


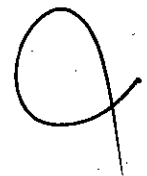
16th Mar, 2023

Junior to learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.

Former requested for adjournment as senior counsel for appellant is busy before the Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 01.06.2023 before D.B. PP given to the parties.

SCANNED
KPST
Peshawar



(Salah-Ud-Din)
Member (J)



(Kalim Arshad Khan)
Chairman

1st June, 2023

SCANNED
KPST
Peshawar

1. Learned counsel for appellant and Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.
2. Being not prepared, learned counsel for appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 12.09.2023 before D.B. P.P given to the parties.


(Salah-Ud-Din)
Member (J)


(Kalim Arshad Khan)
Chairman

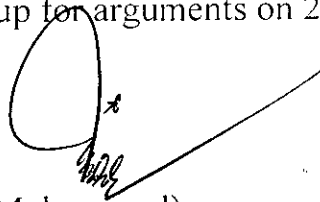
*Mutazem Shah *

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 21.12.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

21.12.2022

Appellant present through counsel. Muhammad Adeel Butt learned Additional Advocate General for respondents present.

SCANNED
KPST
Peshawar

Former made a request for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 16.03.2023 before D.B.



(Fareeha Paul)
Member (E)




(Rozina Rehman)
Member (J)

03.06.2022

Junior to counsel for the appellant present. Mr. Kabir Ullah Khattak, Addl. AG the respondents present.

Muhammad Touseef, Litigation Officer on behalf of respondent No. 1,3 & 4 present and submitted written reply/comments, which is placed on file. On previous date last opportunity was granted for submission of written reply/comments on behalf of respondent No. 1, but today no one is present, therefore, the right of submission of written reply/comment is struck off. To come up for rejoinder/arguments on 22.08.2022 before D.B.


(FAREEHA PAUL)
Member (E)

22.08.2022

Junior of learned counsel for the appellant present. Mr. Naseer Ur Din Shah, learned Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant made a request for adjournment on the ground that learned counsel for the appellant is busy before the Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 01.11.2022 before the D.B.



(Rozina Rehman)
Member(J)



(Salah-Ud-Din)
Member(J)

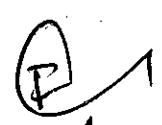
01.12.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Written reply/comments not submitted. Learned AAG seeks time to contact respondents for submission of written reply/comments. Adjourned. To come up for written reply/comments on 01.03.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

1-3-2022

Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 16-5-2022

Leader.

16.05.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for the respondents present.

Written reply/comments not submitted. Learned AAG seeks time to contact the respondents for submission of written reply/comments. Last opportunity is granted. To come up for written reply/comments on 03.06.2022 before S.B.


(Mian Muhammad)
Member (E)

01.04.2021

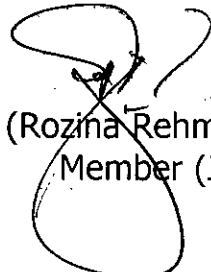
Appellant present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. Appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days.

Appellant Deposited
Security & Process Fee

08/4/21

Thereafter, notice be issued to the respondents. To come up for written reply/comments on 08/07/2021 before S.B.


(Rozina Rehman)
Member (J)

08.07.2021

Counsel for the appellant, Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Learned AAG is required to contact the respondents for submission of reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, office shall put up the file with a report of non-compliance. To come up for arguments on 01.12.2021 before the D.B.

Stipulated period has passed and reply has not been submitted.


Chairman

P.S

28.07.2021

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






Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1621 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/01/2021 SCANNED KPST Peshawar	<p>The appeal of Mr. Mujeeb-ur-Rehman resubmitted 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> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/04/21</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: right; font-size: 2em;">D.P.</p>
2-		

The appeal of Mr. Mujeeb-ur-Rehman C.T GHSS Baffa District Mansehra received today i.e. on 20/01/2021 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

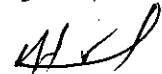
- 1- Annexures of the appeal may be attested.
- 2- Annexure-C of the appeal is illegible which may be replaced by legible/better one.

No. 146 /S.T,

Dt. 21/01/2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Note :. objection No. 1, 2 removed
Hence re-submitted by 25-1-2021.


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1621 /2021

MUJEEB UR REHMAN

VS

EDUCATION DEPTT:

INDEX

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APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

Mr. Majeed Ur Rehman, CT (BPS-15),
GHSS Baffa, 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

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


MAJEEB UR REHMAN

THOROUGH:


NOOR MOHAMMAD KHATTA


MIR ZAMAN SAFI

&

**AFRASIAB KHAN WAZIR
ADVOCATES**

OFFICE ORDER NO: 280/AE-1
 DATED ABBOTTABAD THE 27/8/95.

APPOINTMENT:-

The following appointment of Trd candidates are hereby ordered on CT post as noted against each in FPS-5 (Rs.1505-97-3060) and BPS-14 (Rs.2065-161-1114) in case of ~~trd/SA.B. etc with end Divar~~ + 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.	Saleem Ahmed S/O Ghulam-Muhammad R/O Dhdial, Mansehra.	GHS Dadar.	Against vacant CT post.
2.	Jamil Abdul Nasir PTC, BED CT tro:GPS Dotar Mansehra.	GMS Dotar Mansehra.	Against vacant SV post.
3.	Majeed-ur-Rehman FA, CT S/O Aziz-ur-Rehman R/O Batia Khurd, Mansehra.	GHS Kariplian Haripur.	Against vacant CT post.

CONDITIONS:-

- The appointments are purely on temporarily basis and liable to termination at any time without notice or assigning reasons.
- They should produce their age and health certificate from the concerned Medical Superintendent.
- The Head of Institutions/Office are required to check all the original Educational Qualification/Professional Certificates before handing over charge.
- The newly appointed Head of Institution/Office are required to get verify their academic certificate from Board/University concerned.
- Appointment of trained candidates who passed their Professional Exam: from other than NWFP, is provisional & subject to the verification of certificate.
- 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.
- The appointment shall stand automatically cancelled if they failed to join the post within 15 days of the issue of this order.
- 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) 0(4) 24, dated 18.7.1994.
- They should not be handed over charge if their age exceed years or below 18 years.
- No TA/DA is allowed on 1st appointment.
- Charge reports should be sent to all concerned.

(HAJI SARFRAZ KHAN)
 DIV. DIRECTOR OF EDUCATION(S)
 HAZARA DIVISION, ABBOTTABAD.

Encl: No: 20364-73 /AE- /Appt: (M) Dated A/Abad the 27/8/95.

- Copy of the above is forwarded to the:-
- F/S to Minister for Education(S/C) NWFP, Peshawar.
 - F/S to Minister for
 - Director Secy: Education, NWFP, Peshawar.
 - District Education Officer (Male/Female) A/Abad, Mansehra, Haripur & Kohistan.
 - Principal, Headmaster, Headmistress, GHS/GMS/GPS
 - District Accounts Officer, A/Abad, Mansehra, Haripur & Kohistan.
 - Candidate concerned. (8) A.D.E.O. (E) Local Office. (9) I/A to DDE(S) Hazara.
 - Office order file.

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

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE.

CERTIFICATE OF TRANSFER OF CHARGE.

5

Certified that I, Mr. Mujeeb-ur-Rahman have this day before taken over after noon charge of the office of C.T. Account Post relinquished

with reference to the Order of the N.-W. F. P. Government No. Appointment C.T. Post vide Dist Director Education (S) Hazara Division A. Abad No. 280/AE dt. dated 27-8-95 transferring Mr. under Endst. No. 20364-73/AE/Appth dt. 27-8-95 to

2. Particulars of Cash and Important/Secret/Confidential documents handed over/received are noted on the reverse.

Station: GHS-Kanpian Signature of relieved Government servant [Signature] Designation

Signature of Government servant receiving charge: Mujeeb-ur-Rahman Designation: C.T. GHS-Kanpian

Page No. 226 Date: 28-8-95 19

To

- ✓ The Accountant-General, N.-W. F. P., Peshawar.
- ✓ 1. To The Director of Educ. (S) Hazara Division AAbad by impd. Ltr. dt.
- 2. The District Education Officer (M) Secy: Kanpian.
- 3. Distt. Account Officer Hazara.

The Manager of the Office of Account Post was present at the time of the transfer of charge to Mr. Mujeeb-ur-Rahman

on the 28th day of the month of August 1995

Signature: [Signature] Designation: Head Master Govt. High School Bahawalpur

B
6

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,-

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- 7
- (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.

m-1

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.

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.

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Better ^C
APPOINTMENT

In pursuance of Khyber Pakhtunkhwa sacked Employees (Appointment) 2012 and judgment passed by Honorable Peshawar High Court Abbottabad Bench Abbottabad. In consolidated 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.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 Mansehra	GMS Nanoha
9	Fazal Rabbi	Gohar aman	25.05.1972	VPO Baffa Mansehra	GMS jhangar Mansehra

DISTRICT EDUCATION OFFICER,
(Male) MANSEHRA

Endst: No.19810-30/file No./CT/sacked Apptt:/2017/dated Mansehra the
14/11/2017



10

APPOINTMENT

In pursuance of Khyber Pakhtunkhwa Sacked Employees (Appointment) 2012 and Judgement passed by Honorable Peshawar High Court Abbottabad Bench Abbottabad, in Consolidate Judgment Vile 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 RPS-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 Manselhra	GMS Sachan Kalan Manselhra
2.	M.Siddique	M.Shareen	07-02-1968	New Darband The Oghi Distt: Manselhra	GMS Darband Manselhra
3.	Abdullah Khan	Abdul Akbar Khan	06-06-1968	VPO Baffa Manselhra	GMS Nasir Abad Manselhra
4.	MUJIB UR REHMAN	AZIZ UR REHMAN	21-05-1969	VPO Baffa Manselhra	GMS Kralika Manselhra
5.	Salibzada M. Idrees Gul	Salib Zada Ali Ahmed	15-06-1969	VPO Baffa Manselhra	GMS Nanaha
6.	Shah Nawaz	Khalid ur Rehman	02-08-1970	VPO New Darband The Oghi Distt: Manselhra	GMS Nara Doga Manselhra
7.	MALIK AZHAR HAFEEZ	MUHAMMAD HAFEEZ	01-02-1972	Village Bherkund Manselhra	GMS Bherkund
8.	Mukhtar Ahmed	M.Yosuf	13-03-1972	Village Kangali P/O Shergaur The Oghi Distt: Manselhra	GMS Data
9.	Fazal Rabbi	Gohar Aman	25-05-1972	VPO Baffa Manselhra	GMS Ilangai Manselhra
10.	SABIR ALI	FIDA MUHAMMAD	01-04-1973	VPO New Darband The Oghi Distt: Manselhra	GMS Shanaya Manselhra
11.	Fariq Amanan	Abdul Manan	01-04-1973	VPO Lassan Nawab Manselhra	GMS Sawan Mera Manselhra
12.	M.Arshid	M.Yaqoob	12-04-1974	Village Khail Trappi Manselhra	GMS Gurwal Manselhra
13.	Nisar Ahmed	Syed Akbar	01-04-1969	Village Ramkot P/O Shergaur The: Oghi Distt: Manselhra	GMS Thalhi Klurd Manselhra
14.	Meraj Ali	Umer Daraz	01-03-1975	Village Maloga The Oghi Dist Manselhra	GMS Bagrian Manselhra
15.	ISHFAQ AHMED	AZIZ UR REHMAN	03-04-1970	Village Bedadi The: & Distt: Manselhra	GMS Karmong Bala Manselhra

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 belong.
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.

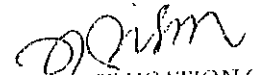
- 7. Their Appointment is subject to the condition that the certificates/documents must be verified from the concerned authorities by the DEO. Anyone found producing bogus Certificate will be reported to the law enforcing agencies for further action.
- 8. Their services are liable to termination on one 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 Apptl/2017/Dated Mansehra the 14/11 2017

Copy forwarded for information and necessary action to the: -

- 1. Registrar Honorable 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

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) MANSEHRA
CORRIGENDUM

12

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 Nanoha	GHS Shinklari	A/V Post
4.	Mujeeb ur Rehman CT	GHS Kolika	GHSS Baffa	A/V Post
5.	Muhammad Aslam J/C	GHSS Jalgali	GHS Khambian Bala	A/V Post

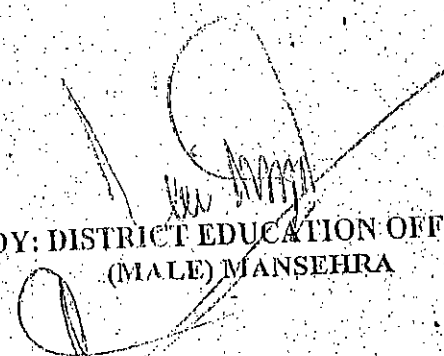
Note:-

1. Charge report should be submitted to all concerned.
2. No TA/DA allowed.

Sd/-
DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

Endst: No 20535-41 / Estt : (M) Dated Mansehra 30/11 /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.


DY: DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

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

Name of Official Muqeet ur Rehman
Father Name Aziz ur Rehman
Date of Birth 21-05-1969
Caste of Race QWATI
Address Mohallah Dhedyari Ra Eto Khurd
Tehsil Mansehra District Mansehra
Exact height by measurement " 5. 10 "
Personal mark of Identification NIL
National Identity Card No. 135030-560516-7
Signature of Official [Signature]
Signature of head of Office _____

Seal of Office

I do hereby certify that I have examined Mr. Muqeet ur Rehman
Employment in the office of the Education Department KDK

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 above. His age according to his own statement is 48 years and by appearance.

محمد الرحمان

E
14

GOVERNMENT OF KHYBER PAKHTUNKHWA PESHAWAR

CERTIFICATE OF TRANSFER OR CHARGE

1. In Pursuance of District Education Officer (M) Manshera of order Endst;No.20535-41 Dated 30-11-2017 and corrigendum Endst;No.20535-41 dated 30-11-2017. Mr. Mujeeb Ur Rehman, B:PS,15) is hereby relinquished taken over charge against the Vacant post's of CT at GHSS Baffa (A/N) of today dated 11-11-2017.

Station: GHSS Baffa

Dated: 11/11/2017 (A.N)

Endst: 667 70

Copy to:-

Signature of relieved *Mujeeb Ur Rehman*

Government Designation *CT*

Signature of receiving

Government Servant *(M)*

Designation..... *CT*

Dated Manshera the 30 / 11 / 2017.

1. The Director (E&SE) Education Khyber Pakhtunkhwa Peshawar.
2. The District Accounts Officer Manshera.
3. The District Education Officer Manshera.
5. The Office record copy.

Q.A.Rehman

Principal

(Signature)
 Principal
 Government Servant
 Designation.....

To,

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

F

(15)

**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


MUJEEB UR REHMAN, CT
GHSS Baffa, District Mansehra

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2021

Mujeeb us Rehman

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Edu: Dept:

(RESPONDENT)
(DEFENDANT)

I/We Mujeeb us Rehman

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

Mujeeb

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

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR
CAMP COURT ABBOTTABAD.

Service Appeal No.1621/2021

Mujeeb Ur RehmanAPPELLANT.


VERSUS

- 5. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education KPK Peshawar.
- 6. Secretary Finance department KPK Peshawar.
- 7. Director Elementary & Secondary Education Department KPK Peshawar.
- 8. District Education Officer (Male) Mansehra.....RESPONDENTS.

PARA WISE COMMENTS/WRITTEN REPLY ON BEHALF OF RESPONDENTS
No.1, 3 & 4 AS UNDER:-

INDEX

S.No	Description of documents	of	Annexure	Pages
1.	Comments Respondents	of		1-3
2.	Affidavit			4
4	Copy of the Judgement dated 20/02/2019		A	5-7


 DISTRICT EDUCATION OFFICER
 (MALE) MANSEHRA

①

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR
CAMP COURT ABBOTTABAD.

Service Appeal No.1621/2021

Mujeeb Ur RehmanAPPELLANT.

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 and locus standi.
2. That the appellant has concealed material facts from his Honorable Tribunal.
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 any relief 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 Pakhtunkhwa Sacked Employee (Appointment) Act, 2012. **Under section 5, wherein sacked Employee shall not be entitled to claim seniority and other back benefits. A sacked Employee appointment under section 3, shall not be entitled any claim seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.** Hence bound by Law.

FACTUAL OBJECTIONS.

1. Para No.1 is correct to the extent that the appellant was appointed as CT at GHS Kari Plain, Haripur vide this Office Endst: No. 20364-73 dated 27-08-1995, and later on it was observed that was contrary to law and policy, then declare illegal and appellant was terminated on 26/6/1997, after the promulgation of Sacked Employee 2012 (Appointment) Act the appellant was reappointed at GHSS Baffa Mansehra vide Endst: No. 19810-30 dated 14/11/2017, which was amended by this office Endst: No. 20535-

2

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 correct to the extent that the Govt of the Khyber Pakhtunkhwa after the promulgated of Sacked Employee (Appointment) Act 2012, whereas the remaining para is incorrect.
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 Act, 2012, inter-alia, on the following grounds.


GROUNDS:-

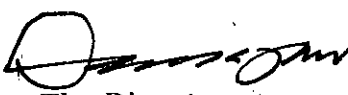
- a. Para a is incorrect whereas as per *Sacked Employee (Appointment) Act, 2012, under section 5, sacked Employee shall not be entitled to claim seniority and other back benefits: A sacked employee appointment under section 3, shall not be entitled to claim seniority, promotion or other back benefits 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.


- 3
- e. Para E is Incorrect whereas according to the Sacked Employee (Appointment) Act, 2012 he was not entitled for any kind of back benefit / 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,
(Male) Mansehra

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BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR
CAMP COURT ABBOTTABAD.

Service Appeal No.1621/2021

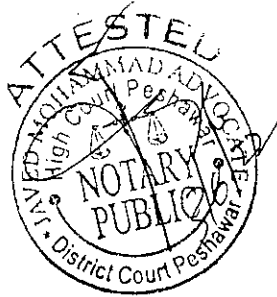
Mujeeb Ur RehmanAPPELLANT.

VERSUS

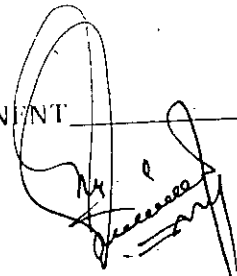
1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education KPK Peshawar.
2. Secretary Finance department KPK Peshawar.
3. Director Elementary & Secondary Education Department KPK Peshawar.
4. District Education Officer (Male) Mansehra.....RESPONDENTS

AFFIDAVIT

I, Muhammad Toseef, Assistant District Education officer (M) Mansehra do; hereby solemnly affirm and declare that the Para wise comments of the Service Appeal No.1621/2021 titled Mujeeb Ur Rehman versus Govt, is true to the best of my conviction and belief and nothing has been concealed from this Honourable Court.



DEPONENT


DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA.

(5)

(6) 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

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 13.02.97.
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

A

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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.m 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"

APPEALS
SECTION

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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 Volumes 1600
 Copying Fee 10/-
 Urgent -
 Total 10/-
 Name of Copyist [Signature]
 Date of Completion of Copy 15-5-19
 Date of Delivery of Copy 15-5-19

[Signature]
 Central Library
 Camp Court Abbottabad
 2019