

Respondent

by Sardar Ali Raza Advocate &
Waqar Ahmad Khan AAG

WAQAR AHMAD SETH, J:- Through this single

judgment we propose to dispose of the instant Writ Petition

No.2905 OF 2009 as well as the connected Writ Petition

Nos.2941, 2967,2968,3016. 3025,3053,3189,3251,3292 of

2009,496,556,664,1256,1662,1685,1696,2176,2230,2501,2696,

2728 of 2010 & 206, 355,435 & 877 of 2011 as common

question of law and fact is involved in all these petitions.

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2- The petitioners in all the writ petitions have approached this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 with the following relief:-

"It is, therefore, prayed that on acceptance of the Amended Writ Petition the above noted Act No.XVI 2009 namely 'The North West Province Employees (Regularization of Services) Act, 2009 dated 24th October, 2009' being illegal unlawful, without authority and jurisdiction, based on malafide intentions and being unconstitutional as well as ultra vires to the basic rights as mentioned in the constitution be set-aside and the respondents be directed to fill up the above noted posts after going through the legal and lawful and the normal procedure as prescribed under the prevailing laws instead of using the short cuts for obliging their own person.

It is further prayed that the notification No.A-14/SET(M) dated 11.12.2009 and Notification No.A-17/SET(5) Contract-Apptt:2009 dated 11.12.2009, as well as Notification No.SO(G)ES/1/85/2009/SS(Contract) dated

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31.05.2010 issued as a result of above noted impugned Act whereby all the private respondents have been regularized may also be set-aside in the light of the above submissions, being illegal, unlawful, unconstitutional and against the fundamental rights of the petitioners.

Any other relief deemed fit and proper in the circumstances and has not been particular asked for in the noted Writ Petition may also be very graciously granted to the petitioners".

3- It is averred in the petition that the petitioners are serving in the Education Department of KPK working posted as PST,CT,DM,PET,AT,TT, Qari and SET in different Schools; that respondents No.9 to 1359 were appointed on adhoc/contract basis on different times and later on their service were regularised through the North West Frontier Province Employees (Regularization of Services) Act, 2009; that almost all the petitioners have got the required qualifications and also got at their credit the length of service; that as per notification No.SO(S)6-2/97 dated 03/06/1998

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the qualification for appointment/promotion of the SET Teachers BPS-16 was prescribed that 75% SETs shall be selected through Departmental Selection Committee on the basis of batchwise/yearwise open merit from amongst the candidates having the prescribed qualification and remaining 25% by initial recruitment through Public Service Commission whereas through the same notification the qualification for the appointment/promotion of the Subject Specialist Teachers BPS-17 was prescribed that 50% shall be selected by promotion on the basis of seniority cum fitness amongst the SETs possessing the qualification prescribed for initial recruitment having five years service and remaining 50 by initial recruitment through the Public Service Commission and the above procedure was adopted by the Education Department till 22/09/2002 and the appointments on the above noted posts were made in the light of the above notification. It was further averred that the Ordinance No.XXVII of 2002 notified on 09/08/2002 was promulgated under the shadow of which some 1681 posts of different cadres were advertised by the Public Service Commission.

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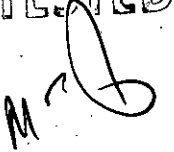


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That before the promulgation of Act No.XVI of 2009, it was practice of the Education Department that instead of promoting the eligible and competent persons amongst the teachers community, they have been advertising the above noted posts of SET (BPS-16) and Subject Specialist (BPS-17) on the basis of open merit/adhoc/contract wherein it was clearly mentioned that the said posts will be temporary and will continue only for a tenure of six months or till the appointment by the Public Serviced Commission or Departmental Selection Committee That after passing the KPK Act No.XVI of 2009 by the Provincial Assembly the fresh appointees of six months and one year on the adhoc and contract basis including respondents no.9 to 1351 with a clear affidavit for not adopting any legal course to make their services regularized, have been made permanent and regular employees whereas the employees and teaching staff of the Education Department having at their credit a service of minimum 15 to maximum 30 years have been ignored. That as per contract Policy issued on 26/10/2002 the Education Department was not authorised/entitled to

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make appointments in BPS-16 and above on the contract basis as the only appointing authority under the rules was Public Service Commission. That after the publication made by the Public Service Commission thousands of teachers eligible for the above said posts have already applied but they are still waiting for their calls and that through the above Act thousands of the adhoc teachers have been regularized which has been adversely effected the rights of the petitioners, thus having no efficacious and adequate remedy available to the petitioners, the have knocked the door of this Court through the aforesaid constitutional petitions.

4- The concerned official respondents have furnished parawise comments wherein they raised certain legal and factual objections including the question of maintainability of the writ petitions. It was further stated that Rule 3(2) of the N.W.F.P. Civil Servants (Appointment, Promotion & Transfer) Rules 1989, authorised a department to lay down method of appointment, qualification and other conditions applicable to post in consultation with Establishment & Administration Department and the Finance Department.

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That to improve/uplist the standard of education, the Government replaced/amended the old procedure i.e. 100% including SETs through Public Service Commission KPK for recruitment of SETs B-16 vide Notification No.SO(PE)4-5/SS-RC/Vol-III dated 18/01/2011 wherein 50% SSTs (SET) shall be selected by promotion on the basis of seniority cum fitness in the following manner:-

"(i) Forty percent from CT (Gen), CT(Agr), CT(Indust: Art) with at least 5 years service as such and having the qualification mentioned in column 3.

(ii) Four percent from amongst the DM with at least 5 years service as such and having qualification in column 3.

(iii) Four percent from amongst the PET with at least 5 years service as such and having qualification mentioned in column 3.

(iv) One percent amongst Instructional Material Specialists with at least 5 years

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service and having qualification mentioned
in column 3."

It is further stated in the comments that due to the degradation/fall of quality education the Government abandoned the previous recruitment policy of promotion/appointment/recruitment and in order to improve the standard of teaching cadre in Elementary & Secondary Education Department of KPK, vide Notification dated 09/04/2004 wherein at serial No. 1.5 in column 5 the appointment of SS prescribed as by the initial recruitment and that the (North West Frontier Provincial) Khyber Pakhtunkhwa Employees(Regularization of Services)Act, 2009 (ACT No.XVI of 2009 dated 24th October, 2009 is legal, lawful and in accordance with the Constitution of Pakistan which was issued by the competent authority and jurisdiction, therefore, all the writ petitions are liable to be dismissed.

5- We have heard the learned counsel for the parties and have gone through the record as well as the law on the subject.

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6- The grievance of the petitioners is two fold in respect of Khyber Pakhtunkhwa, Employees (Regularization of Services) Act, 2009 firstly, they are alleging that regular post in different cadres were advertised through Public Service Commission in which petitioners were competing with high profile carrier but due to promulgation of Act ibid, they could not made through it as no further proceedings were conducted against the advertised post and secondly, they are agitating the legitimate expectancy regarding their promotion, which has been blocked due to the in block induction / regularization in a huge number, courtesy Act, No. XVI of 2009.

7- As for as, the first contention of advertisement and in block regularization of employees is concerned in this respect it is an admitted fact that the Government has the right and prerogative to withdraw some posts, already advertised, at any stage from Public Service Commission and secondly no one knows that who could be selected in open merit case, however, the right of competition is reserved. In the instant case KPK, employees

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(Regularization of Services) Act, 2009, was promulgated, which in-fact was not the first in the line rather N.W.F.P (now Khyber Pakhtunkhwa) Civil Servants (Regularization of Services) Act, 1988, NWFP (now Khyber Pakhtunkhwa) (Regulation of Services) Act, 1989 & NWFP (now Khyber Pakhtunkhwa) Adhoc Civil Servants (Regularization of Services) Act, 1987 were also promulgated and were never challenged by anyone.

8- In order to comment upon the Act, *ibid*, it is important to go through the relevant provision which reads as under:-

S.2 Definitions. (1)---

a)----

aa) "contract appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment.

b) "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees for project post or appointed on work charge

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basis or who are paid out of contingencies;

----- whereas,

S. 3 reads:-

Regularization of services of certain employees.---- All employees including recommendee of the High Court appointed on contract or adhoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post;

9- The plain reading of above sections of the Act, *ibid*, would show that the Provincial Government, has regularized the "duly qualified persons", who were appointed on contract basis under the Contract Policy, and the said Contract Policy was never ever challenged by any one and the same remained in practice till the commencement of the said Act.

Petitioners in their writ petitions have not quoted any single incident / precedent showing that the regularized employees under the said Act, were not qualified for the post against

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which they are regularized, nor had placed on record any documents showing that at the time of their appointment on contract they had made any objection. Even otherwise, the superior courts have time and again reinstated employees whose appointments were declared irregular by the Government Authorities, because authorities being responsible for making irregular appointments on purely temporary and contract basis, could not subsequently turned round and terminate services because of no lack of qualification but on manner of selection and the benefit of the lapses committed on part of authorities could not be given to the employees. In the instant case, as well, at the time of appointment no one objected to, rather the authorities committed lapses, while appointing the private respondent's and others, hence at this belated stage in view of number of judgments, Act, No. XVI of 2009 was promulgated. Interestingly this Act, is not applicable to the education department only, rather all the employees of the Provincial Government, recruited on contract basis till 31st December 2008 or till the commencement of this Act have been

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regularized and those employees of to other departments who have been regularized are not party to this writ petition.

10- All the employees have been regularized under the Act, *ibid* are duly qualified, eligible and competent for the post against which they were appointed on contract basis and this practice remained in operation for years. Majority of those employees getting the benefit of Act, *ibid* may have become overage, by now for the purpose of recruitment against the fresh post.

11- The law has defined such type of legislation as "**beneficial and remedial**". A beneficial legislation is a statute which purports to confer a benefit on individuals or a class of persons. The nature of such benefit is to be extended relief to said persons of onerous obligations under contracts. A law enacted for the purpose of correcting a defect in a prior law, or in order to provide a remedy where non previously existed. According to the definition of *Corpus Juris Secundum*, a remedial statute is designed to correct an existence law, redress an existence grievance, or introduced regularization conducive to the public goods. The challenged

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Act, 2009, seems to be a curative statute as for years the then Provincial Governments, appointed employees on contract basis but admittedly all those contract appointments were made after proper advertisement and on the recommendations of Departmental Selection Committees.

12- In order to appreciate the arguments regarding beneficial legislation it is important to understand the scope and meaning of beneficial, remedial and curative legislation.

Previously these words have been explained by N.S Bindra

In interpretation of statute, tenth edition in the following

manners:-

"A statute which purports to confer a benefit on individuals or a class of persons, by relieving them of onerous obligations under contracts entered into by them or which tend to protect persons against oppressive act from individuals with whom they stand in certain relations, is called a beneficial legislation....In interpreting such a statute, the principle established is that there is no room for taking a narrow view but that the court is entitled to be generous towards the persons on whom the benefit has

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been conferred. It is the duty of the court to interpret a provision, especially a beneficial provision, liberally so as to give it a wider meaning rather than a restrictive meaning which would negate the very object of the rule. It is a well settled canon of construction that in constructing the provision of beneficent enactments, the court should adopt that construction which advances, fulfils, and furthers the object of the Act, rather than the one which would defeat the same and render the protection illusory..... Beneficial provisions call for liberal and broad interpretation so that the real purpose, underlying such enactments, is achieved and full effect is given to the principles underlying such legislation."

Remedial or curative statues on the other hand have been explained as:-

"A remedial statute is one which remedies defect in the pre existing law, statutory or otherwise. Their purpose is to keep pace with the views of society. They serve to keep our system of jurisprudence up to date and in

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harmony with new ideas or conceptions of what constitute just and proper human conduct. Their legitimate purpose is to advance human rights and relationships. Unless they do this, they are not entitled to be known as remedial legislation nor to be liberally construed. Manifestly a construction that promotes improvements in the administration of justice and the eradication of defect in the system of jurisprudence should be favoured over one that perpetuates a wrong".

Justice Antonin Scalia of the U.S. Supreme Court in his book on Interpretation of Statute states that:

"Remedial statutes are those which are made to supply such defects, and abridge such superfluities, in the common law, as arise from either the general imperfection of all human law, from change of time and circumstances, from the mistakes and unadvised determinations of unlearned (or even learned) judges, or from any other cause whatsoever."

13- The legal proposition that emerges is that generally beneficial legislation is to be given liberal interpretation, the beneficial legislation must carry curative or remedial content.

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Such legislation must therefore, either clarify an ambiguity or an omission in the existence and must therefore, the explanatory or clarificatory in nature. Since the petitioners does not have the vested rights to be appointed to any particular post, even advertised one and private respondents who have being regularized are having the requisite qualification for the post against which the were appointed, vide challenged Act, 2009, which is not effecting the vested right of anyone, hence, the same is deemed to be a beneficial, remedial and curative legislation of the Parliament.

14- This court in its earlier judgment dated 26th November 2009 in WP No. 2905 of 2009, wherein the same Khyber Pakhtunkhwa (Regularization of Servers) Act, 2009, vires were challenged has held that this court has got no jurisdiction to entertain the writ petition in view of Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, as an Act, Rule or Notification effecting the terms and conditions of service, would not be an exception to that, if seen in the light of the spirit of the ratio rendered in the case of

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I.A. Sherwani & others Versus Government of Pakistan,

reported In 1991 SCMR 1041. Even otherwise, under Rule 3

(2) of the Khyber Pakhtunkhwa (Civil Servants) (appointment), promotion and transfer) Rules 1989, authorize a department to lay down method of appointment, qualification and other conditions applicable to the post in consultation with Establishment & Administrative Department and the Finance Department. In the instant case the duly elected Provincial Assembly has passed the Bill/Act, which was presented through proper channel i.e Law and Establishment Department, which cannot be quashed or declared illegal at this stage.

15- Now coming to the second aspect of the case, that petitioners legitimate expectancy in the shape of promotion has suffered due to the promulgation of Act, ibid, in this respect, it is a long standing principle that promotion is not a vested right but it is also an established principle that when ever any law, rules or instructions regarding promotion are violated then it become vested right. No doubt petitioners in the first instance cannot claim promotion as a vested right

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but those who fall within the promotion zone do have the right to be considered for promotion.

16- Since the Act, XVI of 2009 has been declared a beneficial and remedial Act, for the purpose of all those employees who were appointed on contract and may have become overage and the promulgation of the Act, was necessary to given them the protection therefore, the other side of the picture could not be brushed a side simply. It is the vested right of in service employees to be considered for promotion at their own turn. Where a valid and proper rules for promotion have been framed which are not given effect, such omission on the part of Government agency amounts to failure to perform a duty by law and in such cases, High Court always has the jurisdiction to interfere. In service employees / civil servants could not claim promotion to a higher position as a matter of legal right, at the same time, it had to be kept in mind that all public powers were in the nature of a sacred trust and its functionary are required to exercise same in a fair, reasonable and transparent manner strictly in accordance with law. Any transgression from such

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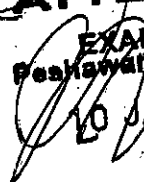
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principles was liable to be restrained by the superior courts in their jurisdiction under Article 199 of the Constitution. One could not overlook that even in the absence of strict legal right there was always legitimate expectancy on the part of a senior, competent and honest carrier civil servant to be promoted to a higher position or to be considered for promotion and which could only be denied for good, proper and valid reasons.

17- Indeed the petitioners can not claim their initial appointments on a higher post but they have every right to be considered for promotion in accordance with the promotion rules, in field. It is the object of the establishment of the courts and the continue existence of courts of law is to dispense and foster justice and to right the wrong ones. Purpose can never be completely achieved unless the in justice done was undone and unless the courts stepped in and refused to perpetuate what was patently unjust, unfair and unlawful. Moreover, it is the duty of public authorities as appointment is a trust in the hands of public authorities and it is their legal and moral duty to discharge their functions as

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trustee with complete transparency as per requirement of law, so that no person who is eligible and entitle to hold such post is excluded from the purpose of selection and is not deprived of his any right.

18- Considering the above settled principles we are of the firm opinion that Act, XVI of 2009 is although beneficial and remedial legislation but its enactment has effected the in service employees who were in the promotion zone, therefore, we are convinced that to the extent of in service employees / petitioners, who fall within the promotion zone have suffered, and in order to rectify the inadvertent mistake of the respondents/Department, it is recommended that the promotion rules in field be implemented and those employees in a particular cadre to which certain quota for promotion is reserved for in service employees, the same be filled in on promotion basis. In order to remove the ambiguity and confusion in this respect an example is quoted, " If in any cadre as per existence rules, appointment is to be made on 50/50 % basis i.e 50 % initial recruitment and 50 % promotion quota then all the employees have been

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regularized under the Act in question be calculated in that cadre and equal number i.e remaining. 50 % are to promoted from amongst the eligible in service employees, other wise, eligible for promotion on the basis of sonority cum fitness."

19- In view of the above, this writ petition is disposed of in the following terms:-

(i) "The Act, XVI of 2009, commonly known as (Regularization Of Services) Act, 2009 is held as beneficial and remedial legislation, to which no interference is advisable hence, upheld.

(ii) Official respondents are directed to workout the backlog of the promotion quota as per above mentioned example, within 30 days and consider the in service employees, till the backlog is washed out, till then there would be complete ban on fresh recruitments.

Order accordingly.

Announced.
26th January 2015

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CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Under Article 5.7 of
the Constitution of Pakistan Order 1984
19 JAN 2018

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

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PRESENT:
MR. JUSTICE EJAZ AFZAL KHAN,
MR. JUSTICE SH. AZMAT SAEED,
MR. JUSTICE IJAZ UL AHSAN.

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CIVIL PETITIONS NO. 127-P TO 129-P OF 2015,
(Against the judgment dated 26.1.2015 of the
Peshawar High Court, Peshawar passed in writ
Petition No.2905 of 2009, 3025 of 2009, 264 of 2010

The Chief Secretary, Govt. of KPK., Peshawar and others. ...Petitioner(s)
(in all cases)

Versus

Attaullah and others,
Nasruminullah and others,
Mukhtar Ahmad and others. ...Respondent(s)

For the petitioner(s): Mr. Mujahid Ali Khan, Addl. A.G. KPK

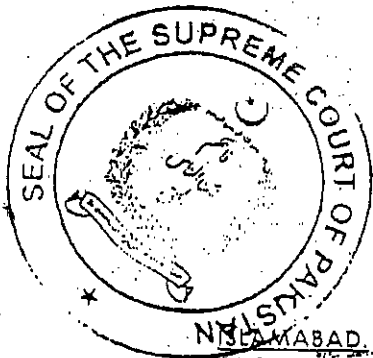
For the respondent(s): Mr. Ghulam Nabi Khan, ASC
Mr. Abdul Qayyum Sarwar, AOR

Date of Hearing: 20.09.2017.

ORDER

Ejaz Afzal Khan, J.- The learned Additional Advocate General
appearing on behalf of the Govt. of KPK stated at the bar that as per
instructions of the Government he does not press these petitions. Dismissed
as such.

Sd/-Ejaz Afzal Khan, J
Sd/-Sh. Azmat Saeed, J
Sd/-Ijaz ul Ahsan, J.
Certified to be True Copy



ISLAMABAD
20.09.2017
M. Azhar Malik

29/9/17
Court Associate
Supreme Court of Pakistan
Islamabad

GR No: 14572/17 Civil/Criminal
Date of Presentation: 29-9-17
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درخواستیں مطلوب ہیں

بچہ نوا کے زیر انتظام (مراتب ازات) سکولوں میں درج ذیل آسامیاں پر کرنے کے لئے نمبر بچہ نوا کے متعلقہ اطلاع کے سکولوں میں امیدواروں سے گزردہ فارم نمبر 20 دسمبر 2017ء تک درخواستیں مطلوب ہیں۔ درخواست فارم (NTS) کی ویب سائٹ (<http://www.nts.org.pk>) پر دستیاب ہے۔ مقررہ تاریخ گزرنے کے بعد وصول ہونے والی درخواستوں پر غور نہیں کیا جائیگا۔

نمبر شمار	نام آسامی	قابلیت	مر
1	سیکنڈری سکول ٹیچر (SST) بیالومی / کیمسٹری - BPS-16	(i) کسی بھی تسلیم شدہ یونیورسٹی سے سائنس اور بیچن پچلر ڈگری جس کے ساتھ درج ذیل دو مضامین لازمی ہوں۔ (i) کیمسٹری، بیالومی (دو الومی یا بائی) (ii) سٹیٹسٹکس اور تقرری کے بعد 9 ماہ کی لازمی ٹریکنگ حکومتی اداروں RITE/PITE سے حاصل کرنی ہوگی۔	35±19 سال
2	سیکنڈری سکول ٹیچر (SST) فزکس / کیمسٹری - BPS-16	(i) کسی بھی تسلیم شدہ یونیورسٹی سے سائنس اور بیچن پچلر ڈگری جس کے ساتھ درج ذیل دو مضامین لازمی ہوں۔ (i) فزکس، کیمسٹری یا (ii) فزکس، کیمسٹری (iii) فزکس، ایٹمی فزکس (ii) سٹیٹسٹکس اور تقرری کے بعد 9 ماہ کی لازمی ٹریکنگ حکومتی اداروں RITE/PITE سے حاصل کرنی ہوگی۔	35±19 سال
3	سیکنڈری سکول ٹیچر (SST) جنرل / BPS-16	(i) کسی بھی تسلیم شدہ یونیورسٹی سے سائنس اور بیچن پچلر ڈگری جس کے ساتھ درج ذیل دو مضامین لازمی ہوں۔ (i) انگریزی لازمی، ہونٹینگری کوپ یا دیگر مساوی کوپ۔ (ii) سٹیٹسٹکس اور تقرری کے بعد 9 ماہ کی لازمی ٹریکنگ حکومتی اداروں RITE/PITE سے حاصل کرنی ہوگی۔	35±19 سال

سلیکشن کریٹیریا: اساتذہ کے سلیکشن کیلئے کریٹیریا درج ذیل ہے۔ کل 200 نمبرات کی تقسیم اس طرح سے کی جائیگی۔

(1) سکریننگ ٹیسٹ بذریعہ NTS=100 نمبر	(ب) قلمی قابلیت = 100 نمبر	جس کی جزئی تقسیم اس طرح ہوگی
لی ایس جی ہار سالہ کورس کی صورت میں بہروں کی تقسیم اس طرح ہوگی۔ حاصل کردہ نمبر 40x تقسیم کل نمبر جبکہ پیش دراندازہ اے ایچ کیٹیشن کی صورت میں بہروں کی تقسیم بطریقہ ذیل ہوگی۔		
ایم ایس جی	قلمی قابلیت	کل نمبر
لی ایس جی	ایس اے / ایس سی	مائل کردہ نمبر 20x تقسیم کل نمبر
لی ایس جی	ایم ایس سی	مائل کردہ نمبر 20x تقسیم کل نمبر
لی ایس جی	ایم ایس جی	مائل کردہ نمبر 20x تقسیم کل نمبر
لی ایس جی	ایم ایس جی	مائل کردہ نمبر 05x تقسیم کل نمبر
ایم ایس جی	ایم ایس جی	مائل کردہ نمبر 10x تقسیم کل نمبر

عمومی شرائط :- (1) تمام تقرریاں حکومت خیبر پختونخوا کے مرہبہ قوانین کے مطابق 25 لیڈ بنیادی تقرری (Initial Appointment) کے تحت خالصتاً عارضی بنیادوں پر ایچ ہاک / کنٹریکٹ پر ایک سال کیلئے ہوگی۔ (2) منظور افراد کیلئے دو لیڈ اور اقلیت امیدواروں کیلئے تین لیڈ کوڈ جس سے (مسترد افراد کے دو لیڈ کوڈ جس سے) جس کیلئے سینیڈمک میں نیک بورڈ کا سرٹیفکیٹ پیش کرنا لازمی ہے بشرطیکہ وہ مسترد فرمائش کی انجام دہی میں رکاوٹ نہ ہو۔ (3) انٹرویو کے وقت اصلی قلمی اسناد بعد از فراہمات امیدوار کو برداشت کرنا ہونگے۔ (4) انٹرویو کیلئے آنے والے امیدواروں کو کوئی TADA نہیں دیا جائیگا۔ (5) صرف مقررہ وقت کے بعد وصول ہونے والی درخواستوں پر غور کیا جائیگا۔ (6) زبردستی کو اختیار حاصل ہے کہ وہ کوئی ہجرتاے بغیر کسی بھی وقت کی باجروں پر انٹرویو منسوخ کر دے۔ (7) اگر اس اشتہار کے بعد حکومت وقت کی طرف سے ہجرتی کے طریقہ کار میں تبدیلی کی گئی تو سلیکشن کمیشن اس کے مطابق عمل کرنے کی پابند ہوگی۔ (8) محکمہ بلدیہ کی اینڈ سیکنڈری ایچ کیٹیشن کو اختیار حاصل ہوگا کہ وہ تمام خالی آسامیوں یا اس سے کم پر امیدوار مقرر کرے۔ (9) تمام تقرریاں حکومت خیبر پختونخوا کے مقرر کردہ قوانین و ضوابط کے مطابق خالصتاً عارضی بنیادوں پر ہوں گی۔ (10) تمام قلمی اسناد صرف گورنمنٹ کے تسلیم شدہ اداروں کی قابل قبول ہوں گی۔ (11) اگر کسی امیدوار کی اسناد جعلی پائی گئی تو اس کے خلاف قانونی کارروائی کی جائے گی اور آئندہ کے لئے اسے سرکاری ملازمت کے لئے نااہل تصور کیا جائیگا۔ (12) آئیکل فارم یا معلومات کی صورت میں درخواست فارم خود بخود منسوخ تصور کیا جائیگا جس کے لئے کوئی اپیل منظور نہیں کی جائے گی۔ (13) انٹرویو کیلئے الگ شیڈول جاری کیا جائیگا جس میں ڈاکوٹیشن چیک کئے جائیں گے۔ (14) تمام تقرریاں متعلقہ اطلاع کے ذریعہ اس کی بنیاد پر ہوگی۔ امیدوار کا ڈیوٹی سائٹ متعلقہ ضلع کا ہونا لازمی ہے۔ 20 دسمبر 2017ء کے بعد پڑھنے کی قسم کی تبدیلی قابل قبول نہ ہوگی۔ (15) امیدوار کو اس سکول میں مہروں کرنا ہوگی جو کہ قابل تبادلہ ہوگی۔ (16) ایک امیدوار بیک وقت 5 سکولوں میں خالی آسامیوں کیلئے درخواست دے سکتا ہے۔ امیدوار کے ایک با ایک سے زیادہ سکولوں میں سلیکشن کی صورت میں اس کی تقرری کسی ایک سکول میں کی جائے گی اس صورت میں سکول سلیکشن کا امتحان امیدوار کو حاصل نہیں بلکہ اس میں اس بات کا خیال رکھا جائیگا کہ وہ سب سے زیادہ سکولوں میں اس کے بعد زیادہ مرہبہ والے امیدوار کو سلیکشن کا موقع مل سکے۔ (17) درخواست دینے کا طریقہ کار NTS کی ویب سائٹ پر مندرجہ ہے۔ (18) متعلقہ اطلاع کے خالی آسامیوں کی تفصیل سکول وائزر درخواست فارم کے ساتھ NTS کی ویب سائٹ پر دی گئی ہے اور ہر سکول کو اپنا کراڈ دیا جائیگا۔

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درخواستیں مطلوب ہیں

41

پنجاب پبلک سروس کمیشن، لاہور اور ٹرانسفر آف ٹیچرز لیگنچر اور ڈائریکٹوریٹ آف ایجوکیشن، لاہور کے تحت نیشنل ایجوکیشنل سروس کمیشن (NTS) کے ویب سائٹ (<http://www.nts.org.pk/>) پر دستیاب ہے۔ مقررہ تاریخ گزرنے کے بعد موصول ہونے والی درخواستوں پر غور نہیں کیا جائیگا۔

نمبر	تفصیلات	آسی	تعداد
35t21	کسی بھی تسلیم شدہ یونیورسٹی سے سیکنڈ ڈیگری، بیچلر ڈگری جسکے ساتھ درج ذیل دو مضامین لازمی ہوں	سیکنڈری سکول ٹیچر (SST)	1
35t21	کسی بھی تسلیم شدہ یونیورسٹی سے ایم اے ایجوکیشن یا ایجوکیشن میں پیچھڑ ڈگری	یونیورسٹی ایجوکیشنل آفیسر (BPS-16)	2
35t21	کسی بھی تسلیم شدہ یونیورسٹی سے ایم اے ایجوکیشن یا ایجوکیشن میں پیچھڑ ڈگری	سیکنڈری سکول ٹیچر (SST)	3

اساتذہ کے سیکشن کیلئے کریٹیریا درج ذیل ہیں۔ کل 200 نمبرات کی تقسیم اس طرح سے کی جائیگی (1) سکریننگ ٹیسٹ بذریعہ NTS = 100 نمبر - ب۔ تعلیمی قابلیت = 100 نمبر۔

تعلیمی قابلیت	کل نمبر	تفصیلات	کل نمبر
ایس ایس سی	حاصل کردہ نمبر 50x	بی ایڈ / ایم اے ایجوکیشن	حاصل کردہ نمبر 15x
ایف ایف ایف ایس سی	حاصل کردہ نمبر 20x	ایم اے / ایم اے ایجوکیشن	حاصل کردہ نمبر 05x
بی ایڈ / ایم اے ایس سی	حاصل کردہ نمبر 10x	ایم اے / ایم اے ایجوکیشن	حاصل کردہ نمبر 05x
ایم اے / ایم اے ایس سی	حاصل کردہ نمبر 15x	تعلیمی قابلیت	کل نمبر

1۔ ہر سکول کے اچھاویہ کیلئے علیحدہ علیحدہ میرٹ لسٹ مرتب کیا جائیگا جس میں امیدواروں کے NTS کے حاصل کردہ نمبر اور تعلیمی قابلیت کے نمبروں کو جمع کیا جائیگا۔

NTS درخواست فارم 300 روپے چارج کریگا۔ چونکہ امیدوار خود پر دست لریگے۔
 1۔ تمام تقرریاں حکومت خیر بخشہ خواہ کے سرورہ قوانین کے مطابق بنیادی تقرری Initial Appointment کے 25 فیصد کوٹے کے تحت خالصتاً عارضی بنیادوں پر Adhoc اور ٹریک پر ایک سال کیلئے ہونگی (2) اعلیٰ امیدواروں کی موجودگی کی صورت میں کسی کو بھی Age Relaxation نہیں دیا جائیگا (3) انٹرویو کے وقت اصلی تعلیمی اسناد بعد حاصل شناختی کارڈ اور سیٹ ہون صرف اصلی شناختی کارڈ ٹانگلا لازمی ہے (4) میرٹ پر آنے والے امیدواروں کی اسناد اور دستخط سے تصدیق کرانی جائے گی، جس کے تمام اخراجات امیدواروں کو برداشت کرنا ہوں گے (5) روٹ کے آنے والے امیدواروں کو کوئی TADA نہیں دیا جائیگا۔ تقرری کے وقت تک امیدواروں کی درخواستوں پر غور کیا جائیگا (7) زیر دستخطی اختیار حاصل ہے کہ کوئی امیدوار اپنے نمبر کی بھی وقت کلی یا جزوی پر رٹائر ہو سکتا ہے (8) اگر اس اختیار سے حکومت وقت کی طرف سے تقرری کے طریقہ کار میں تبدیلی کی بھی تو سلیکشن کمیٹی اس کے مطابق عمل کر سکتی ہے (9) نیشنل ایجوکیشنل سروس کمیشن کو اختیار حاصل ہوگا کہ وہ تمام خالی اسنادوں یا اس سے کم پر امیدوار تقرری کرے (10) تمام تقرریاں حکومت خیر بخشہ خواہ کے سرورہ قوانین و مجوزہ طریقہ کار کے مطابق خالصتاً میرٹ کی بنیاد پر ہوں گی (11) تمام تعلیمی اسناد صرف گورنمنٹ کے تسلیم شدہ اداروں کی قابل قبول ہوں گی (12) اگر کسی امیدوار کی اسناد جعلی پائے گئے تو اس کی خلاف قانونی چارہ جوئی کی جائے اور آئندہ کیلئے اسے سرکاری ملازمت کیلئے نااہل تصور کیا جائیگا (13) نیشنل ایجوکیشنل سروس کمیشن کو اختیار حاصل ہوگا کہ وہ تمام خالی اسنادوں یا اس سے کم پر امیدوار تقرری کرے (14) روٹ کے آنے والے امیدواروں کو کوئی TADA نہیں دیا جائیگا (15) تمام تقرریاں متعلقہ اضلاع کے سرورہ قوانین کی بنیاد پر ہوں گی۔ اگر اس ضلع میں امیدوار دستیاب نہ ہو تو قریبی ضلع کے امیدوار سے میرٹ کی بنیاد پر تقرریاں کی جائیں گی (16) امیدوار کو اس سکول میں مقرر کرنا ہوگی جو کہ قابل ہوا ہوگا (17) ایک امیدوار ایک وقت 5 سکولوں میں خالی آسامیوں کیلئے درخواست دے سکتا ہے (18) درخواست دینے کا طریقہ NTS کے ویب سائٹ پر موجود ہے (19) متعلقہ اضلاع کے خالی آسامیوں کی تفصیل سکول اور درخواست فارم کے ساتھ NTS کے ویب سائٹ پر دی گئی ہیں اور ہر سکول کو اپنا کوڈ دیا گیا ہے۔

INF(P) 3360

ڈائریکٹر ایجوکیشن، لاہور

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GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

NOTIFICATION

Peshawar dated the November 13, 2012.

No. SO (PE)4-5/SSRC/Meeting/2012/Teaching Cadre:- In pursuance of the provisions contained ins sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all Notifications issued in this behalf, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby lays down the method of recruitment, qualification and other conditions specified in the Appendix to this Notification which shall be applicable to all the posts specified in Column No. 2 of the said Appendix and the Schedule therewith.

SECRETARY TO GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

Endst. No & Date as above.

Copy forwarded to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General, Khyber Pakhtunkhwa Peshawar.
6. The Director Education (C.A.T.A.) Peshawar.
7. Copy, Malgari, Ustazani, PK.

1. Sarparast Ala: Amir Zada
2. Sadar: Mian Muhammad Nawaz
3. Senior Naib Sadar: Zainul Abdeen
4. General Secretary: Fizan Ali
5. Naib Sadar: Mian Muhammad

Malgari Ustazani District Shangla

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APPENDIX

S.NO.	Nomenclature of the post	Minimum qualification and experience for initial appointment or by transfer	Age limit	Method of recruitment.
1.	2.	3.	4.	5.
1.	Secondary School Teacher (BPS-16)	(i) Second class Bachelor's Degree with two subjects as Chemistry, Botany, Zoology, Physics, Mathematics, Statistics Humanities and other equivalent groups from a recognized University: or (ii) M.A in Education or Bachelor's Degree in Education from a recognized university.	18 - to 35 Years.	(a) Fifty percent by promotion on the basis of seniority-cum-fitness in the following manners. (i) forty percent from amongst the certified Teachers (General). Certified Teachers (Industrial Arts) and Certified Teachers (Home Economics) with at least five years service as such and having qualification mentioned in column No. 3. (ii) four percent from amongst the Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3. (iii) four percent from amongst the Physical Education Teachers with at least five years service

SET → Redesignated

No quota has been allocated for PST's cadre.

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		<p>(iv) one percent from amongst the Instructional Material Specialists, with at least five years service as such and having qualification mentioned in column No. 3, and</p> <p>(v) one percent from amongst the Arabic Teachers with at least five years service as such and having qualification mentioned in Column No. 3, and</p> <p>(b) fifty percent by initial recruitment.</p>
2.	Seniority Arabic Teacher (SAT) (BPS-16)	By promotion on the basis of seniority-cum-fitness from amongst Arabic Teachers with at least five years service as such and having qualification as prescribed for initial recruitment of Arabic Teacher.
3.	Senior Theology Teacher (STT) (BPS-16)	By promotion on the basis of seniority-cum-fitness from amongst Theology Teachers with at least five years service as such and having qualification as prescribed for initial recruitment of Theology Teacher.
4.	Senior Certified Teacher (SCT) (General) (BPS-16)	By promotion on the basis of seniority-cum-fitness from amongst Certified Teachers with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (General).

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10.	Arabic Teacher (AT) (BPS-15)	<p>(i) Second Class Secondary School Certificate from a recognized Board with Shahdatul Alamia Fil Uloomul Arabia wal Islamia from or Darul Uloom Saidu Sharif Swat, Darul Uloom Darosh Chitral, Government run Darul Uloom, as notified by the Government from time to time; or</p> <p>(ii) Second Class Master's Degree in Arabia from a recognized University.</p>	By initial recruitment
11.	Theology Teacher (TT) (BPS-15)	<p>(i) Second Class Secondary School Certificate from a recognized Board with Shahdatul Alamia Fil Uloomul Arabia wal Islamia from or Darul Uloom Saidu Sharif Swat, Darul Uloom Darosh Chitral, Government run Darul Uloom, as notified by the Government from time to time; or</p> <p>(ii) Second Class Master's Degree in Arabia from a recognized University.</p>	<p>(a) Seventy five percent by initial recruitment; and</p> <p>(b) twenty five percent by promotion on the basis of seniority-cum-fitness from amongst the senior Qaris with at least five years service and having qualification prescribed for initial recruitment of Theology Teacher;</p> <p>Note: In case of non availability of suitable person for promotion then by initial recruitment.</p>
12.	Senior Qari (BPS-15)		By promotion on the basis of seniority-cum-fitness from amongst Qaris with at least five years service as such and having qualification as prescribed for initial recruitment.
13.	Certified Teacher (General)	Bechlor's Degree or equivalent qualification from a recognized	(a) Forty percent by initial recruitment; and

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Certified or two years Associate Degree in Education from a recognized University or eighteen months Diploma in Education.

(b) - sixty percent by promotion on the basis of seniority-cum-fitness from amongst the Primary School Head Teachers with at least five years service and having qualification prescribed for initial recruitment of Certified Teacher (General).

Provide that if no suitable candidate is available amongst the Primary School Head Teachers for transfer, then the posts will be filled by promotion on the basis of seniority-cum-fitness from amongst senior primary school teachers with at least five years service and having qualification prescribed for initial recruitment of certified teacher (General).

Note: In case of non availability of suitable person for promotion then by initial recruitment.

14. Certified Teacher (Industrial Arts) (BPS-15)

(i) Bachelor's Degree from a recognized University with two years training in the relevant technical subjects from any Government industrial or Govt: Technical vocational Institute or Centre; or
(b) Bachelor's Degree from a recognized

(a) Forty percent by initial recruitment; and
(b) sixty percent by promotion on the basis of seniority-cum-fitness from amongst the primary school head teachers with at least five years service and having qualification prescribed for initial recruitment of certified teacher

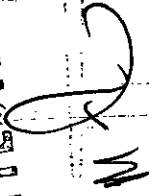
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				with at least five years service as su having qualification prescribed for recruitment of Primary School Teacher.
21.	Primary School Teacher (BPS-12).	(i) Intermediate or equivalent qualification, from a recognized Board with Primary School Teacher Certificate/ Diploma in Education from a recognized Institute; or (ii) Secondary School Certificate, from a recognized Board in second Division with two years Associate Degree in Education from a recognized University.	18 to 35 years.	By initial recruitment on merit at Union C level: provided that if no suitable candic within the Union Council is available, then the adjacent Union Councils on merit.
22.	Qari (BPS-12).	Intermediate with Hiz-e-Quran and Qirat Saad from a recognized Institution.	18 to 35 years.	By initial recruitment.

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10. Arabic Teacher (AT) (BPS-15).	(i) Second Class Secondary School Certificate, from a recognized Board with Shahdatul Alamia Fil Uloomul Arabia wal Islamia from a recognized Tanzimatul-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 the Government from time to time; or (ii) Second Class Master's Degree in Arabic from a recognized University.	20 to 35 years.	By initial recruitment
11. Theology Teacher (TT) (BPS-15).	(i) Second Class Secondary School Certificate, from a recognized Board with Shahdatul Alamia from a recognized Tanzimatul 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 the Government from time to time; or (ii) Second Class Master's Degree in Islamiyat from a recognized University.	20 to 35 years.	(a) Seventy-five per cent by initial recruitment; and (b) twenty-five per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Qaris, with at least five years service and having qualification prescribed for initial recruitment of Theology Teacher. <u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment.
12. Senior Qari (BPS -15).			By promotion, on the basis of seniority-cum-fitness, from amongst Qaris, with at least five years service as such and having qualification prescribed for initial recruitment.
13. Certified Teacher (General) (BPS-15).	Bachelor's Degree or equivalent qualification from a recognized University with Certified Teacher	18 to 35 years.	(a) Forty per cent by initial recruitment; and

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5.	Senior Certified Teacher (Industrial Arts) (BPS-16).	By promotion, on the basis of seniority-c fitness, from amongst Certified Teac (Industrial Arts), with at least five years ser as such and having qualification as preser for initial recruitment of Certified Teac (Industrial Arts).
6.	Senior Certified Teacher (Agriculture) (BPS-16).	By promotion, on the basis of seniority-c fitness, from amongst Certified Teac (Agriculture), with at least five years service such and having qualification as prescribed initial recruitment of Certified Teac (Agriculture).
7.	Senior Drawing Master (BPS-16).	By promotion on the basis of seniority-c fitness from amongst Drawing Masters, with least five years service as such and hav qualification as prescribed for initial recruitm of Drawing Master.
8.	Senior Certified Teacher (SCT) (Home Economics) (BPS-16).	By promotion, on the basis of seniority-c fitness, from amongst Certified Teachers (Hom Economics), with at least five years service such and having qualification as prescribed f initial recruitment of Certified Teacher (Hom Economics).
9.	Senior Physical Education Teacher (BPS-16).	By promotion, on the basis of seniority-cur fitness, from amongst Physical Educatio Teachers, with at least five years service as suc and having qualification as prescribed for initi recruitment of Physical Education Teacher.

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			<p>(iv) one per cent from amongst Instructional Material Specialist with atleast five years service such and having qualification mentioned in column No. 3; and</p> <p>(v) one per cent from amongst Arabic Teachers with at least 1 years service as such and have qualification mentioned in Column No.3; and</p> <p>(b) fifty per cent by initial recruitment.</p>
2.	Senior Arabic Teacher (SAT) (BPS-16)		By promotion, on the basis of seniority-cum fitness, from amongst Arabic Teachers, with least five years service as such and having qualification as prescribed for initial recruitment of Arabic Teacher.
3.	Senior Theology Teacher (STT) (B-16).		By promotion, on the basis of seniority-cum fitness, from amongst Theology Teachers, with at least five years service as such and having qualification as prescribed for initial recruitment of Theology Teacher.
4.	Senior Certified Teacher (SCT)(General) (BPS-16).		✓ By promotion, on the basis of seniority-cum fitness, from amongst Certified Teachers (General), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (General).

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APPENDIX

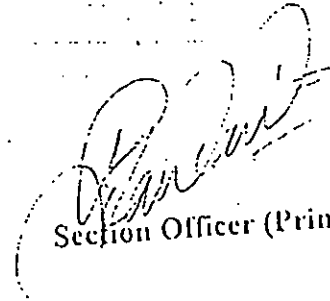
S.No.	Nomenclature of the post.	Minimum qualification and experience for initial appointment or by transfer.	Age limit.	Method of recruitment.
1.	Secondary School Teacher (BPS-16)	<p>(i) Second class Bachelor's Degree with two subjects as Chemistry, Botany, Zoology, Physics, Mathematics, Statistics Humanities and other equivalent groups from a recognized University; or</p> <p>(ii) M.A in Education or Bachelor's Degree in Education from a recognized University.</p>	18 to 35 years.	<p>(a) Fifty percent by promotion on the basis of seniority-cum-fitness, in the following manner:</p> <p>(i) forty per cent from amongst Certified Teachers (General Certified Teachers (Agricultural and Certified Teachers (Home Economics) with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(ii) four per cent from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(iii) four per cent from amongst Physical Education Teachers with at least five years service as such and having qualification mentioned in column No. 3;</p>

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8. The Director Curriculum & Teachers Education Abbottabad.
9. The Director (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director ESRU, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
11. The Deputy Director Database (E&SE) E&SE Department.
12. All District Coordination Officers in Khyber Pakhtunkhwa.
13. All Executive District Officers Elementary & Secondary Education in Khyber Pakhtunkhwa.
14. All District Accounts Officers in Khyber Pakhtunkhwa / Agency Accounts Officers FATA.
15. All Agency Education Officers FATA.
16. P.S to Governor, Khyber Pakhtunkhwa.
17. P.S to Chief Minister, Khyber Pakhtunkhwa.
18. P.S to Chief Secretary, Khyber Pakhtunkhwa.
19. PS to Minister E&SE Khyber Pakhtunkhwa Peshawar.
20. PS to Secretary E&SE Department.
21. Master File.


Section Officer (Primary)

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Drawing Master

Category of Qualification	Total Marks: 100	Fro Candidate of Science group
SSC	Marks obtained x 20 / Total Marks =	5 Extra marks for F.Sc 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection
HSSC	Marks obtained x 20 / Total Marks =	
BA/B.Sc	Marks obtained x 20 / Total Marks =	
DM Certificate	Marks obtained x 20 / Total Marks =	
Other M.A / M.Sc/M.Ed/ MA. Edu	Marks obtained x 15 / Total Marks =	
M.Phil/Ph.D	Marks = 05	

Physical Education Teacher

Category of Qualification	Total Marks: 100	Fro Candidate of Science group
SSC	Marks obtained x 20 / Total Marks =	5 Extra marks for F.Sc 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection
HSSC	Marks obtained x 20 / Total Marks =	
BA/B.Sc	Marks obtained x 20 / Total Marks =	
JDPE or Equivalent Certificate	Marks obtained x 20 / Total Marks =	
Other M.A / M.Sc/M.Ed/ MA. Edu	Marks obtained x 15 / Total Marks =	
M.Phil/Ph.D	Marks = 05	

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Primary School Teacher

Category of Qualification	Total Marks: 100 for Humanities group of Intermediate Level	Fro Candidate of Science group
SSC	Marks obtained x 20 / Total Marks =	5 Extra marks for F.Sc 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection
HSSC	Marks obtained x 20 / Total Marks =	
BA/B.Sc	Marks obtained x 25 / Total Marks =	
PST Certificate / Diploma in Education / ADE	Marks obtained x 20 / Total Marks =	
Other M.A / M.Sc / M.Ed / MA. Edu	Marks obtained x 20 / Total Marks =	
M.Phil/Ph.D	Marks = 05	

Other conditions:-

1. The concerned Appointing Authority will scrutinize and verify the documents and make the appointment as per prescribed rule and the will get the documents verified after the issuance of appointment orders within shortest possible time, not exceeding ninety (90) days.
2. The merit list prepared by the concerned appointing authority shall be displayed for ten days to receive the objections/appeals, if any and shall issue the final merit list after making necessary corrections while addressing the observations/objections appeals, followed by requisite appointment orders.
3. In case a documents(s) is/are found fake/forged/hogus upon scrutiny/verification, the service of the teacher concerned shall be terminated and the amount paid to him as salary shall be recovered from him and an FIR shall be lodged against him an account of forgery found under the relevant law.
4. Deni Asned from recognized Tanzeemat-ul-Wafaqul Madaris. 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 the Government from time to time will be acceptable for the purpose of appointment against the posts of Arabic Teachers or theology Teachers, as the case may be.

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S.No: 558278

Roll No. 16927

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

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BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Peshawar N.W.F.P. Pakistan

Secondary School Certificate Examination

SESSION 1987 (ANNUAL)

THIS IS TO CERTIFY THAT Bahramand

Son/Daughter of Poor Khan

and a student of Govt. High School, Madyan, Swat.

has passed the Secondary School Certificate Examination of the Board of Intermediate and Secondary Education, Peshawar held in April 1987

as a Regular candidate. He/She obtained 470 Marks out of 850.

and has been placed in Grade B Representing Good

The Candidate passed in the following subjects:

- 1. English 2. Urdu 3. Islamiyat 4. Pakistan Studies 5. Gen; Science 6. Isl; Studies 7. Gen; Mathematics 8. Pashto

He/She has been awarded Grade B on the basis of internal assessment by the institution concerned.

Date of birth according to admission form is First May one thousand nine hundred and Seventy Only (15/5/1970)

Asstt. Secretary

Secretary

31st August 1987

This certificate is issued without alteration or erasure.

Principal signature

Principal, Govt. High School, Chaf, Distt: Swat.

s.No 222624

Roll No. 73620

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

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BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Peshawar N.W.F.P. Pakistan
INTERMEDIATE EXAMINATION

Humanities Group

SESSION 1989 (ANNUAL)


THIS IS TO CERTIFY THAT Bahramand
Son/Daughter of Toor Khan
and a student of Govt College Matta (Swat)
Registered No. _____ has passed the *Intermediate Examination* of
the Board of Intermediate & Secondary Education, Peshawar held in July/Aug 1989
as a *Regular candidate*. He/She obtained 535 Marks out of 1100
and has been placed in Grade Representing Fair
He/She has been awarded Grade on the basis of internal assessment
by the Institution concerned.

The Examination was taken as a whole


Asstt. Secretary


Secretary

This certificate is issued without alteration or erasure


Principal,
Govt: High School,
Chail, Distt: Swat.

Registration No. 96-NST-0289

Roll No. F-629602

Serial No. 28344

Spring/Autumn, 97 Semester



Allama Iqbal Open University



علامہ اقبال اوپن یونیورسٹی

It is to certify that Mr./Ms. BAHRAMAND

son/daughter of TOOR KHAN

has completed all the requirements of

بہرہ مند

تصدیق کی باقی ہے کہ سنی/سمات

نے مندرجہ ذیل کوہیز کے ساتھ

طور خان

بن/بنت

Certificated Teacher's Certificate with the following courses.

سی بی سی ٹیفکیٹ کی مجوزہ شرائط پوری کرتی ہیں۔

Code/Course

Marks obtained

کورس

631-Dimension in Education

48/100

۶۳۱ - تعلیم کی جہتیں

632-Education Psychology

68/100

۶۳۲ - تعلیمی نفسیات

633-School Organisation

52/100

۶۳۳ - نظم و نسق اور انصرام مدرسہ

634-English and its Teaching

48/100

۶۳۴ - انگریزی زبان اور اس کی تدریس

638-Teaching of Strategies

53/100

۶۳۸ - تدریسی حکمت عملی اور جاترہ

604- URDU & ITS TEACHING

57/100

604 - اردو اور اس کی تدریس

605- SOCIAL STUDIES & ITS TEACHING

52/100

605 - معاشرتی علوم اور اس کی تدریس

635- ISLAMIAT & ITS TEACHING

57/100

635 - اسلامیات اور اس کی تدریس

612-Workshop

81/100

۶۱۲ - عملی درکشاپ و تدریسی مشق

He/She has obtained 57 % marks and has been placed in grade B.

۵۷ فیصد نمبر لے کر B گریڈ حاصل کیا۔

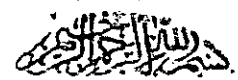
Islamabad.

Dated: 31ST MAR, 1998.

Controller of Examinations

Principal,
Govt: High School,
Chail, Distt: Swat.

4-5. 3/36



University of Peshawar (Pakistan)

54

Session ANNUAL 1995

BAHRA MAND SON of HAJI TOOR KHAN and a student
of GOVT. COLLEGE MATA SWAT having passed the prescribed examination
held in AUGUST 1995, is this day admitted by the University of Peshawar
to the Degree of
Bachelor of Arts

In the SECOND Division

The Examination was taken as a whole / in parts

Serial No. 022455

Registered No. 89-MT-738

Roll No. 37789

Result declared on FEBRUARY 8, 1996



S. Rab
Principal,
Govt. High School,
Chail, Dist. Swat.

Fazli Hamid
Registrar

Countersigned
[Signature]
Vice-Chancellor

Roll No. 1-6122981

49079

5

Aligarh Jhal Open University



جامعة ايجال المفتوحة

BEHRA MAND

Regn. No.

56-ISI-0289

بھرا منڈ

Son/Daughter of

FOOR KHAN

having completed the prescribed requirements

in AUTUMN 19 2000 is awarded the Degree of

مدرسہ جلال شاہ کراچی

Bachelor of Education

بی. ای. ڈی

with the secured 63.24% marks and was placed

in 2nd grade

Vice-Chancellor

Dalambhan

Dated: 13th Aug 2001

Controller of Examinations

Principal,
Govt. High School,
Chail, Dist. Swat.

This degree is to be read in conjunction with the Transcript issued separately.

دستری ایم اے - پشاور

دستری ایم اے - پشاور

بیتناں العزم

56

University of Peshawar (PAKISTAN)

SESSION ANNUAL 2001

BAHRA HANO Son of TOOP KHAN and a student
of DISTRICT SWAT having passed the prescribed examination
held in SEPTEMBER 2001 is this day admitted by the University of Peshawar
to the Degree of

Master of Arts

in the SECOND Division

The Subject of Examination being PASHTO

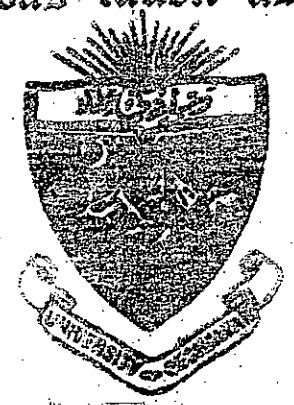
The Examination was taken as a whole / in parts

Serial No 036474

Registration No. 89-MT-738

Roll No. 24002

Result declared on APRIL 11, 2002



M. Iqbal Khan
Registrar

Principal,
Govt. High School,
Chail, Distt: Swat.

Countersigned

J. I. Khan

Vice-Chancellor

57

Allama Iqbal Open University
Islamabad



Serial No. 52492

Certified that *Mr. / Ms.* **BAHRAMAND**

Son / Daughter of **TOOR KHAN**

Registration No. **96NST0289** Roll No: **BC651185**

having successfully completed the prescribed requirements
in semester **SPRING 2016** is awarded the degree of

Master of Education (M. Ed.)

He / She has secured **67 % marks** and has been placed in **B grade.**

[Signature]
CONTROLLER OF EXAMINATIONS



[Signature]
VICE-CHANCELLOR

Result declared on: **March 17, 2017**

Date of Issue: **May 31, 2017**

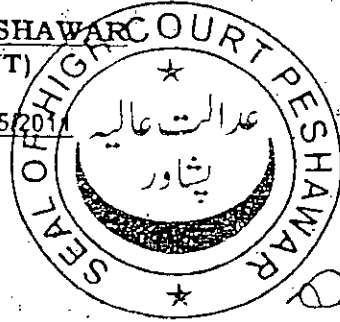
NOTE: THIS DEGREE IS TO BE READ IN CONJUNCTION WITH THE TRANSCRIPT/PROVISIONAL CERTIFICATE ISSUED SEPARATELY

Principal,
Govt. School,
Chail, Dist: Swat.

10 - 61
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JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)

COC No. 105-P/2018 in WP No. 355/2011



JUDGMENT.

Date of hearing: 08.11.2018

Petitioner (s): Nisar Ahmad Qureshi, Mr. Noor Muhammad Wazir

Respondent (s): Muhammad Asim Khan by Spd. Qureshi
Plus AD4.

WAQAR AHMAD SETH, CJ:- Through, this

single judgment, we propose to dispose of instant contempt petition as well as connected COC No. 107-P/2018 in WP No. 1662/2010, COC No. 108-P/2018 in WP No. 2967/2009 & COC No. 109-P/2018 in WP No. 3189/2009 because in all the petitions, the petitioners have sought initiation of contempt of court proceedings against the respondents for not implementing the judgment/order dated 26.01.2015.

2. Facts in brief are that the petitioners had filed Writ Petitions before this Court and prayed that the Act No. XVI 2009, namely, 'The North West Province Employees (Regularization of Services) Act, 2009 dated 24th October, 2009' being illegal, unlawful, without authority and jurisdiction, based on malafide intentions and being unconstitutional as well as ultra vires to the basic rights as mentioned in the constitution be set-aside and the respondents be directed to fill up the above noted posts after going through the legal and lawful and the normal procedure as prescribed under the prevailing laws instead of using the short cuts for

ATTESTED
EXAMINER
Peshawar High Court
30 NOV 2018

ATTESTED

M.B.

obliging their own person. They further prayed that the notification No. A-14 / SET (M) dated 11.12.2009 and Notification No. A-17 / SET (S) Contract-Appnt: 2009 dated 11.12.2009, as well as Notification No. SO(G) / ES / 185 / 2009 / SS(Contract) dated 31.05.2010 issued as a result of above noted impugned Act whereby all the private respondents have been regularized may also be set-aside in the light of the above submission, being illegal, unlawful, unconstitutional and against the fundamental rights of the petitioners. The writ petitions came up for hearing and vide judgment/order dated 26.01.2015, the same were disposed of in the following terms:-

- (i) *The Act, XVI of 2009, commonly known as (Regularization of Services) Act, 2009 is held as beneficial and remedial legislation, to which no interference is advisable hence, upheld.*
- (ii) *Official respondents are directed to workout the backlog of the promotion quota as per above mentioned example, within 30 days and consider the in service employees, till the backlog is washed out, till then there would be complete ban on fresh recruitments".*

3. After passing the above said judgment, the petitioners were quite hopeful regarding their promotion to the next higher grade being senior most employees but the respondents have again started recruitment process by advertising the posts of various cadres for initial recruitment in various Districts of Khyber Pakhtunkhwa and as such, the inaction of respondents squarely fall within the ambit of

ATTESTED
EXAMINED
Peshawar High Court
30 NOV 2019

ATTESTED
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7. in view of the above, the instant as well as connected contempt petitions are disposed of in terms above. Show cause notice issued to respondents is hereby recalled.

(60) (61)

ANNOUNCED.
Dated: 08.11.2018

Chief Justice

Judge

Navab Shah SCS (CS) Justice Wazir Ahmad Seth CJ & Justice Muhammad Ayub Khan J

No. 15857

Date of Presentation of Application 25.11.18

No of Pages 2

Copying Fee _____

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Preparation of Copy 20.11.18

Delivery of Copy 30.11.18

Received by [Signature]

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 187 of
The Qanun-e-Shahadat Order 1988

30 NOV 2018

ATTESTED

[Signature]

To,

The Secretary (E&SE) Department,
Khyber Pakhtunkhwa, Peshawar.

J-62

DEPARTMENTAL APPEAL FOR THE GRANT OF PROMOTION TO THE POST OF SECONDARY SCHOOL TEACHER (BPS-16) FROM THE DATE WHEN THE PROMOTION QUOTA WAS FILLED UP THROUGH INITIAL RECRUITMENT OR FROM THE DATE OF COMMENCEMENT OF THE ACT NO.XVI OF 2009 COMMONLY KNOWN AS REGULARIZATION OF SERVICES ACT, 2009 NOTIFIED IN THE OFFICIAL GAZETTE ON 24.10.2009 WITH ALL BACK BENEFITS.

Respected Sir,

With due respect it stated that I was initially appointed as CT in your good self Department vide order dated 21.8.1995. During service as Certified Teacher I was in the promotion zone to the post of SST (BPS-16) but the concerned authority instead of promoting me advertised the said posts of SST (BPS-16) on adhoc/contract basis. I was under protest and my colleagues applied for the said post through initial recruitment but the same was also refused to me and my colleagues on the pretext that regular employees are not entitle to apply for the adhoc/contract posts of SST (BPS-16) thus me and my colleagues were deprived from the prospects of promotion. It is pertinent to mention that at the time of above mentioned advertisement the post/cadre of C.T (BPS-15) to which I belong have no prospects of promotion. In light of the said advertisement new appointments were made by the authorities on adhoc basis and even the promotion quota was also filled by the authority though initial recruitment. In the meanwhile the Provincial Government Promulgated the employee's regularization Act, 2009 whereby all the adhoc employees who were appointed as SST on temporary basis were regularized thus further affected the cadre to which I belong. That the promotion quota for which me and my colleagues have waited for decades has been washed by operation of the said Act of 2009. I was feeling aggrieved alongwith my others colleagues knocked the door of the Peshawar High Court through various writ petitions including writ petition No.2905/2009. That vide consolidated judgments dated 26.1.2015 the said writ petitions were disposed of with the directions that:

(i)- The act.XVI of 2009, commonly known as (Regularization of services) act, 2009 is held as beneficial and remedial legislation, to which no interference is advisable hence, upheld.

(ii)- Official respondents are directed to work out the backlog of the promotion quota as per above mentioned example, within thirty days and consider the in service employees, till the backlog is washed out, till then there

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would be complete ban on fresh recruit. The concerned authority assailed the said judgment of the august Peshawar High Court Peshawar in CPLAS No.127-P to 129-P/2015 but the same were dismissed as withdrawn vide judgment dated 20.9.2017. That then after me and my colleagues time and again visited the concerned quarter for our promotion to the next higher scale but the concerned authority instead of redressing the grievances advertised the posts through initial recruitment through various advertisements. That it is pertinent to mention that I am the senior most SCT (BPS-16) of your good self Department and also eligible in all respect for promotion to the post of SST (BPS-16). I am feeling aggrieved filed this Departmental appeal before your good self for redressal of my grievances.

It is therefore, most humbly prayed that on acceptance of this Departmental I may very kindly be promoted to the post of SST (BPS-16) including seniority with all back benefits w.e.f. the date when the promotion quota was filled up through initial recruitment.

Dated: 08.08.2019

Your Obediently


BAHRAMAND KHAN SCT (BPS-16),
GHS Chail Madyan, District Swat

VAKALATNAMA

Before the 1st Jinnah Tribunal, Peshawar

OF 2019

Babramond Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Dept

(RESPONDENT)
(DEFENDANT)

I/We Babramond Khan

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2019



CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK


KAMRAN KHAN
&


MIR ZAMAN SAFI
ADVOCATES

OFFICE:
Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Mobile No.0345-9383141

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 64/2020

Bahramand Khan SCT (BPS-16) GHS Cahil, Madyan, District Swat.

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
3. District Education officer (Male) Swat.

..... Respondents

Parawise Comments on Behalf of the Respondents:

Respectfully Shewith

Preliminary objections

1. That the Appellant is not an aggrieved person within the meaning of Section 4 of the service Tribunal Act, 1974.
2. That the Appellant has no cause of action / locus standi.
3. That the Appellant has not come to this Honorable Court with clean hands.
4. That the Appellant has filed this instant service appeal just to pressurize the respondents.
5. The present service appeal is liable to be dismissed for non-joinder/miss joinder of necessary parties.
6. That the instant service appeal is against the prevailing law and rules.
7. That the Appellant has filed this instant Service Appeal on malafide motives.
8. That the instant appeal is badly time barred.
9. That the instant service appeal is not maintainable in the present form, and above in the present circumstances of the issue.
10. That the Appellant has estopped by his own conduct.
11. That the Appellant has concealed the material facts from this Honorable Tribunal.

FACTS:

1. That the Para No.1 is correct. Hence no comments.
2. That the Para No.2 is correct to the extent of advertisement, the rest of the Para is incorrect and not admitted. The Appellant was not in promotion zone at the time of the above mentioned advertisement. The Appellant has annexed seniority list of SCT but it is worth to mention here that there is no promotion quota from CT to SST at the time of the said advertisement. Later on in 2012 policy was promulgated and amended in 2014. According to this policy there are three categories of SST i.e SST I (Chemistry, Botany or Zoology), SST II (Physics, Maths A or B or Statistics) & SST General. The appellant will be promoted in his category on his own turn. **(Policy as annexure A)**

3. That the Para No.3 is correct to the extent that there was no promotion policy from CT BPS-15 to SST BPS-16 at the time of the above mentioned advertisement. However, as stated in the foregoing Para, now the policy exists for promotion from CT BPS-15 to SCT BPS-16 and SST BPS-16. The promotions have been made on the basis of seniority cum fitness basis according to the policy. If the Appellant felt aggrieved of any order of promotion he should file departmental appeal before the competent authority.
4. That the Para No.4 is correct to the extent of appointments on ad-hoc basis. The rest of the Para is incorrect and denied. On one hand the Appellant admits in Para No.3 that there was no policy of promotion from CT to SST while on the other hand the Appellant says that promotion quota was filled by appointments.
5. That the Para No. 5 is correct to the extent of regularization Act 2009 the rest of the Para is irrelevant as the Honorable Peshawar High Court has already declared the regularization Act as beneficial.
6. That the Para No. 6 is correct.
7. That the Para No.7 is correct to the extent of judgments of the Honorable Courts the rest of the Para is incorrect and denied. According to the judgment dated 08-11-2018 of the Honorable Peshawar High Court in COC No. 105-P/2018 in W.P NO. 355/2011 it has clearly been mentioned that backlog was worked out by that time 2725 employees/teachers were in the promotion zone and as such were promoted. If the Appellant felt aggrieved of any order of promotion he should file departmental appeal before the competent authority.**(Judgment as annexure B)**
8. That the Para No. 8 is correct to the extent of promotion of the Appellant to the post of SCT BPS-16 the rest of the Para is denied. No one junior than the Appellant has been promoted to SST in the cadre and category to which the Appellant belongs.**(Last promotion order as annexure C)**
9. That the Para No. 9 is correct. However as stated in the foregoing paras the Appellant has to wait till his turn of promotion.
10. That the Para No. 10 is correct to the extent of appeal however, the Appellant has to wait till his turn of promotion. He cannot be promoted without his turn.
11. That the instant service appeal of the Appellant is bereft of any merit, hence liable to be dismissed inter alia following grounds.

GROUND

- A. That the Para No. A is incorrect and denied. The respondent department has to act according to the rules, policy and law. The Appellant has been treated in accordance with law, rules and policy.
- B. That the Para No. B is incorrect and denied. The Appellant has been treated in accordance with law, rules and policy. The respondent

department cannot even think of the violation of any Article of the constitution.

- C. That the Para No. C is repetition of above para, hence no comments.
- D. That the Para No. D is incorrect and denied. Detail reply of this Para has already been given in the above Paras.
- E. Para No. E is repetition of above para, hence no comments.
- F. That the Para No. F is incorrect and not admitted. As stated in the foregoing Paras, the respondents have acted in accordance with rules and policy.
- G. That the Para No. G is again the repetition of the Paras, hence no comments.
- H. That the Para No. H is irrelevant to the present issue, hence no comments.
- I. That the Para No. I is irrelevant, however the respondents also seek permission of this Honorable Tribunal to advance further grounds at the time of arguments.

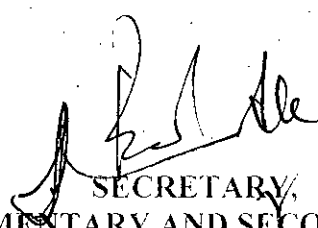
It is, therefore, very humbly prayed that the instant service appeal of the Appellant may be dismissed with cost in favor of the respondents.



DISTRICT EDUCATION OFFICER (M)
SWAT AT GULKADA



DIRECTOR,
ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA



SECRETARY,
ELEMENTARY AND SECONDARY
EDUCATION PESHAWAR



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 24th July, 2014.

NOTIFICATION

No.SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre:- 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 Notifications No.SO(G)S&LD/1-28/2003/Vol-II dated, 09-04-2004, Notification No.SO(G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and 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) Serial No. 1 shall be renumbered as 1B and before Serial No. 1B, as so renumbered, the following new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1	Subject Specialist (BPS-17)	i. At least second class Master's Degree or four years BS Degree in the relevant subject; and ii. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A. Education or equivalent qualification from a recognized University.	23 to 35 years	(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16), with at least five years service as such and having qualification mentioned in column No. 3. Note: If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial

IA	Director Physical Education (BPS-17) -	At least second class-Master's Degree in Physical Education from a recognized University.	22-35 years	<p>recruitment; and</p> <p>(b) fifty percent by initial recruitment.</p> <p>(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Physical Education Teachers (BPS-16), with at least five years service as Senior Physical Education Teacher and Physical Education Teacher and having qualification mentioned in column No. 3:</p> <p>Provided that if no suitable person is available from amongst Senior Physical Education Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst the Physical Education Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>Note:- If no suitable candidate is available in the relevant cadres of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment; and</p> <p>(b) fifty percent by initial recruitment; and</p>
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(ii) amongst Serial No. 1B, as so remembered, for the existing entries, the following shall be substituted, in respective columns, namely:

1	2	3	4	5
1B.	Secondary School Teacher (BPS-16)	<p>I. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology), Or (b) (Physics, Maths "A" or "B" or Statistics) Or (c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p>and</p> <p>II. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualifications from a recognized University.</p>	21 to 35 years.	<p>1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner:</p> <p>(a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters (BPS-16), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3:</p>

			<p>Provided that if no suitable candidate is available from amongst Senior Drawing Masters for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(c) four per cent from amongst the Senior Arabic Teachers(BPS-16), with at least five years service as Senior Arabic Teachers and Arabic Teachers, and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst Senior Arabic Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Arabic Teachers with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(d) four per cent from amongst the Senior Theology Teachers(BPS-16), with at least five years service as Senior Theology Teachers and Theology Teachers and having qualification mentioned in column No.3;</p>
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				<p>Provided that if no suitable candidate is available from amongst Senior Theology Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(e) three-per cent from amongst the Senior Qaris (BPS-16), with at least five years service as Senior Qari and Qari and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst the Senior Qaris then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Qaris with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(f) twenty per cent from amongst the Primary School Head Teachers (BPS-16), with at least seven years service as Primary School Head Teachers and Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3:</p> <p>Provided that if no suitable candidate is available from amongst</p>
--	--	--	--	---

			<p><i>Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least seven years service as Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No.3:</i></p> <p><i>Provided further that if no suitable candidate is available from amongst Senior Primary School Teachers for promotion then the post shall be filled from amongst Primary School Teachers with at least seven years service as such and having qualification mentioned in column No. 3; and</i></p> <p><i>(ii) twenty Five percent by initial recruitment.</i></p> <p><i>Note:</i></p> <p><i>I. If no suitable candidate is available in the relevant cadre of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment.</i></p> <p><i>II. Posts of General SST and SSTs-1 Science and SST-2 Science shall be filled by promotion or initial recruitment, each on need basis separately."</i></p>
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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 Department 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 (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
22. Master file


(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)

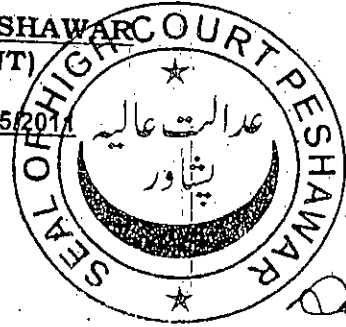
Annexure "B"

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JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)

COC No. 105-P/2018 in WP No. 355/2011

JUDGMENT.



Date of hearing: 08.11.2018

Petitioner (s): Nisar Ahmad Jy. No. Noor Muhammad Ullah

Respondent (s): Muhammad Azam Khan Jy. Spd. Officer Di. Pesh. Ady.

WAQAR AHMAD SETH, CJ:- Through this

single judgment, we propose to dispose of instant contempt petition as well as connected COC No. 107-P/2018 in WP No. 1662/2010, COC No. 108-P/2018 in WP No. 2967/2009 & COC No. 109-P/2018 in WP No. 3189/2009 because in all the petitions, the petitioners have sought initiation of contempt of court proceedings against the respondents for not implementing the judgment/order dated 26.01.2015.

2. Facts in brief are that the petitioners had filed Writ Petitions before this Court and prayed that the Act No. XVI 2009, namely, 'The North West Province' Employees (Regularization of Services) Act, 2009 dated 24th October, 2009' being illegal unlawful, without authority and jurisdiction, based on malafide intentions and being unconstitutional as well as ultra vires to the basic rights as mentioned in the constitution be set-aside and the respondents be directed to fill up the above noted posts after going through the legal and lawful and the normal procedure as prescribed under the prevailing laws instead of using the short cuts for

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obliging their own person. They further prayed that the notification No. A-14 / SET (M) dated 11.12.2009 and Notification No. A-17 / SET (S) Contract-Appnt: 2009 dated 11.12.2009, as well as Notification No. SO(G) / ES / 185 / 2009 / SS(Contract) dated 31.05.2010 issued as a result of above noted impugned Act whereby all the private respondents have been regularized may also be set-aside in the light of the above submission, being illegal, unlawful, unconstitutional and against the fundamental rights of the petitioners. The writ petitions came up for hearing and vide judgment/order dated 26.01.2015, the same were disposed of in the following terms:-

- (i) *The Act, XVI of 2009, commonly known as (Regularization of Services) Act, 2009 is held as beneficial and remedial legislation, to which no interference is advisable hence, upheld.*
- (ii) *Official respondents are directed to workout the backlog of the promotion quota as per above mentioned example, within 30 days and consider the in service employees, till the backlog is washed out, till then there would be complete ban on fresh recruitments".*

3. After passing the above said judgment, the petitioners were quite hopeful regarding their promotion to the next higher grade being senior most employees but the respondents have again started recruitment process by advertising the posts of various cadres for initial recruitment in various Districts of Khyber Pakhtunkhwa and as such, the inaction of respondents squarely fall within the ambit of

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contempt of court and they are liable to be proceeded and punished under the law; hence, the instant petitions.

4. Respondents No. 2 & 3 have filed reply to the show cause and prayed for dismissal of instant petitions.

5. Arguments heard and record perused.

6. While deciding writ petition No. 2905/2009, vide judgment dated 26.1.2015 which has been upheld by the apex Court, the respondents-department was directed to workout the backlog of the promotion quota and consider in service employees for promotion against the vacant post, till the backlog is washout. In this respect record is suggestive that the backlog was worked out and by that time 2725 employees / teachers were in the promotion zone and as such were promoted. Moreover, by virtue of Regularization Act, 2009, Act No. XVI of 2009, 1766 employees / teachers got regularization and as such, when worked out, the promotion quota was fully exhausted. The judgment in this respect was not for all the times to come for promotion purposes. Once the promotion quota, which was given advantage, in view of Regularization Act, 2009, cannot be claimed again and again. By now it's the question of fact that as to whether any employee / teacher was not promoted and by that time when Act 2009 was enforced they were in the promotion zone. Even otherwise, once backlog was worked out and promotion was done then claiming seniority and promotion is the job of service tribunal.

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7. In view of the above, the instant as well as connected contempt petitions are disposed of in terms above. Show cause notice issued to respondents is hereby recalled.

ANNOUNCED.
Dated: 08.11.2018

Chief Justice

Judge

Newab Shah SCS (DB) Justice Waqar Ahmad Seth CJ & Justice Muhammad Ayub Khan J

No. 15857

Date of Presentation of Application 25.11.18

No of Pages 3

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Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of Pakistan Order 1962

30 NOV 2018



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
SWAT AT GULKADA

PHONE/FAX 9240228
E-Mail
deomswat@gmail.com
www.male.sed.edu.pk

NOTIFICATION

Consequent upon the Notification issued by the Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar vide his office Endst: No 681-85/File No.1/Promotion SST (B-16) Dated Peshawar the 05-02-2020. The following SSTs (whose services were placed at the disposal of DEO (M) Swat for further adjustment) are hereby adjusted against the post in the schools noted against each in the interest of public service under the existing policy of the Provincial Government on the terms and conditions given in the afore mentioned notification of the Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar with immediate effect.

SST(MATHS & PHYSICS)

S: #	Name	Present School	School Where adjusted	Remarks
01	MR.FAZAL SUBHAN C.T	GHSS MINGORA SWAT	GHS MANAI SWAT	AGAINST VACANT POST
02	MR.IFTIKHAR C.T	GHSS NO 3 MINGORA	GHSS NO 3 MINGORA SWAT	AGAINST VACANT POST
03	MR.ANWAR KHALIQ .SPST	GPS SAMSARAY SWAT	GMS DADAHARA SWAT	AGAINST VACANT POST
04	MR ABDUL QADOOS SPST	GPSDELAY SWAT	GHS QANDIL SWAT	AGAINST VACANT POST

SST (GENERAL)

S:#	Name	Present School	School Where adjusted	Remarks
1	MR ADIL JAN SCT	GHS SERSENAI	GHS SHAH DEHRAI	AGAINST VACANT POST
2	MR.MUHAMMAD ALAM SCT	GHS ASALA	GHS ASALA SWAT	AGAINST VACANT POST
3	MR.SAMIULLAH SCT	GHS NOI MINGORA	GHS NAWAKALY (M)	AGAINST VACANT POST
4	MR.ANWAR IQBAL SCT	GHS AMANKOT	GHS AMANKOT SWAT	AGAINST VACANT POST
5	MR.MUKARAM KHAN SCT	GCMHSS WADOODIA	GCMHSS WADUDIA SWAT	AGAINST VACANT POST
6	MR.FAZAL RAHMAN SCT	GHS TOTANO BANDAI	GHS TOTANO BANDAI	AGAINST VACANT POST
7	MR.MUHAMMAD LAIQ SCT	GHS MATTA	GHSS BAMAKHELA	AGAINST VACANT POST
8	MR.GUL MUHAMMAD SHAH	GHS SWEEGALAI	GMS MALOOCH SWAT	AGAINST VACANT POST
9	MR ALAMGIR SCT	GHS UDIGRAM	GHS UDIGRAM SWAT	AGAINST VACANT POST
10	MR.FAZAL AZIM SDM	GHSS KHWAZAKHELA	GHSS BATAI KHWAZAKHELA	AGAINST VACANT POST
11	MR.UMAR ZADA SDM	GHS NO 4 MINGORA	GHSS CHARBAGH	AGAINST VACANT POST
12	MR FAZAL AZIM AT	GHS DURUSHKHELA	GHS DURUSHKHELA	AGAINST VACANT POST

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**



APPEAL NO. 1307 /2019

Diary No. 1426
Dated 10-10-2019

Mr. Amir Hatam, SCT (BPS-16),
GHSS Fateh Pur, District Swat **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (M), District Swat.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT GRANTING/ALLOWING PROMOTION TO THE APPELLANT TO THE POST OF SECONDARY SCHOOL TEACHER (BPS-16) FROM THE DATE WHEN THE PROMOTION QUOTA WAS FILLED BY THE RESPONDENTS THROUGH INITIAL RECRUITMENT OR FROM THE DATE OF COMMENCEMENT OF THE ACT NO.XVI OF 2009 COMMONLY KNOWN AS REGULARIZATION OF SERVICES ACT, 2009 NOTIFIED IN THE OFFICIAL GAZETTE ON 24.10.2009 WITH ALL BACK BENEFITS INCLUDING SENIORITY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYERS:

That on acceptance of this appeal the respondents may kindly be directed to consider the appellant for promotion to the post of Secondary school Teacher (BPS-16) from the date when the promotion quota have been filled by the respondents through initial recruitment or from the date of Commencement of the Act No.XVI of 2009 commonly known as Regularization of Services Act, 2009 Notified in the official gazette on 24.10.2009 with all back benefits including seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That initially the appellant was appointed as PST in the respondents Department vide order dated 03.12.1990 and later on the appellant was appointed as C.T in the respondent Department vide order dated 01.7.2015. Copy of the service book is attached as annexure **A.**

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Service Tribunal.
Peshawar

26.11.2019

Counsel for the appellant present.



Contends that essentially the appellant was in the promotion zone for SST (BPS-16) at the time when Regularization Act, 2009 was promulgated. The Hon'able Peshawar High Court, Peshawar also observed, while disposing of C.O.C No. 105-P/2011 in writ petition No. 355/2011, that any employee/teacher was not promoted by the time when Act 2009 was enforced while he was in the promotion zone, was a question of fact to be determined in individual cases.

To resolve the controversy, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 20.01.2020 before S.B.

[Signature]
Appellant Deposited
Security & Process Fee

[Signature]
SD/-
Chairman

20.01.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

Learned AAG requests for time to contact the respondents and furnish reply/comments on the next date of hearing. Adjourned to 12.02.2020 on which date the requisite reply/comments shall positively be furnished.

Certified to be true copy

[Signature]
Chairman
Khyber Pakhtunkhwa
Shariat Tribunal
Peshawar

[Signature]
SD/-
Chairman

Date of Presentation of Application 08/07/2020
 Number of Words 800
 Copying Fee 10/-
 Urgent 4/-
 Total 14/-
 Name of Copyist [Signature]
 Date of Completion of Copy 08/07/2020
 Date of Delivery of Copy 08/07/2020

Before the up Service Tribunal per above

Appeal no. 64/2020

Babramond Khan vs Education Deptt.

Application for granting opportunity/leave
to submit security & process fee in abovementioned
appeal of the appellant.

Re: Babramond Khan

- 1) The abovementioned appeal is pending adjudication before this august Tribunal and is fixed for reply today dated 3-9-2020
- 2) That the appellant filed the abovementioned appeal regarding promotion
- 3) That the appellant due to some unavoidable circumstances couldn't submit due security & process fee.

It is therefore most humbly prayed that the appellant be given further few days to submit security and process fee.

3-9-2020

Yours Sincerely
Applicant - Babramond Khan
Witness - Mir Fozan Khan
M

SCANNED
KPST
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 64/2020

Khyber Pakhtunkhwa
Service Tribunal

Case No. 3410

Date 03-02-2023

BEHRAMAND VS EDUCATION DEPTT:

**APPLICATION FOR CLUBBING OF THE MENTIONED APPEALS
WITH SIMILAR NATURE APPEALS AS MENTIONED BELOW.**

R.SHEWETH:

- 1- That the above mentioned appeals are pending adjudication before this Hon'ble Tribunal in which no date is fixed for hearing.
- 2- That the similar appeals titled Nisar Muhammad & 2 others Vs Edu Deptt: has been fixed before this Hon'ble Tribunal on 17-04-2023, therefore the above titled appeals having the similar prayed and may kindly be clubbed and be fixed on 17-04-2023 before Hon'ble Tribunal.
- 3- That the interest of justice demands that such like matter should be heard on that fixed once for all to meet the ends of justice and also to meet the principles of access to justice.

It is therefore most humbly prayed that on acceptance of this application the mentioned appeals may kindly be clubbed with above titled appeals which is fixed for 17-04-2023 for hearing before this Hon'ble Tribunal.


APPLICANT

THROUGH:

**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

AFFIDAVIT

I, Behramand, (the Applicant/Appellant) do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble tribunal.




DÉPONENT