

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

**SERVICE APPEAL NO. 1753/2022**

Wajid Ur Rehman, PET, (BPS-15) GHS Tara Banda, District  
Hangu.....

Appellant,  
Khyber Pakhtunkhwa  
Service Tribunal

**VERSUS**


Diary No. **7258**

Dated: **29/8/22**

Government of, Khyber Pakhtunkhwa through the Secretary E&SE  
Department & others..... Respondents

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Assistant Director (Lit: II)  
E&SE Khyber Pakhtunkhwa,  
Peshawar

(1)

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Hangu.....Appellant

**VERSUS**

Government of, Khyber Pakhtunkhwa through the Secretary E&SE  
Department & others.....Respondents

**JOINT PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS No: 1-4.**

**Respectfully Sheweth :-**

The Respondents Submit as under: -

**PRELIMINARY OBJECTIONS.**

- 1 ***That*** the Appellant has got no cause of action & locus standi to file the instant appeal before this Honorable Tribunal.
- 2 ***That*** the appellant has concealed material facts from this Honorable Tribunal in the titled appeal.
- 3 ***That*** the Appellant has not come to this Honorable Court with clean hands.
- 4 ***That*** the appeal is bad for mis-joinder and non-joinder of the necessary Parties.
- 5 ***That*** the appellant is not an aggrieved person within the meaning of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974.
- 6 ***That*** the appeal in hand is barred by the law of limitation.
- 7 ***That*** the appellant could not made out his case for promotion as SST in the Department.
- 8 ***That*** the cadre of the appellant has a separate Service Rules Notified on 26-04-2018 for promotion in the upper scales in the Respondent Department.

**ON FACTS.**

- 1 ***That*** Para-1 is correct that vide Notification dated 17-05-2006, the appellant was appointed against the PET in BPS-9 post on purely contract/temporary bases for the initial period of one year in the Respondent Department. ***(Copy of the appointment order 17-5-2006 is attached as (Annexure-A).***

2. **That** Para-2 is incorrect as there is a separate service rules notified vide Notification dated 26-04-2018 whereby, the appellant along with his colleagues has been provided fair chances of promotion in the upper scales against the IPE in BS-17, SIPE BS-18 and even again the post of Additional Director (DE&S) in BS-19 in the Respondent Department subject to the condition of Seniority cum fitness of the appellant. *(Copy of the Notification dated 26-04-2018 is attached as Annexure-9).*
3. **That** Para-3 is incorrect as the Service Rules dated 13-11-2012 Superseded by the Current Service Rules dated 26-04-2018 for the cadre of the appellant by the Department.
4. **That** Para-4 is also incorrect the appellant could not made out his case for promotion as SST under the rules in the Department nor qualify the criteria for promotion in the Department.
5. **That** Para-5 is incorrect as no Departmental appeal against the Service Rules dated 24-07-2014 has been filed by the appellant till date.
6. **That** Para-6 is incorrect as the appellant has got no cause of action to filed the instant appeal before this Honorable Tribunal therefore, the appeal in hand is liable to be dismissed on the following grounds inter alia:

#### ON GROUNDS.

- A. **Incorrect & not admitted**, the Service Rules dated 24-07-2014 is within legal sphere and liable to maintained in favor of the Department.
- B. **Incorrect & not admitted**. The plea of the appellant is against the factual position of the case on the grounds that he has a separate service rules notified on dated 26-04-2018 by the Respondent Department.
- C. **Incorrect & not admitted**. The act of the Department is legal and liable to be maintained.
- D. **Incorrect & not admitted**, the appellant has been treated as per law, rules & policy by the department in the instant case. However, the plea of the appellant is illegal.
- E. **Incorrect & not admitted**, the act of the Department with regard to the Notification dated 24-07-2014 is legal.
- F. **Incorrect & not admitted**. The appellant has been treated as per law rules & policy by the department having not violated the provision of Section-9 of the civil servant Act 1973 read with Rule-7 of APT Rules 1989 in the titled case
- G. **Incorrect & not admitted**, the act of the Department is not only legal but is also in accordance with the provision of Article 38 (e) of the constitution of 1973.
- H. **Incorrect & not admitted**. As the appellant is not an aggrieved person within the meaning of Article 212 of the constitution 1973, however, the

Respondent also seek leave of this Honorable Tribunal to submit additional ground, record of case Law at the time of arguments on the date of hearing.

**PRAYER:**

Therefore, in view of the above made submissions, the appeal in hand may kindly be rejected in favor of the Department in the interest of justice.

Dated. \_\_\_/\_\_\_/2023.



**DIRECTOR**  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondents No: 4)



**SECRETARY**  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondent No: 1)



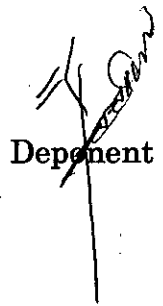
**SECRETARY**  
Govt; to Khyber Pakhtunkhwa  
Establishment Department  
(Respondent No: 2)



**SECRETARY**  
Govt; to Khyber Pakhtunkhwa  
Finance Department.  
(Respondent No: 3)

**AFFIDAVIT**

I, Dr. Hayat Khan Assistant Director (Litigation-II) E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief.

  
**Deponent**

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

**Service Appeal No: 1753/2022**

**Wajid Ur Rehman, PET, (BPS-15) GHS Tara Banda, District  
Hangu.....Appellant**

**VERSUS**

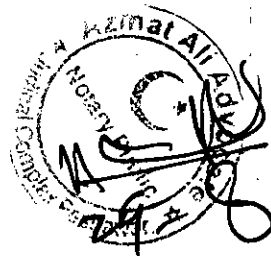
**Government of, Khyber Pakhtunkhwa through the Secretary E&SE  
Department & others.....Respondents**

**AFFIDAVIT**

**I, Dr. Hayat Khan Assistant Director (Litigation-II) E&SE**  
Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on  
oath that the contents of the instant para wise Comments are true & correct  
to the best of my knowledge & belief. It is further stated on oath that in this  
appeal the answering Respondents have neither been placed Ex-Parte nor  
their defense has been struck off/cost.

  
Deponent

**ATTESTED**



11 A  
-4-

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**OFFICE OF THE EXECUTIVE DISTRICT OFFICER (S&L) HANGU**  
**APPOINTMENT/ADJUSTMENT**

Consequent upon the selection & approval District recruitment Committee of Schools & Literacy Department of District Hangu, the following appointments are hereby ordered in (BPS-09) in the basic pay scale Rs(2770-165-7720) plus usual allowances as admissible under the rules against vacant PET Male posts in the schools noted against each with immediate effect on the terms and conditions given below.

S.No	Name of candidate with father name & full address	D/O Birth	Merit position	School where appointed/adjusted	Remarks
1	Wajid Rehman S/O Fazal Rehman R/O Dallah(Hangu)	25/3/1982	61.16	GMS Chappri Naryab	A.V.P
2	Naseeb Khan S/O Abbas Khan Village Tootkas Thall(Hangu)	2/4/1974	52.89	GHS Karbogha	Vice Tariq Mohd PET Contract terminated
3	Mujahid Noor S/O Dalif Noor Village Darsamand(Hangu)	10/3/1977	50.31	GHS Shanwori Hangu	A.V.P
4	Noor Zaman S/O Izat Khan Village Adam Banda Dallah(Hangu)	1/4/1980	47.75	GMS Khazina Banda	A.V.P
5	Wazir Gul S/O Raza Gul Village Shahu Khel (Hangu)	22/2/1965	38.03	GHS Shahu Khel	A.V.P
6	Shah Alam Khan PET Under transfer to GHS Ibrahim Zai	---	Adjusted	GHS No.2 Hangu.	A.V.P

**TERMS & CONDITIONS**

1. They will be governed by such rules and regulation as prescribed by the Govt from time to time for the category of Govt servants to which they belong.
2. Their services will be liable to termination on one month prior notice from either side. One month pay will be forfeited in favour of Govt if resigned without prior notice.
3. They should join the post within 15 days after the issuance of this notification.
4. Their inter seniority will be determined in accordance with the merit of district departmental selection committee.
5. Charge report should be submitted to all concerned.
6. They will produce Bank Receipt deposited for the purpose of verification of their certificates/diplomas/degree etc & before taking over the charge. The appointments of candidates will be cancelled if their testimonials are found spurious.
7. They will be on probation for a period of three years.
8. The DDOs will not draw their salaries unless their certificates/diplomas/Degrees etc are verified by concerned institutions/Boards etc.

Attended  
12/12/20

-5-

9. They are required to produce health and age certificates from medical superintendent concerned before taking over the charge.
10. The appointments of the candidates will be cancelled automatically, if he/she is found below age i.e 18 years or overage i.e 35 years.
11. The appointments is subject to the condition that they are permanently domiciled of District Hangu.
12. They shall, for all intents and purposes be Civil servants, except for the purpose of pension and gratuity. In lieu of the same, they shall be entitled to receive Contributory provident fund. For the said fund 10% contribution will be made by provincial Govt and 10% by Civil servants concerned in the prescribed manner. Provided further that, in the event of death of the civil servant, whether before or after retirement, his family shall be entitled to receive the said amount, if it has already not been received by concerned deceased civil servant.
13. They will have all rights /privileges contained in NWFP civil servants Act, 1973 with all amendments made therein including NWFP civil servants (Amendment) Act, 2005 and rules made thereunder.
14. In case of disciplinary matter, NWFP civil servants Act, 1973 and NWFP civil servants removal from service (special powers) Ordinance 2000 shall be applicable.
15. They will not claim their rights through appeals /petitions if they are terminated on the basis of any mistake /oversight committed and pointed out at later stages.

(ARMAN SHAH KHATTAK)  
 EXECUTIVE DISTRICT OFFICER  
 SCHOOLS & LITERACY HANGU

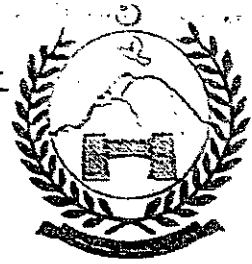
Endst No 6346-66 Dated 17-05/06

Copy of above is forwarded to the :-

1. District Coordination Officer Hangu.
2. District Nazim Hangu.
3. Director of Schools & Literacy NWFP Peshawar.
4. District Account Officer Hangu.
- 5-8. Principal /Head Master GHS No.2 Hangu, GHS Shahu Khel, GHS Shanawori Hangu & GHS Ibrahimzai
- 9-10. Head Master GMS Khazina Banda & GMS Chappri Naryab.
- 11-16. Officials concerned
17. Accountant local office
18. Dealing assistant.
19. Office copy for office record.

*Executed*  
 DISTRICT OFFICER (M)  
 SCHOOLS & LITERACY HANGU

*Attested*



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

**NOTIFICATION**

Peshawar, Dated the 26.04.2018

**NOTIFICATION**

**No.SO(B&A)1-18/2018/DPE Service Rules:-** In pursuance of the provision contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notification No. SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

**AMENDMENTS**

In the appendix, for Serial No. 1A, the following shall be substituted in respective columns, namely:

S.No.	Nomenclature of the post.	Minimum Qualification for appointment by initial recruitment or by transfer.	Age limit.	Method of recruitment.
1	2	3	4	5
1A	Instructor Physical Education (BPS-17)	(i). At least Second Class Master's Degree in Physical Education, with Bachelor of Education (B.ED) or equivalent qualification from a recognized university.  (ii). If no suitable candidate possessing the above qualification is available a candidate possessing Master's Degree in the Physical Education may be appointed as an Instructor Physical Education subject to the condition that he shall acquire the qualification of Bachelor of Education (B.ED) within three years from the date of his appointment, failing which his service shall be terminated without notice irrespective of any provision of the rules for the time being enforce.	22-35 years	(a) Seventy percent by Promotion, on the basis of seniority-cum-fitness, from among Senior Physical Education Teacher BPS-16 with at least five years' service as Senior Physical Education Teacher (SPETs) and Physical Education Teacher (PET) provided that if no suitable person is available from amongst Senior Physical Education Teacher (SPETs) for promotion then the post shall be filled by promotion on the basis of seniority-cum-fitness from amongst the Physical Education Teacher (PETs) with at least five years' service as such having qualification in column No 3.  Note: - if no suitable person is available for promotion then by initial recruitment, and  (b) Thirty percent by initial recruitment.



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

**Endst. Of even Number & Date.**

Copy of the above is forwarded to:-

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department.
4. The Secretary to Government of Khyber Pakhtunkhwa Public Service Commission.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Secretary, Social Sector FATA Secretariat, Warsak Road, Peshawar.
7. The Directors E&SE, PITE and DCTE Khyber Pakhtunkhwa.
8. The Director Education, FATA Warsak Road Peshawar.
9. The Director FMIU Finance Department.
10. Manager Government Printing Press, Khyber Pakhtunkhwa Peshawar with the request for publication in the next official Gazette.
11. Deputy Director (EMIS) E&SE Department.
12. All the DEOs (M/F) Khyber Pakhtunkhwa.
13. All the Agency Education Officers/ Agency Accounts Officers, FATA.
14. All District Accounts Officers Khyber Pakhtunkhwa.
15. The Section Officer (FR) Finance Department.
16. The Budget Officer-V and X, Finance Department.
17. Assistant Legal Drafter-IV, Govt: of Khyber Pakhtunkhwa Law Department.
18. Section Officer (R-I) Govt: of Khyber Pakhtunkhwa Establishment Department.
19. The Section Officers (S/M/F) E&SE Department.
20. The Section Officer (Primary) E&SE Department.
21. The Section Officer (Lit-I) E&SE Department.
22. The Section Officer (General) E&SE Department.
23. PS to Governor Khyber Pakhtunkhwa.
24. PS to Chief Minister Khyber Pakhtunkhwa.
25. PS to Chief Secretary Khyber Pakhtunkhwa.
26. PS to Minister Education Khyber Pakhtunkhwa.
27. PS to Secretary E&SE Department.
28. PS to Special Secretary E&SE Department.
29. Master File.

MURTAZA KHAN  
10/1/20

  
(MURTAZA KHAN)  
SECTION OFFICER (BUDGET)