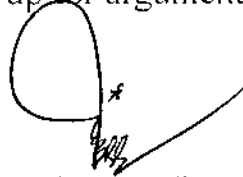


01.11.2022

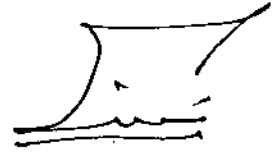
Mr. Umer Farooq, Advocate, junior of learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Bannu Bench. Adjourned.

To come up for arguments on 20.12.2022 before the D.B.



(Mian Muhammad)
Member (E)




(Salah-Ud-Din)
Member (J)

20.12.2022

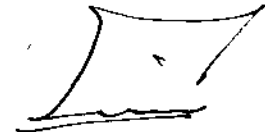
Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General alongwith Mr. Tufail, Assistant for the respondents present.

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 on 16.03.2023 before D.B.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

SCANNED
KPST
Peshawar

Stipulated period passed reply not submitted.

29.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

Chairman

08.11.2021

Clerk of learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Touseef, ADEO for respondents present.

Representative of the respondents submitted written reply/comments which is placed on file. Arguments could not be heard due to general strike of the Bar. Adjourned. To come up for arguments on 01.03.2022 before D.B.

(Mian Muhammad)
Member(E)

(Rozina Rehman)
Member(J)

01.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 03.06.2022 for the same as before.

Reader.

03.06.2022

Bench is incomplete, therefore, case is adjourned to 22.08.2022 for the same as before.

Reader.

21.06.2021

Counsel for the appellant present. Preliminary arguments heard.

7.5.01

Points raised need consideration. The appeal is admitted to regular hearing, subject to just and legal objections. 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 in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 08.11.2021 before the D.B.

443

Amount Deposited
Security & Process Fee
24/6/21

Chairman



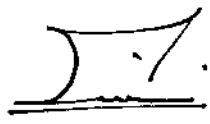
EC

2021.06.21

FORM OF ORDER SHEET

Court of _____

Case No.- 1237 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/01/2021	<p>The appeal of Sahibzada Muhammad Idrees Gul presented today by Mr. 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</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>22/03/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	22.03.2021	<p>Mr. Afrasiyab Khan Wazir, Advocate, junior of learned counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is unable to appear before the Tribunal due to illness. Adjourned. To come up for preliminary hearing before S.B on 21.06.2021.</p> <p style="text-align: right;"> (SALAH-UD-DIN) MEMBER (JUDICIAL)</p>

SCANNED
 KPT
 Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

SAHIBZADA MUHAMMAD IDREES GUL

VS

EDUCATION DEPARTMENT

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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5	Medical certificate	D	12-13
6	Charge report	E	14
7	Departmental appeal	F	15
8	Vakalat nama	16

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1237 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1579

Dated 20/11/2021

Mr. Sahibzada Muhammd Iddress Gul, CT (BPS-15),
GHS Shinkiari, District Mansehra.....

APPELLANT

VERSUS

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Mansehra.

.....**RESPONDENTS**

**APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN
BPS-15 w.e.f. 27-08-1995 i.e. FROM THE DATE OF INITIAL
APPOINTMENT TO THE POST OF CT AND AGAINST NO
ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF
APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY
DAYS.**

PRAYER:

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 27-08-1995 with all back benefits. Any other remedy which this august Service 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 the appellant was initially appointed in the respondent Department as CT vide order dated 27-08-1995 as stop gap arrangement. (Copy of the appointment order is attached as annexure.....**A**).
- 2- That later on the services of the appellant along with others were dispensed with on the ground that their services were no more required to the Department.
- 3- That it is also worth mentioning that on promulgation of Khyber Pakhtunkhwa Sacked Employee Act, 2012 the appellant approach the concerned authority for his re-instatement being covered under the said act but the same was not considered. That

Filed to-day
20/11/2021
Registrar

- appellant feeling aggrieved filed writ petition before the Honorable Peshawar High Court, Abbottabad Bench, which was allowed in favor of the appellant. Copy of the Act is attached as annexure.....**B).**
- 4- That in light of the judgment of the Honorable Peshawar High Court Abbottabad Bench the appellant was appointed as CT (BPS-15) vide order dated 14.11.2017. That in response the appellant submitted charge report and started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order, medical certificate and charge report are attached as annexure**C, D & E).**
- 5- That the appellant filed Departmental appeal before respondents for fixation of his pay w.e.f the date of his first appointment i.e. 27-08-1995 but no reply has been received from the quarter concerned so far. Copy of Departmental appeal is attached as annexure..... **F).**
- 6- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on following grounds amongst the others.

GROUND:

- A- That the inaction of respondents by not allowing pay fixation to the appellant w.e.f 27-08-1995 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 respondents acted in arbitrary and mala fide manner by not allowing pay fixation to the appellant w.e.f 27-08-1995 and as such the inaction of the respondents is violation of law and rules.
- D- That the inaction of the respondents is discriminatory and against the norms of natural justice, therefore not tenable in the eye of law.
- E- That under Article 38 (e) of the Constitution of Pakistan, 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan, therefore in light of the above mentioned Article the appellant is fully entitled for the grant of pay fixation w.e.f the date of initial appointment.
- F- That promulgation of Sacked Employee Act, 2012 established that dismissal of appellant along with others from services was against the

law, hence the appellant is entitled to pay fixation from date of his first appointment.

G- That in light of Rule 2.3 of the West Pakistan, Pension Rules, 1963 the appellant is fully entitle for the grant of pay fixation from the date of initial appointment.

H- 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.

APPELLANT



SAHIBZADA MUHAMMAD IDRESS GUL

THOROUGH:

NOOR MOHAMMAD KHATTA

MIR ZAMAN SAFI

&

**AFRASIAB KHAN WAZIR
ADVOCATES**

A
 4

APPOINTMENT:-

The following appointment of Trd: candidates are hereby ordered on CT/SV post as noted against each in RPS-G (Rs.1595-97-3060) and ~~RPS-14 Rs.2065-101-4400~~ in case of trd:BA.P. Sc with 2nd Div: usual allowances as admissible under the rules on the following terms and conditions:-

S.No.	Name of candidate with qualification & address.	School where appointed.	Remarks.
1.	Muhammad Shabir FA CT, S/O Mohammad Miskeen R/O Baffa Mansehra.	GHS Kalinjar.	Aganist vacant CT post.
2.	Sahibzada Muhammad Iddress Gul FA CT, S/O Sahibzada-Ali Ahmad, R/O Baffa, Mansehra.	GMS Bhogarmang.	Aganist vacant SV post.
3.	Ghulam Khan BA CT, S/O Hajat Khan R/O Baffa Mansehra.	GMS Narbeer.	Aganist vacant CT post.

CONDITIONS:-

1. The appointments are purely on temporarily basis and liable to termination at any time without notice or assigning reasons.
2. They should produce their age and health certificate from the concerned Medical Superintendent.
3. The Head of Institutions/Office are required to check all the original Educational Qualification/Professional Certificates before handing over charge.
4. The Head of Institution/Office are required to get verify their academic certificate from Board/University concerned.
5. Appointment of trained candidates who passed their Professional Exam: from other than NWFP, is provisional & subject to the verification of certificate.
6. In case they wish to resign from service/post they will have to give one month's prior notice or forfeit one month's pay in lieu of short notice.
7. The appointment shall stand automatically cancelled if they failed to join the post within 15 days of the issue of this order.
8. Special relaxation of upper age limit for 2 yrs: has already been allowed vide Govt: of NWFP, S&GAD letter No: SOS-III (S&GAD) 3(4)34, dated 18.7.1994.
9. They should not be handed over charge if their age exceed years or below 12 years.
10. No TA/DA is allowed on 1st appointment.
11. Charge reports should be sent to all concerned.

(HAJI SARFRAZ KHAN)
 DIVL: DIRECTOR OF EDUCATION (S)
 HAZARA DIVISION, ABBOTTABAD.
 Dated A/Abad the 27/8 / 95.


Enclst: No: 20384/83 / AE-III / Apptt: (M)

- Copy of the above is forwarded to the:-
1. P/S to Minister for Education (S/C) NWFP, Peshawar.
 2. P/S to Minister for
 3. Director Secy: Education, NWFP, Peshawar.
 4. District Education Officer (Male/Female) A/Abad, Mansehra, Haripur & Kohistan.
 5. Principal, Headmaster, Headmistress, GHS/GMS/GSS
 6. District Accounts Officer, A/Abad, Mansehra, Haripur & Kohistan.
 7. Candidate concerned. (5) A.D.F.O. (E) Local Office. (9) I/A to DDE(S) Hazara.
 10. Office order file.

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

ATTESTED

"B" (5)



**THE KHYBER PAKHTUNKHWA
SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.**

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

*[first published after having received the assent of the Governor of
the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa
(Extraordinary), dated the 20th September, 2012].*

**AN
ACT**

*to provide relief to those sacked employees in
the Government service, who were dismissed,
removed or terminated from service, by
appointing them into the Government service.*

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998 on various grounds;

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

AND WHEREAS the Government of the Khyber Pakhtunkhwa has also decided to appoint these, sacked employees on regular basis in the public interest;

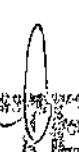
It is hereby enacted as follows:

1. **Short title, extent and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.

(2) It shall apply to all those sacked employees, who were holding various civil posts during the period from 1st day of November, 1993 to 30th day of November, 1996 (both days inclusive).

(3) It shall come into force, at once.

2. **Definitions.**--- In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,-


ATTESTED

6



- (a) "civil post" means a post created by the Finance Department of Government for the members of civil service of the Province;
- (b) "Department" means the Department and the Attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, including the Divisional and District Offices working thereunder;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "Prescribed" means prescribed by rules;
- (e) "Province" means the Province of the Khyber Pakhtunkhwa;
- (f) "rules" means the rules made under this Act; and
- (g) "Sacked employee" means a person who was appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1st day of November 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998 on the ground of irregular appointments;

3. Appointment of sacked employees.--- Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

Provided further that the appointment of sacked employees shall be subject to the medical fitness and verification of their character antecedents to the satisfaction of the concerned competent authority.

4. Age relaxation.--- The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.

ATTACHED

5. Sacked employees shall not be entitled to claim seniority and other back benefits.--- A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

6. Preference on the basis of age.--- On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.

7. Procedure for appointment.---(1) A sacked employee, may file an application, to the concerned Department within a period of six months from the date of commencement of this Act, for his appointment in the said Department:

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted in the prescribed manner, for appointment:

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

(4) The Concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. Removal of difficulties.--- If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act as may appear to him to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.

ATTESTED

8

9. Act to override other laws.---Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.

10. Power to make rules.--- Government may make rules for carrying out the purposes of this Act.

ms

ATTESTED



APPOINTMENT

In pursuance of Khyber Pakhtunkhwa Sacked Employees (Appointment) 2012 and Judgement passed by Honorable Peshawar High Court Abbottabad Bench Abbottabad, In Consolidate Judgment Vide Dated 24-05-2016, in W/P No 516-A/2013, 676-A/2015, 20-A/2014, 216-A/2015, 1155-A/2015, 702-A/2014, 115-A/2014, and directions of Honorable Court in COC No. 22-A/2016, COC No. 47-A/2016, COC No. 58-A/2016, COC No. 83-A/2016 2014, consequent upon recommendation of the Departmental Selection Committee, appointment of the following candidates are hereby ordered against the post of CT, School based and in BPS-15 (Rs.16120-13330-56020) plus usual allowances as admissible under the rules, under the existing policy of the Provincial Government, on the terms and condition given below with effect from the date of their taking over charge:-

S.#	Name	Father's Name	Domicile	Permanent Address	Place of posting
1	MAZHAR ALI	KHUWAJA MUHAMMAD	01-04-1966	Village Jabori The & Distt Mansehra	GMS Sachan Kalan Mansehra
2	M.Siddique	M.Shareen	07-02-1968	New Darband The Oghi Distt: Mansehra	GMS Darband Mansehra
3	Abdullah Khan	Abdul Akbar Khan	06-06-1968	VPO Baffa Mansehra	GMS Nasir Abad Mansehra
4	MUJEEB UR REHMAN	AZIZ UR REHMAN	21-05-1969	VPO Baffa Mansehra	GHS Kolika Mansehra
5	Sahibzada M. Idrees Gul	Sahib Zada Ali Ahmed	15-06-1969	VPO Baffa Masehra	GMS Nanoha
6	Shah Nawaz	Khalil ur Rehman	02-08-1970	VPO New Darband The Oghi Distt: Mansehra	GMS Nara Doga Mansehra
7	MALIK AZHAR HAFEEZ	MUHAMMAD HAFEEZ	01-02-1972	Village Bherkund Mansehra	GHS Bherkund
8	Mukhtar Ahmed	M.Yosuf	13-03-1972	Village Kangali P/O Shergarg The Oghi Distt: Mansehra	GHS Data
9	Fazal Rabbi	Gohar Aman	25-05-1972	VPO Baffa Mansehra	GMS Jhangar Mansehra
10	SABIR ALI	FIDA MUHAMMAD	03-04-1973	VPO New Darband The Oghi Distt: Mansehra	GMS Shanaya Mansehra
11	Tariq Manan	Abdul Manan	04-04-1973	VPO Lassna Nawab Mansehra	GMS Sawan Mera Mansehra
12	M.Arshid	M.Yaqoob	13-04-1974	Village Khail Trappi Mansehra	GMS Gurwal Mansehra
13	Nisar Ahmed	Syed Akbar	04-04-1969	Village Ramkot P/O Shergarh The: Oghi Distt: Mansehra	GMS Thathi Khurd Mansehra
14	Meraj Ali	Umer Daraz	01-03-1975	Village Maloga The Oghi Dist Mansehra	GMS Bagrian Mansehra
15	ISHTIAQ AHMED	AZIZ UR REHMAN	08-04-1970	Village Bedadi The: & Distt: Mansehra	GMS Karmong Bala Mansehra

TERMS & CONDITIONS.

1. NO TA/DA etc is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. Their Appointment are subject are condition that, their certificates/document and domicial be verify from the concerned authority before releasing their salary in the light of Section 3 of the said ACT.
4. They will be governed by such rules & regulation enforce and as may be prescribed by the Government time to time for the category of the Government savant to which they belon.
5. Their appointment has been made in pursuance of Khyber Pakhtunkhwa, Sacked Employee (appointment) ACT 2012. Hence under Section 5 of the said ACT they shall not be entitled to any claim of the seniority, promotion and back benefits.
6. Their appointment has been made in pursuance of Khyber Pakhtunkhwa, Sacked Employee (appointment) ACT 2012. Hence Section 4 of the said ACT period during which they remained dismissed, removed or terminated from services, till the date of their appointment shall have been deemed atomically relaxed.

ATTESTED

7. Their Appointment is subject to the condition that the certificates/documents must be verified from the concerned authorities by the DEO. Anyone found producing bogus Certificate will be reported to the law enforcing agencies for further action.
8. Their services are liable to termination on one month's prior notice from either side. In case of resignation without notice his one-month pay/allowances shall be forfeited to the Government.
9. Their pay will not be drawn until and unless a certificate to the effect by DEO is issued that his certificates/degrees are verified from the concerned board/university.
10. The Principal / Headmaster School concern is directed to submit their Degrees /Certificates etc to this office for verification from Board /University/Institutions before any payment made to them.
11. They should join their post within 15 days of the issuance of this notification. In case of failure to join their post within 15 days of the issuance of this notification, his appointment will expire automatically and no subsequent appeal etc shall be entertained.
12. Health and Age Certificate should be produced from the Medical Superintendent King Abdullah Teaching Hospital Mansehra before taking over charge.
13. They will be governed by such rules and regulations as may be issued from time to time by the Govt.
14. Their services shall be terminated at any time, in case his performance is found unsatisfactory during their contract period. In case of misconduct, they shall be proceeded under the rules framed from time to time.
15. Their appointments are made on School based, they will have to serve at the place of posting, and their service is not transferable to any other station.
16. In case of having less qualification which ever is prescribed Academic BA/B.Sc for CT as well as classical certificate as profession the candidate must be qualified the above prescribed qualification i.e Academic/Professional within 3 years after issue of this appointment order, failing which their appointment order shall stand terminated automatically, without any further notice.
17. Before handing over charge once again their documents may be checked if they have not the required qualifications they may not be handed over charge.
18. Before handing over charge they will sign an agreement with the department, otherwise this order will not be valid.
19. The competent authority reserve to right to rectify the error / omission, if any noted /observed at any stage in instant order issued erroneously.

DISTRICT EDUCATION OFFICER,
(MALE)MANSEHRA

Endst: No. 19810-30 /File No./CT/Sacked Apptt: /2017/Dated Mansehra the 14/11 2017

Copy forwarded for information and necessary action to the: -

1. Registrar Honrable Peshawar High Court Abbottabad Bench.
2. Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. PS to Secretary Khyber Pakhtunkhwa E&SE Department Peshawar.
4. District Accounts Officer Mansehra.
5. Principal / Head Master Schools concerned.
6. Budget & Account Officer Local Office.
7. Officials Concerned.
8. Office Order File


DY: DISTRICT EDUCATION OFFICER
(MALE)MANSEHRA

ATTESTED

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) MANSEHRA
CORRIGENDUM

The Appointment Order of sacked employee CT B-15 in respect of the following teacher issued under Endst: No 19810-30 dated 14/11/2017 is hereby amended and mentioned as against the schools where they were adjusted and now resettled against clear vacant post w.e.f the date of taking over charge against their newly assignment as a CT in the light of above order dated 14/11/2017, in the interest of public service.

S.#	Name	Previous Place of posting	Recently place of Adjustment	Remarks
1.	Fazale Rabi CT	GMS Jhangar	GMS Guli Bagh	A/V Post
2.	Ishtiaq Ahmad CT	GMS Karmang	GMS Bedadi	A/V Post
3.	Sahibzada M Idrees Gul CT	GMS Narooha	GHS Shinkhari	A/V Post
4.	Mujeeb ur Rehman CT	GHS Kolika	GHSS Baffa	A/V Post
5.	Muhammad Aslam J/C	GHSS Jalgali	GHS Khambian Baia	A/V Post

Note:-

1. Charge report should be submitted to all concerned.
2. No TADA allowed.

Sd/-
DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

Endst: No 20535-41 /Estt : (M) Dated Mansehra 3/7/17 2017

Copy to the:-

1. District Accounts Officer Mansehra.
2. Principal/Head Master School concerned.
3. B&AO Local Office Mansehra.
4. Teacher Concerned.
5. Office File.

BY: DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

ATTESTED

12

MEDICAL CERTIFICATE.

Name of Official, Sahibzada Mhammad Address Civil

Caste or race, Quresh

Father's name, Sahibzada Ali Ahmed

Residence, Village P.O. Bhele
Shahd, Dist. Muzaffargarh

Date of birth, 15.6.1969

Exact height by measurement, 5-6"

Personal mark of identification, NIL

Signature of the Official, [Signature]

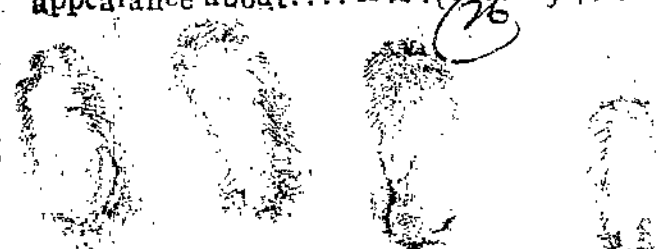
Signature of head of office, [Signature]

Seal of Office

123-88-336369

I do hereby certify that I have examined Mr. Sahibzada Mhammad Address Civil a candidate for employment in the Office of the Education Dept. and can not discover that he had any disease communicable or other constitutional affection or bodily infirmity except nil.

I do not consider this as disqualification for employment in the office of the ... His age according to his own statement 26 year and by appearance about 26 years.



LEFT HAND THUMB AND FINGER IMPRESSIONS

[Signature]
Medical Superintendent
Civil Hospital Muzaffargarh
31.8.69

13

OFFICE OF THE MEDICAL SUPERINTENDENT
KING ABDULLAH TEACHING HOSPITAL MANSEHRA.
HEALTH & AGE CERTIFICATE

Name of Official Sahibzada Muhammad Idrees Gul
Father Name Sahibzada Ali Ahmed
Date of Birth 15-06-1969.
Caste of Race Qureshi.
Address Mohallah Sahibzada Baza Town.
Tehsil Mansehra District Mansehra.
Exact height by measurement 5'-06"
Personal mark of Identification. Nil.
National Identity Card No. 13503-0682441-1
Signature of Official [Signature]
Signature of head of Office _____

Seal of Office

I do hereby certify that I have examined Mr. Sahibzada Mo Idrees Gul
Employment in the office of the Education Department.

And can not discover that he had any disease communicable of other constitutional affection or
bodily infirmity except NIL

I do not consider this as disqualification of employment in the office of
the as above. His age according to his own statement is 48 years and by appearance
about Forty Eight Years.

Left hand thumb and finger impression



[Signature]
Dr Medical Superintendent
King Abdullah Teaching
Hospital Mansehra
Deputy Medical Superintendent
King Abdullah Teaching
Hospital Mansehra.

17-11-2017.

OFFICE OF THE PRINCIPAL GHS SHINKIARI MANSEHRA
email ghsshinkiar@gmail.com Phone 0997-530154 Mob 03009119058

CERTIFICATE OF TRANSFER OF CHARGE

In compliance with the order of DEO (Male) Mansehra Endstt No.19810-30 dated 14-11-2017 and corrigendum Endstt No.20535-41 dated 30-11-2017 Shaibzada Muhammad Idrees Gul took over charge against the post of CT at GHS Shinkiar Mansehra Fore Noon of today dated 18-11-2017.

STATION GHS Shinkiar

Signature of relieving SAIBZADA M. IDREES GUL
Govt; Servant SAIBZADA M.IDREES GUL
Designation- CT

Signature of relieved _____
Govt; Servant VACANT
Designation CT

No. 2799-2800

Dated. 18-11-2017

Copy to;

- 1- District Education Officer (M) Mansehra.
- 2- District Accounts Officer Mansehra.
- 3- Office Record file.



ATTESTED

To,

The Director, E&SE Department,
Khyber Pakhtunkhwa, Peshawar

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F

**DEPARTMENTAL APPEAL FOR FIXATION OF PAY IN
BPS-15 W.E.F 27.08.1995 i.e. FROM THE DATE OF
INITIAL APPOINTMENT**

Respected Sir,

It is most humbly stated that I was appointed before your good self-Department as CT vide order dated 27.08.1995. That later on the services of the applicant were dispensed with on the ground that his services were no more required to the Department. That on promulgation of KP sacked Employees Act, 2012 I was submitted an application for re-instatement being covered under the said law and the same was considered by the authorities and re-instated/appointed the applicant as CT (BPS-15) vide order dated 14.11.2017. That in response I have submitted my charge report and started my duty quite efficiently and upto the entire satisfaction of my superiors. That after appointment I was time and again requested the concerned authorities for fixation of pay w.e.f 27.08.1995 but in vain. That I am fully entitle for fixation of pay from the date of my initial appointment i.e. 27.08.1995 but the concerned authority has been appointed me with immediate effect. Sir, I am feeling aggrieved preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal I may kindly be allowed for pay fixation w.e.f 27.08.1995 with all other consequential benefits back benefits. Any other remedy which your good self deems fit that may also be awarded in my favor.

Dated: 28.09.2020

YOUR OBEDIENTLY

SAHIBZADA MUHAMMAD IDDRRESS, CT
GHS Shinkhari, District Mansehra

ATTESTED

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2021

Sahibzade Muhamad Ichess Gul (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt (RESPONDENT)
(DEFENDANT)

I/We _____
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. ____/____/2021

CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

AFRASIAB KHAN WAZIR
&

HAIDER ALI
ADVOCATES

OFFICE:
Flat No.4, 2nd Floor, Juma Khan
Plaza, near FATA Secretariat,
Warsak Road, Peshawar.
Mobile No.0345-9383141

(orig'inal)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.1237/2021

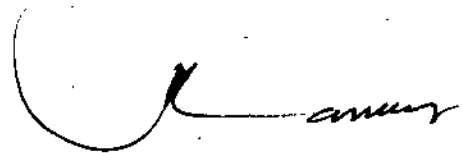
SAHIBZADA MUHAMMAD IDRESS GULAPPELLANT.

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education KPK Peshawar.
2. Secretary Finance department KPK Peshawar.
3. Director Elementary & Secondary Education Department KPK Peshawar.
4. District Education Officer (Male) Mansehra.....RESPONDENTS.

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4	Copy of the Judgement dated 20/02/2019	A	5-7



DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.1237/2021

SAHIBZADA MUHAMMAD IDRESS GULAPPELLANT.

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education KPK Peshawar.
2. Secretary Finance department KPK Peshawar.
3. Director Elementary & Secondary Education Department KPK Peshawar.
4. District Education Officer (Male) Mansehra.....RESPONDENTS.

PARA WISE COMMENTS/WRITTEN REPLY ON BEHALF OF RESPONDENTS

No.1 3 & 4:-

PRELIMINARY OBJECTIONS:-

1. That the appellant has got no cause of action locus standi.
2. That the appellant has concealed material facts from his Honorable Tribunal in the instant service appeal. Hence not entitled for any relief and appeal is liable to be dismissed without any further proceeding.
3. That the instant service appeal is based on malafide intentions.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant is not entitled for the relief he has sought from this Honorable Tribunal.
6. That the instant service appeal is against the prevailing law and rules.
7. That the appeal is based on malafide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
8. That the instant service appeal is not maintainable in its present form.
9. That the instant service appeal is time barred hence not maintainable.
10. That the service appeal of the Appellant is not maintainable as per Khyber Pakhtun Khawa Sacked Employee (Appointment) Act, 2012. Section 5 OF the Act is reproduce as "wherein sacked Employee shall not be entitled to claim seniority and other back benefits. A sacked Employee appointment under section 3, shall not be entitles any claim seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment."

FACTUAL OBJECTIONS.

1. Para No.1 is correct to the extent that the appellant was appointed as CT at GMS Bhogarmang vide this Office Endst: No 20384-93 dated 27-08-1995. And later on after the promulgation of Sacked Employee (Appointment) Act 2012, the appellant was

reappointed at GMS Nanoha vide Endst: No. 19810-30 dated 14/11/2017, which was amended by this office Endst: No. 20535-41 dated 30/11/2017. *(copy of initial appointment order and fresh appointment order are attached as annexure A (Page No. 4) and annexure C (Page No. 9-10) of the appeal)*

2. Para No. 2 is correct to the extent that their service was terminated which was contrary to law and policy, then such irregularly appointees were later on declared illegal and were terminated on 13-02-1997 vide Endst: No. 3532-3651.
3. Para No.3 is incorrect whereas, after the promulgation of Sacked Employee (Appointment) Act 2012, the appellant has failed to provide the complete service record at that time, therefore he was not considered for reappointment as a sacked employee, whereas the appellant has filed the writ petition before the Peshawar High Bench Abbottabad, which was allowed and after the scrutiny of the record and the approval of the DSC, the appellant was reappointed CT at GMS Nanoha.
4. Para No.4 is correct hence no comments.
5. Para No.5 is incorrect and based on malafide intention that the appellant has not submitted any departmental appeal to the appellant authority.
6. Para No.6 of the appeal is incorrect; the appellant is not aggrieved person in the meaning Sacked Employee (Appointment) Act, 2012, inter-alia, on the following grounds.

REPLY ON GROUNDS:-


- a. Para a is incorrect whereas *as per Sacked Employee (Appointment) Act, 2012, under section 5, sacked Employee shall not be entitled to claim seniority and other back benefits: A sacked Employee appointment under section 3, shall not be entitled to claim seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment, wherein the appellant is not entitled to any claim of the back benefits/pay fixation etc. The similar nature case has already been dismissed by this Honourable Service Tribunal in his Judgment dated 20/2/2019 in service appeal No. 1377/2015 titled " Syed Naveed Hussain shah vs Govt of Kpk and others.(Copy of Sacked Employee (Appointment) Act,2012 is attached as Annexure B of Appeal and Copy of the Judgment 20/02/2019 are annexed as annexure A)*
- b. Para B is incorrect and denied, the appellant was appointed in the light of Sacked Employee (Appointment) Act 2012, as per rules and policy and also direction of Honourable Peshawar High Court Abbottabad Bench. That the appointment order

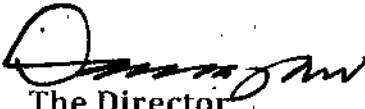
of the appellant was issued in accordance with the rules, Act and policy of the Government.


- c. Para No. C is incorrect hence denied. The Respondents have acted in accordance with law.
- d. Para No. D is incorrect whereas the appellant has been treated as per law and rules & act, wherein no question of violation of law, rules & policy.
- e. Para E is Incorrect whereas according to the Sacked Employee (Appointment) Act 2012 he was not entitled for any kind of back benefit/pay fixation etc.
- f. Para F, as replied above.
- g. Para G is incorrect whereas the rules 2.3 of West Pakistan 1963 is not applicable on the case of appellant.
- h. However the Respondents seek leave of this Honorable Tribunal to submit addition grounds & record at the time arguments before this Honorable Tribunal.

PRAYER:

In the view of above made submissions, it is requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favor of the Respondent Department in the interest of justice.


The Secretary
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.


The Director,
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar


The District Education Officer,
9 (Male) Mansehra

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No.1237/2021

SHAHIBZADA MUHAMMAD IDRESS GULAPPELLANT.

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education KPK Peshawar.
2. Secretary Finance department KPK Peshawar.
3. Director Elementary & Secondary Education Department KPK Peshawar.
4. District Education Officer (Male) Mansehra.....RESPONDENTS.

AFFIDAVIT

I, Mr. Muhammad Toseef Assistant District Education officer on Behalf of District Education Officer (M) Mansehra do, hereby solemnly affirm and declare that the Para wise comments of the Service Appeal No.1237/2021 titled Sahibzada Muhammad Idress Gul versus Govt, is true to the best of my conviction and belief and nothing has been concealed from this Honourable Court.

DEPONENT _____



A: DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA.

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Amal

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT ABBOTTABAD.

Service Appeal No. 1377/2015

Date of Institution .. 10.12.2015

Date of Decision .. 20.02.2019



Syed Naveed Shah son of Muazzam Shah, PST, Govt. Primary School Maira Hajaam, District Mansehra. (Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Elementary and Secondary Education, Peshawar and two others. (Respondents)

MR. MUHAMMAD ARSHAD KHAN TANOLI,
Advocate

For appellant:

MR. MUHAMMAD BILAL,
Deputy District Attorney

For respondents

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI

MEMBER (Executive)
MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER - Arguments of the learned counsel for the

parties heard and record perused.

ATTESTED

ATTESTED

Signature and stamp of Ahmad Hassan, Member

ARGUMENTS

2. Learned counsel for the appellant argued that he joined the Education Department as PST on 22.11.1994. That his services were terminated vide order dated 13.02.1997. After promulgation of Khyber Pakhtunkhwa Sacked Employees Appointment Act, 2002, all the employees who were appointed in the year 1993-96 and terminated in 1997-98 were reinstated. As the appellant was not reinstated so he filed writ petition no 411-A/2012 before the Peshawar High Court, Abbottabad bench. Judgment of the Peshawar High Court Abbottabad bench dated 22.05.2013 was not implemented by the respondents so C.O.C no. 70-A/2013 was filed. Resultantly, vide impugned order dated 01.07.2015, the appellant was reinstated in service with immediate effect. Feeling aggrieved, he filed

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departmental appeal on 29.07.2015 which was not responded within the stipulated period, hence, the present service appeal. The appellant is required to give all service benefits w.e.f 03.02.1997 to 01.07.2015.

3. Learned Deputy District Attorney argued that as the appellant was appointed in violation of invogue rules, hence, his services were terminated vide order dated 13.02.1997. Under the Khyber Pakhtunkhwa Sacked Employees Appointment Act 2012, he was reappointed as PST vide order dated 01.07.2015. According Section-5 of the said Act sacked employees shall not be entitled to claim seniority and other back benefits. Appellant was treated according to law and rules.

CONCLUSION.

It is not disputed that initially the appellant was appointed as PST at GPS D in Nalla on 22.02.1994. Later on when it came to the notice of the respondents that his appointment was made in violation of rules, hence, his services were terminated vide order dated 13.02.1997. In the meanwhile the provincial government promulgated Khyber Pakhtunkhwa Sacked Employees Appointment Act 2012. When grievances of the appellant were not redressed at departmental level he resorted to litigation by filing writ petition in Peshawar High Court, Abbottabad Bench. Finally in pursuance of the directions of the Peshawar high Court, Abbottabad Bench he was appointed as PST at GPS Mira Hajam with immediate effect vide order dated 01.07.2015. The appellant is asking for reappointment from the date of his termination from service dated 03.02.1997. Attention is drawn to Section-5 of the afo mentioned Act, wherein it is clearly laid down that the sacked employee shall not be entitled to claim seniority and other back benefit. The relevant provision is reproduced below:-

"A sacked employee appointed under Section-3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment"

ATTESTED

(7)

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5. As a sequel to above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

(AHMAD HASSAN)
Member
Camp Court Abbottabad.

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
Member

ANNOUNCED
20.02.2019

Date of Presentation of Application 03-05-19
 Number of Copies 1600
 Copying Fee 105
 Urgent —
 Total 105
 Name of Copier [Signature]
 Date of Completion of Copy 15-5-19
 Date of Delivery of Copy 25-5-19

Certified to the true copy
[Signature]
[Stamp]

ATTESTED