

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Svc Appeal No. 1469 /2019

Saifullah Jan.....Appellant

VERSUS

Govt. of KP and others.....Respondents

I N D E X

S.No.	Description of documents.	Annexure	Pages.
1.	Memo of appeal		1-6
2.	Affidavit.		7
3.	Addresses of the parties.		8
4.	Application for condonation of delay.		9
5.	Copies of testimonial <i>Annual report</i>	A	10
6.	Copy of <i>appointment order</i>	B	11-12
7.	Copy of appointment notification	C	13-15
8.	Copy of application	D	16-18
9.	Copy of letter/verification	E	19-20
10.	Copy of letter dated 23-10-2018	F	21
11.	Copy of order/judgment	G	22-23
12.	Copy of necessary documents	H	24-32
13.	Wakalatnama.		33

Through

M. Arif Jan
Appellant

Muhammad Arif Jan

Advocate, Peshawar

Off: 210, Al-Mumtaz Plaza

Hashtnagri Stop, G.T Road,
Peshawar

Cell: 0333-2212213

Dated: . .2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Svc Appeal No. 1469 /2019

Diary No. 1540

Dated 24/11/2019

Saifullah Jan Librarian at Govt. Degree College Domail Bannu
S/o Huma Gul R/o Papra Nawab Koorna Tangi Road Tehsil and
District Charsadda.....Appellant

VERSUS

1. Government of KPK through its Chief Secretary,
Civil Secretariat, Peshawar.
2. The Secretary Health Govt. of KPK,
Civil Secretariat, Peshawar.
3. The Secretary Finance Department,
Civil Secretariat, Peshawar.
4. Secretary to Govt. of Khyber Pakhtunkhwa
Higher Education Archives and Libraries Dept. Peshawar.
5. Director to Govt. of Khyber Pakhtunkhwa Higher
Education Archives and Libraries Dept. Peshawar.
- ✓ 6. Principal/Dean Bannu Medical College, Bannu.
7. Principal Govt. Degree College, Domail, Bannu.

Filed to-day

(Signature)
Registrar

4/11/19

..... Respondents

Appeal under section 4 of Khyber Pakhtunkhwa Service
Tribunal Act, 1974.

Prayer in appeal

On acceptance of the instant appeal, the impugned notification
the impugned notification dated 23-10-2018 and the notification
dated 19-05-2011 wherein the appointment of the appellant

2

have been shown with immediate effect instead of from the date of acquiring M.L.I.Sc Degree may graciously be set aside and the respondents may kindly be directed to consider the appellant Librarian post BPS-17 from the date of 29th September, 2008 on the basis of master degree or date of appointment which ever is later along with all back benefit.

Further the appellant may also be provided seniority as Librarian BPS-17 since 29th September, 2008 instead of May, 2011.

Respectfully Sheweth:

The appellant humbly submits as under:-

1. That the appellant is the permanent resident of Papra Nawab Koorna Tangi Road Tehsil and District Charsadda and presently serving as Librarian in the office of respondent No-7.
2. That the appellant is equipped with the qualification of Master of Library and Information Sciences (M L I SC) since 29 Sep, 2008. (Copies of testimonial are attached as ANNEX-A).
3. That the appellant had been appointed as Cataloguer BPS-16 through Public Service Commission vide notification No.3048-52/personnel dated 12/04/2008. (Copy of appointment order is attached as ANNEX- B).
4. The appellant submitted his arrival report and joined the duties on 15/04/2008 and meanwhile the post of Cataloguer had been upgraded by the then competent authority Health Department to BPS-17 and re-designated the post of Cataloguer as Librarian on the basis of holding master degree in Library and Information Science.
5. That the post of Librarian was advertised by the Public Service Commission KP and the appellant after fulfilling all

3

the coddle formalities applied through proper channel and once again appointed by the public service commission as Librarian BPS-17 in Higher Education Department vide notification/order dated 19th May, 2011. (Copy of appointment notification is attached as ANNEX-C).

6. The appellant has been relieved by respondent No-7 and then the petitioner joined the post Librarian BPS-17.
7. The appellant has applied for revision of Pay slip and other benefits as granted to the other Librarians through a written application before respondent No-6.(Copy of application is attached as ANNEX-D).
8. That in the compliance to the letter/ application, respondent No-6 sent a letter to the Registrar of Examination Peshawar University for verification of appellant's Master Degree to fulfill the requirements which was dully verified and found correct and genuine. (Copy of letter/verification is attached as ANNEX-E).
9. That the respondents issued a revise pay slip to the appellant with immediate effect instead of acquiring Master Degree which was allowed and extended to all other similar placed Librarians.
10. That the appellant was served with a letter of regret dated 23-10-2018 by respondent No-2. (Copy of letter dated 23-10-2018 is attached as ANNEX-F).
11. That the appellant being aggrieved and having no other efficacious remedies except to approaches ~~the~~ Hon'ble Court Peshawar bench Bannu through Wp No-319/2018 but the

same was withdrawn to avail proper remedy before this Hon'ble Tribunal, hence the instant appeal of the following amongst other grounds. (Copy of order/judgment of high court is attached as ANNEX-G).

GROUNDS

- A. That the letter dated 23-10-2018 issued by respondent No-2 (hereinafter impugned) and further the act, commission and omission of the respondents by way of depriving the appellant from his legal and lawful right of service and service benefits is patently illegal, unlawful, without lawful authority, of no legal effect, based on malafide and discrimination, hence the respondents be directed to act in accordance with law and the appellant be provided his lawful right of service benefits as the other Librarians are enjoying the same relief/ benefit since acquiring from their Master Degrees and from date of their appointment too.
- B. That the appellant had qualified M L ISc degree prior to the appointment as Librarian BPS-16 and is eligible to be promoted against the upgraded post of librarian BPS-17 from the date of his initial appointment.
- C. That the impugned notification is against the norms of natural justice as the respondents badly failed to follow the precedents of the august Supreme Court of Pakistan passed in various such like cases.
- D. That the impugned notification is based on colorful exercise of powers and malafide for extraneous consideration.

5

- E. That the respondents are bound under the Law to follow the law, rules and regulation governing the subject matter, but in the present case, the respondent intentionally deprived and ignored the appellant from his legal and lawful right without any good excuse thus the act of the respondents invites consideration of this Hon'ble Tribunal.
- F. That on 4th may 2017, the Govt. of Khyber Pakhtunkhwa Health Department has granted librarian post BPS-17 to Miss Asma Mustafa w.e.f 21/11/2009 i.e from the appointing on account of holding her Master Degree but the present appellant was not only discriminated but was also not treated in accordance with Law despite the fact of the same was brought into the knowledge of respondents through application of the appellant. (Copies of necessary documents are attached as ANNEX-H).
- G. That on the subject matter, the august Supreme Court of Pakistan issued the guideline and laid down principles of equal treatment which is evident from the reported Judgment "2009 SCMR-Page-1" but even then the respondents by misusing the authority, intentionally deprived the appellant for the reason that he has not asked for the same earlier.
- H. That the appellant is/was entitled for the said relief but due the mala-fide acts of the respondents, the appellant is not only deprived from the benefits but also loose the seniority too and this act of the respondents is amounts to abuse of Law.
- I. That the appellant did passed his Mater Degree well before the notification and then through proper channel,

6

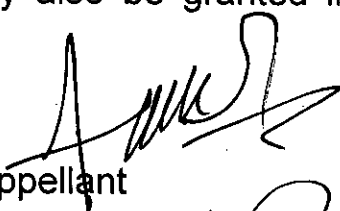
the joined the post of Librarian but the other Librarian extended the same benefit and the appellant has been ignored thus the act of the respondents based on discrimination.

J. That any other ground which has not been mentioned may also be permitted to rise at the time of hearing.


It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned notification the impugned notification dated 23-10-2018 and the notification dated 19-05-2011 wherein the appointment of the appellant have been shown with immediate effect instead of from the date of acquiring M.L.I.Sc Degree may graciously be set aside and the respondents may kindly be directed to consider the appellant Librarian post BPS-17 from the date of 29th September, 2008 on the basis of master degree or date of appointment which over is later along with all back benefit.

Further the appellant may also be provided seniority as Librarian BPS-17 since 29th September, 2008 instead of May, 2011.

Any other remedy which this August Court deems fit and not specifically prayed for, that may also be granted in favour of appellant.



Appellant

Through: 

(Muhammad Arif Jan)
Advocate, Peshawar.

Dated: . . .2019

(7)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Svc Appeal No. _____/2019

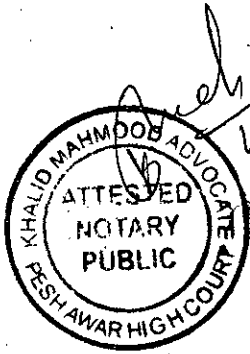
Saifullah Jan.....Appellant

VERSUS

Govt. of KP and others.....Respondents

AFFIDAVIT

I Saifullah Jan Librarian at Govt. Degree College DomailBannu
S/o HumaGul R/o PapraNawabKoornaTangi Road Tehsil and
District Charsadda do hereby solemnly affirm and declare on
oath that the contents of the accompanying appeal are true and
correct to the best of my knowledge and belief.



DEPONENT

4-11-19
CNIC No- 17101-9293231-3

0332 9241357

8

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Svc Appeal No. _____/2019

Saifullah Jan.....Appellant

VERSUS

Govt. of KP and others.....Respondents

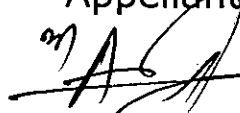
ADDRESSES OF THE PARTIES

APPELLANT:

Saifullah Jan Librarian at Govt. Degree College Domail Bannu
S/o Huma Gul R/o Papra Nawab Koorna Tangi Road Tehsil and
District Charsadda

RESPONDENTS:

1. Government of KPK through its Chief Secretary, Civil Secretariat, Peshawar.
2. The Secretary Health Govt. of KPK, Civil Secretariat, Peshawar.
3. The Secretary Finance Department, Civil Secretariat, Peshawar.
4. Secretary to Govt. of Khyber, Pakhtunkhwa Higher Education Archives and Libraries Dept. Peshawar.
5. Director to Govt. of Khyber Pakhtunkhwa Higher Education Archives and Libraries Dept. Peshawar.
6. Principal/Dean Bannu Medical College, Bannu.
7. Principal Govt. Degree College, Domail, Bannu.

Through Appellant

Muhammad Arif Jan
Advocate, High Court

9

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Svc Appeal No. _____/2019

Saifullah Jan.....Appellant

VERSUS

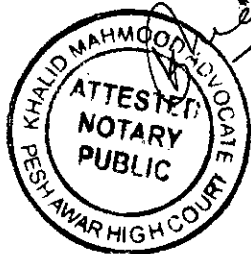
Govt. of KP and others.....Respondents

APPLICATION FOR CONDONATION OF DELAY IF ANY

Respectfully Sheweth;

1. That the appellant is going to file the titled appeal alongwith the instant application.
2. That the appellant/petitioner rightly challenge and asked for to redressed the grievances mentioned in main appeal however the respondents knowingly the admitted facts for which the petitioner/appellant is/was entitled in all respect was deprived/denied. The matter in hand is of recurring cause of action hence the delay if any may be condoned.
3. That there is no legal bar to file the instant application.

It is, therefore, most humbly prayed that the delay if any may graciously be condoned.



Through

Petitioner/Appellant

Muhammad Arif Jan
Advocate, Peshawar

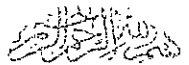
AFFIDAVIT

I do hereby solemnly affirm and declare on oath that the contents of the petition are true and correct to the best of my knowledge and belief.

Deponent

10

Amex - A



University of Peshawar (Pakistan)

Session - ANNUAL 2007

SAIF ULLAH JAN SON of HUMA GUL

of the Department of Library and Information Science having passed the prescribed
held in JUNE, 2008 is this day admitted by the University of Peshawar
to the Degree of

Master of Library & Information Science

in the First Division

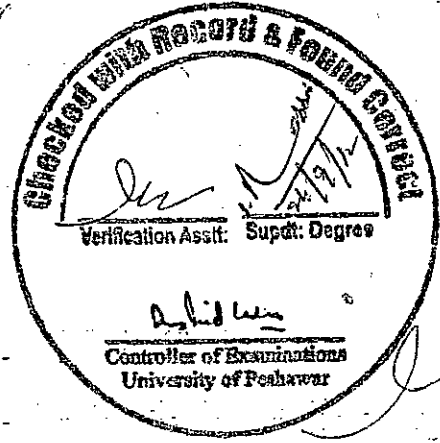
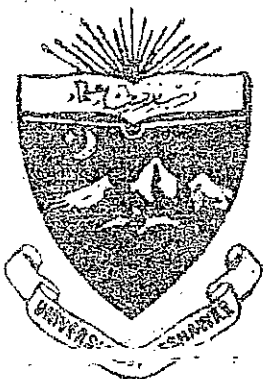
The examination was taken as a whole / in parts

000891

2014-04-221
402

20th Sep, 2008

Muhammad
Zaman



Registrar

Countersigned
Vice-Chancellor

ATTESTED

Recd
of
etc

(11)



Amer (B)

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
CERTIFICATE OF TRANSFER OF CHARGE

1. Certified that I, Saifullah Jan have this day Fore noon/after noon assumed charge of the office of Cataloguer BPS-16 Bannu Medical College Bannu with reference to the order of the N.W.F.P Government No SOH-I/BMC/2007 Dated 15/04/2008.

2. Particulars of cash and important/secret/confidential documents handed over/ taken are noted on the reverse.

Station: Bannu

Dated: 15-4-2008

Signature of relieved
Government Servant _____
Designation _____

Signature of Government
Servant receiving charge _____
Designation Administrator
Cataloguer

Dated 15-04-08

Ends: No. _____

1. Secretary to Govt. of NWFP, Health Department NWFP Peshawar
2. The Accountant General NWFP Peshawar
3. Director General Health Services NWFP Peshawar
4. District Accounts Officer Bannu
5. SAS Accountant Bannu Medical College Bannu
6. Incharge Establishment Section Bannu Medical College Bannu
7. P/file of officer concerned

(PROF: DR. OMER ALI KHAN)
PRINCIPAL
BANNU MEDICAL COLLEGE BANNU

Attested
ATTESTED

12

OFFICE ORDER

GOVERNMENT OF NWFP, PESHAWAR

On the recommendation of the NWFP Public Service Commission, the Competent Authority is pleased to offer a post of Cauldger (BPS-16) to Mr. Saif Ullah, S/O Huma Gul House No.836, Mohallah Papara Nawab Korona Sector-II Charzadda, on the following terms and conditions :-

1. He will get pay at the minimum of BPS-16 including usual allowances as admissible under the rules. He will also be entitled to annual increment as per existing policy.
2. He shall be governed by the NWFP Civil Servants Act 1973 and all the laws applicable to the Civil Servants and Rules made there-under
3. He shall, for all intents and purposes, be civil servant except for purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him towards contributory provident fund (CPF) alongwith the contributions made by Government to his account in the said fund, in the prescribed manner.
4. His employment in the Bannu Medical College, Bannu is purely temporary and his services are liable to be terminated without assigning any reason at fourteen (14) days notice or on the payment of 14 days salary in lieu of the notice. In case he wishes to resign, at any time, 14 days notice will be necessary or in lieu thereof 14 days pay will be forfeited.
5. He shall, initially, be on probation for a period of two years extendable upto 3 years.
6. He shall produce a medical certificate of fitness from Medical Superintendent, Civil Hospital, Peshawar before reporting himself for duty, as required under the rules.
7. He has to join duty at his own expenses.
8. If he accepts the post on these conditions, he should report for duty to the Principal Bannu Medical College, Bannu within 14 days of the receipt of this offer and produce original certificate in connection with his qualifications, domicile and age.

XXXXXXXXX
DIRECTOR GENERAL HEALTH SERVICES, NWFP, PESHAWAR

No. 3048-52 Personnel

Dated Pesh: the 12 /04/2008

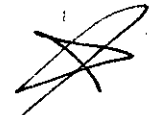
Copy forwarded to the :-

1. Secretary to Govt. of NWFP, Health Department Peshawar w/r to his letter No SOH-II, 258/08 (Saif Ullah) dated 37/03/08
2. Principal Bannu Medical College, Bannu.
3. D.A.O Bannu.
4. Official concerned.
5. P.A to D.G.H.S NWFP Peshawar.

For information and necessary action

(DR. SAIF ULLAH)
DIRECTOR GENERAL HEALTH SERVICES, NWFP, PESHAWAR

ATTESTED





(13) (41) Amex-C

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT
Dated Peshawar the May 19, 2014**

NOTIFICATION

NO. SO/ASL/HE/17-2/2010. In consequence upon the recommendations of the Khyber Pakhtunkhwa Public Services Commission, the Competent Authority is pleased to appoint the following Librarians (B-17) in Higher Education Department, Khyber Pakhtunkhwa and to adjust them at colleges mentioned against each with immediate effect.

S.No	Name with Father's Name and Address	Posted at	Remarks
1.	Mr. Iqbal Ullah S/O Mahabul Khan Postal Address:- Tehsil 6 District Peshawar Village: S. P.O. Tamab Fami Mullah Sahdan	GDC Ahmad Abad (Karak)	Against vacant post
2.	Mr. Qasim Zeb S/O Muhammad Sultan Postal Address:- Village Mousa Maina P.O. Darga District Malakand Permanent Address:- University of Malakand Ghakdara Dir (Lower)	GDC Aqur, Shangla	do
3.	Mr. Saifullah Jan S/O Huma Gul P.O. Nawab Korona Tangi Road, Tehsil & District Charsadda	GDC No. 2 Bannu	do
4.	Mr. Naved Hussain S/O Aziz ur Rehman Alladand Dhen Mohallah Nazari Khyal Tehsil Bajkela District Malakand	GDC Agra (Malakand Agency)	do
5.	Mr. Tahin Ullah S/O Watan Khan Postal Address:- Tahin Ullah, C/O Kifayat Ali Clerk Registrar Setup NWFP Agricultural University, Peshawar Permanent Address:- Village Regl. Mohallah Afizai, Tehsil and District Peshawar	GDC K.D.A Kohat	do
6.	Mr. Mohammad Ali S/O Khan Wazir Postal Address:- Master Sikandar Khair house, Mohallah Gula Khel, Bahzad Chakkar Kohat Permanent Address:- Tehsil and District Kohat, Village and Post Office Bari	GDC Gumbal, Kohat	do
7.	Mr. Sajida Ullah Jan S/O Hidayat Ullah Mohallah Mirzagan Tehsil and District Charsadda	GDC Darbana Manselva	do
8.	Mr. Aftab Hussain S/O Afzal Aman Postal Address:- Department of Library Information Science University of Peshawar Permanent Address:- Village Bontol Kishor P/O Kishor Teh. & District Chitral	GDC Chitral	do
9.	Mr. Sajid Ullah S/O Saifullah (late) Postal Address:- C/O Sajid Ullah Librarian Qurtaba University of Science & Information Technology Phase 3 Hayalabad Permanent Address:- Village Wali Abad (Raja Abad) P/O Sardhan Distt. Charsadda	GDC Banda Daud Shah Karak	do
10.	Mr. Sadaqat Ullah S/O Shafiqullah Postal Address:- Village and Post Office Regl. Moh. Afizai District and Tehsil Peshawar Permanent Address:- Village Regl. Moh. Afizai Tehsil and District Peshawar	GDC Qomall Bannu	do
11.	Mr. Iqbal Ullah S/O Hakim Shah, Mohallah Panay Village Shahbandi P/O and Teh Daggar District Buner	GDC Rura, Shangla	do
12.	Mr. Mudassar Shah S/O Zamrud Shah Village Post Office and Tehsil Tangi (Gulbagh) District Charsadda	GDC Shehwan, Abbottabad	do
13.	Mr. Hafiz Basraj Gul S/O Sahib Gul Permanent Address:- Shahi Kalal (P/O) Tamab Charsadda	GDC Takhi, Nusrati Karak	Against vacant post

DESPATCHED
 Govt. of NWFP
 Higher Education Deptt.

RECEIVED

14	Jamil Khan S/O Sali, Malak, Peshawar, Address: Vill. Kunj, P.O. Kallang, Tehsil Malak, District Peshawar	GDC Kulachi, Oliy Khan	do
15	Baqir Ahmad S/O Faqir Mohammad, Peshawar, Address: Moulana Saad Town, (Old Wazir Abad), Kaka Marvat City	GDC Zaida (Swabi)	do
16	Shahid Ahmad S/O Shah Smd, Address: Mandala, Minagan, Village, P.O. B. Tahsil, District Swabi	GDC Baran	do
17	Ihsan Ullah Khan S/O Amir Khan, Atfiroz, Village, S.P.O. Chagnik, Malak, Tehsil & District Peshawar	GDC Ghazi, Haripur	do
18	Roshan Khan S/O Ali, Khan, Address: Mahallah, Aziz, Abad, Vill. S.P.O. Malik, Abad, (Gandor), Tehsil Top, District Swabi	GDC Baran, Township	do
19	Shahid Khan S/O Wako Khan, Address: Village, P.O. Chaghan, Malak, Tehsil & District Peshawar	GDC Baran, Township	do

- The appointment of the candidates mentioned at S.No.01-19 above will be subject to the following terms and conditions:
- (i) 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.
 - (ii) They will have all rights & privileges contained in Khyber Pakhtunkhwa Civil Servants Act, 1973 with all amendments made therein including Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2005 and Rules made there under.
 - (iii) In case of resignation, the officers will have to give one month prior notice. In absence of such notice their one month's pay shall be forfeited to Government.
 - (iv) The appointees must join their posts within 30 days of the issue of this Notification. The Director, Higher Education, Khyber Pakhtunkhwa Peshawar must furnish a certificate to the effect that the appointees have joined the post or otherwise after one month of the issue of this Notification, failing which their candidatures will expire automatically and no subsequent appeal etc. shall be entertained.
 - (v) In case of disciplinary matters, Khyber Pakhtunkhwa Civil Servants Act, 1973 and Khyber Pakhtunkhwa Civil Servants Removal from Service (Special Powers) Ordinance, 2000 shall be applicable.
 - (vi) They will be governed by such rules and regulations as may be issued from time to time by the Government.
 - (vii) They will be on probation for a period of two years extendable up to three years.
 - (viii) Their services can be terminated at any time in case their performance is found unsatisfactory during probationary period.
 - (ix) Charge report should be submitted to all concerned.
 - (x) They will not be entitled to any TADA on their first appointment as Librarian.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Ends Number & date even.

- Copy to:
- 1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
 - 2. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar w/r to his letter No 395 dated 6-1-2011. Original applications along with its enclosures received from Public Service Commission are also attached for record.
 - 3. Director, Education, PATA, Warsak Road, Peshawar.
 - 4. Deputy Secretary-II, Khyber Pakhtunkhwa Public Service Commission, 21 Fort Road, Peshawar, Canil w/r to his letter No 50/37 dated 15-10-2010.
 - 5. District Accounts Officer concerned.
 - 6. Principals of the Govt. Colleges concerned.
 - 7. Deputy Director (I), Planning Cell, Higher Education Department.
 - 8. P.S. to Minister, Higher Education, Khyber Pakhtunkhwa, Peshawar.
 - 9. P.S. to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
 - 10. P.S. to Secretary, Higher Education Department, Peshawar.
 - 11. Officer concerned.

SECTION OFFICER (A&L)

ATTESTED

[Signature]

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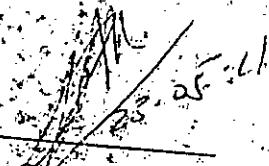
**GOVERNMENT OF KHYBER PAKHTUNKHWA
CERTIFICATE OF TRANSFER OF CHARGE**

Certified that I, Saifullah Jan, Cataloguer (EPS-16) have this day 23rd May 2011 (afternoon) relinquished the charge of the post of Cataloguer (BPS-16) Bannu Medical College, Bannu with reference to the Government of Khyber Pakhtunkhwa Higher Education Archives & Libraries Department Notification No. Sp (A&L) HE/17-2/2010 dated 19/05/2011.

Station: Bannu

Dated: 23 /05 /2011(A.N)

Signature of the relieved Officer



Saifullah Jan
Cataloguer (BPS-16)

Signature of the relieving Officer

No. **3232-40** Est/BMC/2011

Dated: 23 /05 /2011

Copy forwarded to:

- Secretary Health Khyber Pakhtunkhwa Peshawar
- Secretary to Higher Education Archives & Library Khyber Pakhtunkhwa Peshawar
- The Accountant General Khyber Pakhtunkhwa Peshawar
- The DG, Health Services, Khyber Pakhtunkhwa Peshawar
- The District Comptroller of Accounts Bannu
- The Accounts Officer, BMC, Bannu
- Principal, GDC, No-2, Bannu.
- The Officer concerned.
- Personal File.

Principal
Bannu Medical College
Bannu

MAJORS

To
The Dean
Bannu Medical College, Bannu

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16

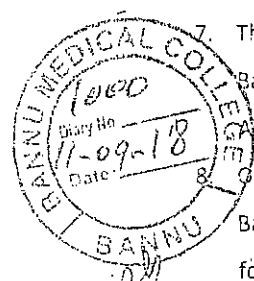
Annex-D

Subject: Allowing BPS -17 as Librarian from the date of acquiring (29th Sep 2008) M.L.I.Sc degree (Master in Library Science), along With all others back benefits.

R/ Sir

Reference to the subject noted above it is most humbly stated:

1. That the applicant had been appointed as Cataloguer (BS-16), on regular basis through Public Service Commission for Bannu Medical College, Bannu on dated 12/04/2008 having notification no. 3048-52/Personal (Copy enclosed)(Annex-A)
2. The applicant had been assumed the charge as Cataloguer at BMC, Bannu on dated 15/04/2008(Annex-B)
3. The Post of Cataloguer has been upgraded by the Competent authority (Health Department), to BPS-17, and redesignated as Librarian(BS-17), on the basis of holding Master Degree in Library Science .(Annex-C)
4. The Post of Librarian had also been upgraded by the then Govt. of N.W.F.P, Higher Education Archives & Libraries Department on the basis of holding Master Degree in Library Science on dated 21/01/2008, notification no. FD (SOSR-II) 10-7/2007. (:Annex-D)
5. The applicant once again appointed by the competent authority (Public Service commission), as Librarian (BS-17), in Higher education Department having notification no. SO(A&L)HE/17-2/2010 dated 19th May 2011(Annex-E)
6. The applicant has been relieved by the then Principal of Bannu Medical College, Bannu to join post of Librarian in Higher Education Department on dated 23/05/2011 (Annex-F)
7. The applicant has been written an application to the then Principal Bannu Medical College, Bannu for the up gradation of Cataloguer post and for the revised pay Slip from the District Account Office Bannu in the light of the notification as provide in para-1 above (Annex-G)
8. On the pursuance of the applicant request as provided in pare-07 above the then Principal Bannu Medical College, Bannu has been written two letter one to Registrar Peshawar University for verification of Master degree of the applicant and second to District Comptroller of Account for issuance of revised Pay Slip of Cataloguer as Librarian in BPS -17 (Annex-H)
9. In the Light of the Letter of the then Principal BMC, Bannu as provided in para-8 the Controller of Examinations University of Peshawar has been issued verified degree of the applicant along with his good official letter having notification no. 389/Degree dated 22/09/2012 (Annex-J).
10. In the Light of the Letter of the then Principal BMC, Bannu as provided in para-8 to the District Controller of Account Bannu revised Pay slip has also been issued to the applicant as Librarian BS-17 (Annex-K).
11. Later on dated 04th May 2017, the competent Authority Govt. of Khyber Pakhtunkhwa Health Department has granted Librarian Post BS-17, to Miss Asma Mustfa w.e.f 21/11/2009 i.e from



Sajid

11/9/18

ATTACHED

the date of her appointed on account of holding Master Degree in Library of Information Sciences, instead of 08/07/2014(Annex-L).

12. The same relief i.e (Librarian BS-17, from the date of acquiring Master Degree in Library Science), has also been granted through notification no. SO(C-IV)/HE/17-2/2012 dated 24th August 2016 to the Librarians in Higher education department (Annex-M).

Therefore it is most humbly prayed that in view of the above, please the applicant case may be forwarded to the quarter concern (Secretary Health), with the request that Librarian post may be granted to the applicant from the date acquiring Master Degree i.e 29th September.2008 along with all others back benefits and oblige.

With regards:


11-9-18
Ex-Librarian
Saifullah Jan Bannu Medical College, Bannu

Attested
ATTESTED




(18)

**OFFICE OF THE DEAN,
BANNU MEDICAL COLLEGE, BANNU**

Phone: 0928-9270356

Fax: 0928-9270358

No. 782 /Estb/ Sec-H /BMC/018

Dated: 17 /09/2018

To,

The Secretary to
Govt. Khyber Pakhtunkhwa,
Health Department,
Peshawar.

Subject:

**ALLOWING BPS-17 AS LIBRARIAN FROM THE DATE OF
ACQUIRING (29TH SEP, 2008) M.L.I.Sc DEGREE (MASTER IN
LIBRARY SCIENCE), ALONG-WITH ALL OTHERS BACK
BENEFITS.**

Enclosed please find herewith self-explanatory application along-
with its enclosure in respect of Mr. Saif Ullah Jan, Ex-Librarian, Bannu
Medical College, Bannu for further necessary action.

Encl: A.A

Dean
Bannu Medical College
Bannu

o/c

Even No. & Date

Copy forwarded to

• Mr. Saif Ullah Jan, Ex-Librarian, BMC, Bannu

Dean
Bannu Medical College
Bannu

o/c

D:/Office Work/Secretary Health / Section: Estb/Sec-H / www.bmcbanu.edu.pk / E-mail: info@bmcbanu.edu.pk

Attested

BS-17 (Annex-K).

11. Later on dated 04th May 2017, the competent Authority Govt. of Khyber Pakhtunkhwa Health Department has granted Librarian Post BS-17, to Miss Asma Mustfa w.e.f 21/11/2009 i.e. from



19
A [] (E)
BANNU MEDICAL COLLEGE, BANNU

Khyber Pakhtunkhwa, Pakistan

Ph: 0928-9270356, Fax: 0928-620857, Exchange: 0928-620858-59

No. 3179

Dated: 6/09/2012

To


The Registrar
Peshawar University Peshawar

Subject: **VERIFICATION OF DEGREE (MLISc)**

Enclosed please find herewith a photocopy of MLISc degree in respect of Mr. Saifullah Jan S/O Huma Gul ex-Cataloger Bannu Medical College Bannu for verification and return the same at the earliest.

Detailed are as under:

Name	Father Name	Designation	Roll No.	Session
Saifullah Jan	Huma Gul	Cataloger	402	2007 Annual


Principal
Bannu Medical College
Bannu

ATTESTED





**CONTROLLER OF EXAMINATIONS
UNIVERSITY OF PESHAWAR
KHYBER PAKHTUNKHWA
PESHAWAR, PAKISTAN**

Phone No. 091-9216721
Extension. 3013, 3017
E-mail: Controller@upesh.edu
Website: www.upesh.edu

No.389/Degrees

To

Dated 22.09.2012

The Principal
Bannu Medical College
Bannu.

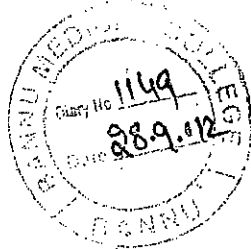
Subject: VERIFICATION OF ACADEMIC DOCUMENTS:
Memo:

With reference to your letter No. 3179 dated 06.09.2012 on the subject cited above, the academic document(s) as referred to this office has/have been checked with the relevant records and the report thereof is given as below:

S. No	Roll No	Exam/Session	Name & Father's name	Status
1	402	MBS MLSC. 2007	Saif Ullah Jan S/O Huma Gul	Verified and Found Correct

Master of Library & Information Science

Asif Ullah
Controller of Examinations
University of Peshawar



VP 878

ATTESTED

[Handwritten signature]

[Handwritten signature]

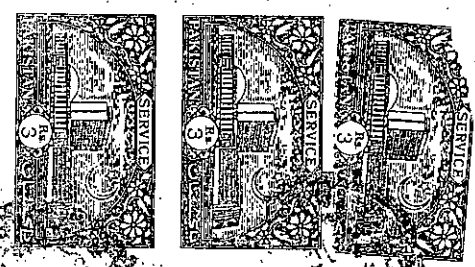
Amr-3 'F' 21



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

No. SOH-III/10-4/2018(Saif Ullah)
Dated the Peshawar 23rd October, 2018

Health Department
Khyber Pakhtunkhwa
Peshawar



The Dean
Bannu Medical College,
Bannu.

SUBJECT: ALLOWING BPS-17 AS LIBRARIAN FROM THE DATE OF ACQUIRING (29TH SEP, 2018) M.L.I.SC DEGREE (MASTER IN LIBRARY SCIENCE) ALOW-WITH ALL OTHERS BACK BENEFITS

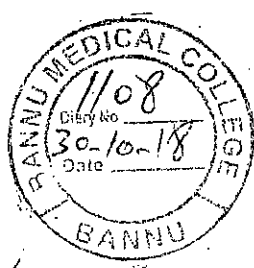
I am directed to refer to your letter No. 782/Estb.Sec-H/BMC/018 dated 17th September, 2018 on the subject noted above in respect of Mr. Saif Ullah Jan, Ex-Librarian, Bannu Medical College, Bannu and to state that the officer concerned has already joined Department of Higher Education and there is no question of granting back benefit on the basis of M.L.I.Sc degree.

[Signature]
Section Officer-III

Copy of even no & date.

Copy forwarded to:-
PS to Secretary Health, Khyber Pakhtunkhwa.

*Copy sent to the
Ex-Librarian
Record file
Amr
30/10*



[Signature]
Section Officer-III

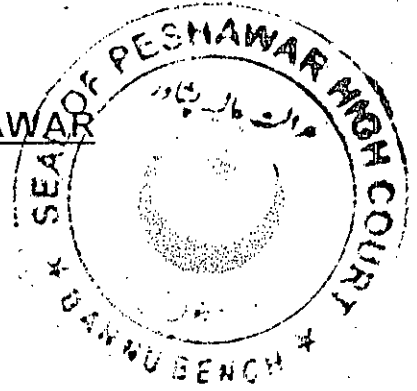
ATTESTED

[Signature]

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Amer G

IN THE PESHAWAR HIGH COURT, PESHAWAR



W.P. No. 319 /2018.

Saifullah Jan Librarian at Govt. Degree College Domail Bannu
S/o Huma Gul R/o Papra Nawab Koorna Tangi Road Tehsil
and District Charsadda.....Petitioner.

VERSUS

1. Government of KPK through its Chief Secretary,
Civil Secretariat, Peshawar.
2. The Secretary Health Govt. of KPK,
Civil Secretariat, Peshawar.
3. The Secretary Finance Department,
Civil Secretariat, Peshawar.
4. Secretary to Govt. of Khyber Pakhtunkhwa
Higher Education Archives and Libraries Dept.
Peshawar.
5. District Comptroller Accounts, Bannu.
6. Director to Govt. of Khyber Pakhtunkhwa Higher
Education Archives and Libraries Dept. Peshawar.
7. Principal/Dean Bannu Medical College, Bannu.
8. Principal Govt. Degree College, Domail, Bannu.

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

.....Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN
1973 AS AMENDED UPTO DATE.

FILED TODAY
Deputy Registrar

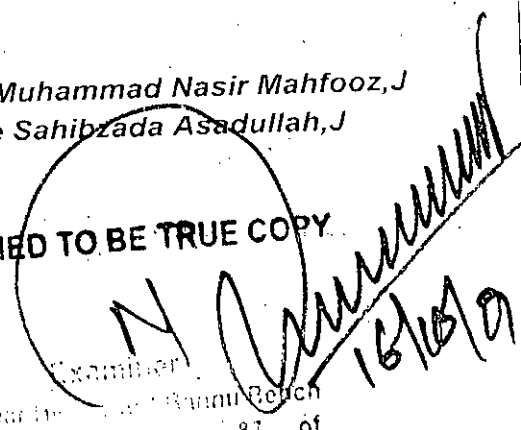
22 DEC 2018

CTC
ZAF

23

PESHAWAR HIGH COURT,
BANNU BENCH

FORM OF ORDER SHEET

Date of order or proceedings (1)	Order or other proceedings with signatures of Judge (s). (2)
09.10.2019	<p><u>W.P No.319-B of 2019</u> <u>Present:-</u></p> <p style="text-align: center;">Petitioner in person. *****</p> <p><u>MUHAMMAD NASIR MAHFOOZ, J.-</u> The petitioner, at the very outset stated that he wants to withdraw the instant petition to avail proper remedy before the service tribunal.</p> <p style="text-align: center;">In view of above, this writ petition is dismissed as withdrawn with permission to avail proper remedy, if so advised.</p> <p><u>Announced.</u> 09.10.2019</p> <p style="text-align: right;">Sd/Justice Muhammad Nasir Mahfooz, J Sd/ Justice Sahibzada Asadullah, J</p> <p style="text-align: center;">CERTIFIED TO BE TRUE COPY.</p> <div style="text-align: center;">  <p>Examiner Peshawar High Court Bannu Bench Authorised Under Section 37 of The Qanun-e-Shahadat Ordinance 1984</p> <p style="text-align: right;">16/10/19</p> </div>

U

6985

NO	_____
Date of Preparation	15-10-19
No of Pages	07 P
Copying Fee	_____
Urgent Fee	_____
Total	14/-
Date of Preparation	16-10-19
Date Given for B	16-10-19
Date of Delivery	16-10-19
Received By	WJ



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Annex-14

(A)

No. KC/FD/SO(FR)/7-3/D/2014/Health Deptt
Dated Peshawar, the 28-04-2017

To

The Secretary to Govt: of Khyber Pakhtunkhwa,
Health Department.

Subject:

APPLICATION FOR GRANT OF BACK BENEFITS OF BPS-17 WITH
EFFECT FROM THE DATE OF APPOINTMENT.

Dear Sir,

I am directed to refer to your letter No.SOH-III/10-4/2016(Miss.Asma Mustafa) dated 13-04-2017 on the subject noted above and to state that in light of the Judgement of Supreme Court of Pakistan as well as precedents in earlier cases, Miss Asma Mustafa Librarian PGMI Peshawar is entitled to be granted BPS-17 from the date of her appointment.

I am, therefore, directed to request that audit copy accordingly may be prepared and sent to this Department for authentication, enabling Finance Department to proceed further.

Yours faithfully,

SECTION OFFICER (FR)

Attested
ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

25

Date: 14/10/2016

49

NOTIFICATION

No. SOH-III/10-4/2016 In pursuance of Government of Khyber Pakhtunkhwa Finance Department letter No. SOH-III/10-4/2016/Health Deptt dated 21-7-2016. Ms. Farah Khan, Lecturer BS-17, PGMI Hayatabad Peshawar is granted BS-17 with effect from 21-11-2009 i.e. from the date of her appointment on account of her holding Master Degree in Library and Information Science, Government of Punjab.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Exec. No. SOH-III/10-4/2016/Health Deptt dated 14/10/2016

Copy is being sent to the concerned authorities for their information and necessary action.

Secretary to Govt
Finance Department

Exec. No. SOH-III/10-4/2016

Dated 14/10/2016

is forwarded to:

- The Secretary to Govt of Khyber Pakhtunkhwa Finance Department
- The Section Officer (R) Govt of Khyber Pakhtunkhwa Finance Department, Peshawar
- The Director General, Health Services, Peshawar
- The Director General, Health Services, Peshawar
- The Director General, Health Services, Peshawar
- The Director General, Health Services, Peshawar
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- The Director General, Health Services, Peshawar
- The Director General, Health Services, Peshawar
- The Director General, Health Services, Peshawar

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Revised LFC

LAST PAY CERTIFICATE

(Handwritten initials)

1. Last Pay Certificate of Mr Saif Ullah Jan Cataliya (BPS-17)
of the Bannu Medical College, Bannu
proceeding to Civilt Degree College, No 2, Bannu

2. He has been paid upto 23-05-2011
as the following rates:—

Particulars:	B Pay	9850/-
Substantive Pay:—	H R	2955/-
Officiating Pay:—	AR 2008	1477/-
Exchange Compensation Allowance:—	M A	1477/-
	AR 2010	4925/-
	TOTAL	20684/-

Deductions:—
As per Govt Rules

3. He made over charge of the Office of Principal Civilt Degree College, No 2
Bannu
on the 24-05-2011 F.N. noon of

4. Recoveries are to be made from the pay of the Government servant as detailed on the reverse.

He has ben paid leave salary as detailed below. Deductions have been made as noted on the reverse:

from _____	to _____	at Rs. _____	a month
from _____	to _____	at Rs. _____	a month
from _____	to _____	at Rs. _____	a month

is entitled to draw the following:—
is also entitled to joining time for _____ days.
details to the Income Tax recovered from him upto the date from the beginning of the _____ cent year are noted on the reverse.

ATTESTED

(Handwritten signature)

Signature: *(Handwritten signature)*

A.T.M.-9

(See Para, 59, Audit Manual)

PAY SLIP

OFFICE OF THE

No. *Mr. Saif ulle Khan C/o G.P.S-17* the *19*

Bannu District College, Bannu

() he is entitled to draw pay and allowance at the monthly rates shown below from the dates specified less already drawn :-

Detail of calculation Revised Pay slip

	From	From	From	From
Substantive pay	<i>12/5/2011</i>			
Officiating pay <i>B-Pay</i>	<i>9850/-</i>			
Overseas pay <i>HR</i>	<i>2955/-</i>			
Special pay <i>MA</i>	<i>1477/-</i>			
Indexed pay <i>AR 2008</i>	<i>1477/-</i>			
<i>AR 2010</i>	<i>4925/-</i>			
Total	<i>20684/-</i>			

As per Rules

P.A.O

ATTACHED

A.T.M.-9

(See Para, 59, Audit Manual)

PAY SLIP

OFFICE OF THE

No. the

() he is entitled to draw the monthly rates shown below from the dates drawn :-

Detail of calculation

	From	From
Substantive pay		
Officiating pay		
Overseas pay		
Special pay		
Indexed pay		
Total		

27

Attention

(Signature)

28



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated. Pesh: the 12th May, 2011.

NOTIFICATION.

No. SOB/HD/3-25/2011/Upgradation On the recommendation made by the Up-gradation Committee and approval of the Competent Authority, sanction of the Govt. of Khyber Pakhtunkhwa, Health Department is hereby accorded to the up-gradation of the posts of Cataloguer from BPS-16 to BPS-17 and its re-designation as Librarian on the basis of holding Master Degree in Library & Information Science, with immediate effect.

~~Budst. No. & Date even.~~

SECRETARY, HEALTH

Copy forwarded for information & necessary action to:

The Accountant General, Khyber Pakhtunkhwa, Peshawar.

(Signature)
SECTION OFFICER (FR)
FINANCE DEPARTMENT

~~Endst. No. & Date even.~~

Copy to the:

1. All Medical Colleges in Khyber Pakhtunkhwa.
2. Section Officer (FR), Finance Department, Govt. of Khyber Pakhtunkhwa, Peshawar with ref: to her letter No. FD/SO(FR)/7-11/2009/Vol.II dated 12.05.2011.
3. P.S. to Secretary, Health, Khyber Pakhtunkhwa, Peshawar.

(Signature)
(JAVED IQBAL)
SECTION OFFICER (B&A-II)

ATTENDED

AUDIT COPY

(Signature)

Said Millat



Government of Khyber Pakhtunkhwa
Industries, Commerce & Technical Education
Department

29

NOTIFICATION

No.SOIII(IND)1-6/2014 In pursuance of the judgement of the Service Tribunal Khyber Pakhtunkhwa dated 10.06.2016, in service appeals No.1339/2011, 1342/2011, 1351/2011 and 152/2011, the competent authority is pleased to allow BPS-17 in respect to petitioners of the Khyber Pakhtunkhwa Technical Education & Vocational Training Authority (KP-TEVTA) with effect from the date of their appointment as given below;

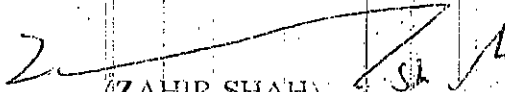
S.No	Name, designation and center	Date of appointment
1.	Mr.Javed Iqbal, Librarian (BS-17) Govt; College of Techology, Swat	11 th August, 1997
2.	Umar Khitab, Librarian (BS-17) Govt; Polytechnic Institute, D.I.Khan	24 th November, 2004
3.	Syed Jamal Shah, Librarian (BS-17) Govt; College of Technology, Tangi	20 th November, 1993
4.	Alamgir Shah, Librarian (BS-17) Govt; Polytechnic Institute, Takht Bhai Mardan	20 th November, 1993

Secretary to Govt. of Khyber Pakhtunkhwa,
Industries, Commerce & Technical Education
Department.

Endst:No.SOIII(IND)1-6/2014 12 396-9 Dated Pesh, the 28th September, 2016

Copy forwarded to:-

1. The Managing Director KP-TEVTA, University Town, Peshawar.
2. The Section Officer (Lit) IC&TE Department Peshawar.
3. The Manager Printing & Stationery Department, Peshawar.
4. The District Accounts Officer, Swat.
5. The District Accounts Officer, D.I.Khan.
6. The District Accounts Officer, Charsadda.
7. The District Accounts Officer, Mardan.
8. The officer concerned.
9. PS to Secretary IC&TE
10. File/office copy.


(ZAHIR SHAH)
SECTION OFFICER-III

28/9
ATTESTED


GOVERNMENT OF N.-W.F.P
HIGHER EDUCATION, ARCHIVES
AND LIBRARIES DEPARTMENT

Dated Peshawar the 29-03-2010

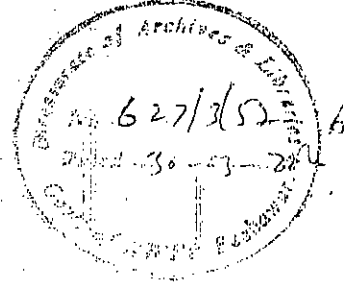
dk/c

30

NOTIFICATION:

No.SO(A&L)HE/17-1/2010/VOL-IV. On the recommendations of Departmental Promotion Committee, the Competent Authority is pleased to promote the following Librarians / Cataloguers (Male/Female) from B-16 to B-17 (regular) of the Directorate of Archives and Libraries NWFP, who hold Master Degrees, against the up-graded posts, with immediate effect:-

- ✓ 1. Mr Muhammad Ashfaq Ahmad,
Librarian, Mardan Public Library, Mardan.
- ✓ 2. Mr Naved Ullah Jan,
Cataloguer, Directorate of Arch & Lib: NWFP.
- ✓ 3. Mr Anwar Jalal,
Librarian, Bannu Public Library, Bannu.
- ✓ 4. Mr Mohammad Nadeem Iqbal,
Librarian, Directorate of Archives, NWFP.
- ✓ 5. Mr Muhammad Rafi,
Librarian, Swat Public Library, Swat.
- ✓ 6. Mr Zair Ullah,
Librarian, Swabi Public Library, Swabi.
- ✓ 7. Miss Shalah Tahir,
Librarian, Directorate of Archives NWFP.
- ✓ 8. Mr Shah Nawaz,
Librarian, Mufti Mahmood Public Library, D.I.Khan.
- ✓ 9. Miss Mahnaz Begum,
Librarian, Directorate of Archives, NWFP.
- ✓ 10. Mr Mir Akbar Shah,
Cataloguer, Directorate of Archives, NWFP.



SECRETARY TO GOVT. OF NWFP
HIGHER EDUCATION, ARCHIVES
AND LIBRARIES DEPARTMENT

EndstNo.SO(A&L)HE/17-1/2010/VOL-IV

Dated Pesh: the 29-03-2010

Copy is forwarded for information & necessary action to the:-

1. Accountant General NWFP.
2. Secretary to Government of NWFP, Finance Department.
3. Secretary to Government of NWFP, Establishment Department.
- ✓ 4. Director Archives and Libraries, NWFP.
5. P.S to Chief Minister NWFP, Peshawar.
6. P.S to Chief Secretary NWFP, Peshawar.
7. P.S to Minister Higher Education NWFP, Peshawar.
8. P.S to Secretary Higher Education Arch: & Lib:, Deptt: NWFP.
9. Director Information, NWFP, Peshawar.
10. District Account Officers concerned in NWFP.
11. PA to Deputy Secretary (Admn), Higher Education Department.
12. PA to Deputy Secretary-II, Higher Education Deptt. NWFP.
13. Officers concerned.
14. Manager Govt. Printing and Stationer Department, NWFP.

ATTESTED

(FAROOQ AHMAD)

SECTION OFFICER (Arch:&Lib:)



**Government of Khyber Pakhtunkhwa
Industries, Commerce & Technical Education
Department**

31

Note for Chief Secretary, Khyber Pakhtunkhwa

Subject: IMPLEMENTATION OF THE JUDGEMENT OF SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA DATED 08.06.2015

The Services Tribunal Khyber Pakhtunkhwa in its decision dated 10.06.2016 directed the respondents to implement the judgement of the Tribunal and come up with compliance on the next date failing which coercive measure in the shape of stoppage of salary and civil imprisonment will be taken into account (Annex-I).

2. Background of the case is that Mr. Javed Iqbal and others filed Service appeals in the Services Tribunal for allowing BPS-17 from the date of acquiring M.L.Sc Degree (Master in Librarian Sciences) or date of their appointment whichever is later along with all other back benefits (Annex-II). The case was decided in favour of the petitioners vide judgement dated 08.06.2015 (Annex-III). The Department forwarded the case to Law Department for advice regarding fitness of CPLA before the Supreme Court of Pakistan or otherwise. The Law Department declared the case fit for filing CPLA before the Supreme Court of Pakistan. However, the Supreme Court of Pakistan dismissed the petition of the Provincial Government vide judgement dated 06.05.2016 (Annex-IV). Names of the appellants and dates of obtaining M.L.Sc degree/appointment are reproduced as under,

S.No	Name	Date of obtaining M.L.C Degree	Date of appointment
1.	Mr. Javed Iqbal, Librarian (BS-17) GCMS, Sangota Swat	24 th September, 1996	1 st August, 1997
2.	Umar Khitab, Librarian (BS-17) GPI, D.I. Khan	23 rd August, 1992	24 th November, 2004
3.	Syed Jamal Shah, Librarian (BS-17) GCT, Tangi	3 rd October, 1993	20 th November, 1993
4.	Alangir Shah, Librarian (BS-17) GPI, Takht Bhai Mardan	23 rd August, 1992	20 th November, 1993

ATTESTED

[Signature]

ICTD-5301

32

3. In order to implement the said decision, the Chief Secretary being competent authority under Rule-4 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989 may accord approval for allowing BPS-17 with effect from the date of their appointment as referred in para 2 above.

4. The Chief Secretary Khyber Pakhtunkhwa is requested to approve proposal contained in Para-3 above please.

ATTESTED
A

Next Page P1

15-9-11

WAKALATNAMA

IN The Khyber Pakhtunkhwa Service
Tribunal Peshawar

Saifullah Jan

(Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

VERSUS

Govt of KP Peshawar

(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

Case SA

corp.

I/We, Saifullah Jan Applicant, do hereby appoint and constitute **Muhammad Arif Jan Advocate** High Court, Peshawar, to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted

CLIENT/S

SAJ

Muhammad Arif Jan
Advocate, High Court, Peshawar.
Office No. 6, 1st Floor
Pabbi Medical Centre, G.T. Road
Peshawar.
Mobile: 0333-2212213

[Signature]



DIRECTORATE OF HIGHER EDUCATION

KHYBER PAKHTUNKHWA

RANO GARHI, NEW CHAMKANI CHOWK, PESHAWAR

Tel # 091-2650024/ Fax # 091-2260181

E-mail:- dhekpkesh@gmail.com Facebook.com/dhekpkeshawar Twitter.com/dhekpkeshawar1

No. DHE/AD (Lit)/SA/ _____ /

Dated Peshawar the 15/7 /2022

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Higher Education Archives & Libraries Department,
Peshawar.

Attention: Section Officer (Litigation)

SUBJECT: - SA # 1469/2019 SAIFULLAH JAN VS GOVT. OF KHYBER PAKHTUNKHWA

Respected Sir,

I am directed to refer to Section Officer (Lit) letter date: 22-03-2022 on the subject noted above and to state that duly signed Parawise Comments were received to this office on 22-03-2022 for onward submission to Khyber Pakhtunkhwa Service Tribunal, Peshawar on next date of hearing i.e 20-06-2022. Representative of this office visited Service Tribunal on the date fixed wherein the Tribunal refused to take comments and said that defense has already been struck off in the instant case. (Copies of all order sheets attached).

Note: Being court matter may be given priority.

Endst: No. 3136-37 /

Copy to;

1. Additional Advocate General, Khyber Pakhtunkhwa Service Tribunal, Peshawar and to enclose herewith copy of Parawise Comments.
2. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar and to enclose herewith copy of Parawise Comments.

Place a relevant file.

Reader.

25/7/2022

(*Lubna Farman*)

Assistant Director (Litigation)

(*Febul*)
1417199
Assistant Director (Litigation)

(1)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR

SERVICE APPEAL NO. 1469/2020

Mr.Saifullah Jan.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa
Through Chief Secretary & others Respondents

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 to 5 & 7

Respectfully Sheweth:-

Preliminary Objections:-

1. That the appellant has got neither cause of action nor locus standi to file the instant Service Appeal.
2. That the Appeal is against the prevailing Law and Rules.
3. That the instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
4. That the Appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
5. That this tribunal lacks jurisdiction to entertain the instant service Appeal.
6. That the Appellant has not come to the Tribunal with clean hands.
7. That the Appeal is badly time-barred.
8. That the matter pertains to up gradation therefore; the Honourable Tribunal has no jurisdiction to adjudicate the matter.
9. That the instant Appeal is ad for mis-joinder of unnecessary and non-joinder of necessary parties.
10. That the instant service appeal is hit by doctrine of laches.

Facts: -

- 1) Pertains to Record.
- 2) Pertains to Record.
- 3) Pertains to Record.
- 4) Pertains to record. However if he was aggrieved from any act of the replying respondents, then why did he not approach proper forum at the time. The conduct of the appellant proved that he was not aggrieved from any action or inaction of the replying respondents therefore not entitled for any such relief at this belated stage.

- (2)
38²
(146)
- 5) Correct to the extent that the appellant was appointed as Librarian BPS-17 on the recommendation of the Khyber Pakhtunkhwa Public Service Commission vide notification dated 19-05-2021 issued by Higher Education Department.
 - 6) Incorrect Respondent No.7 did not relieve the Appellant.
 - 7) Pertains to record.
 - 8) Pertains to record.
 - 9) Pertains to record, however the appellant already stated in Para no. 5 of the facts that he was appointed vide notification dated: 19-05-2011 then how he claimed the benefit w.e.f date of Acquiring master degree i.e 29-09-2008.
 - 10) Pertains to record. However the order/letter dated: 23-10-2018 is in accordance with law/rules and principals of natural justice.
 - 11) Pertains to record, however the instant appeal is badly time barred. As far as pendency of a petition before wrong forum is concerned, the same cannot extend period of limitation therefore, the instant appeal is liable to be dismissed on this ground alone.

Grounds: -

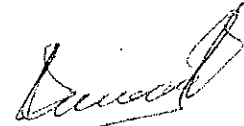
- A. Incorrect. That impugned letter dated: 23-10-2018 is in accordance with Law/Rules, principal of natural justice. It is further to clarify that up gradation on acquiring master degree doesn't come within the jurisdiction of the Honorable Court.
- B. Incorrect. The appellant has been appointed on the recommendation of Public Service Commission as Librarian (BS-17) vide Notification dated: 19-05-2011 which cannot be challenged by the appellant for antedation of appointment, further there is no such Law or Rules which may cover prayer of the appellant. Matters pertains to upgradation/antedate upgradation is beyond the jurisdiction of this Hon'ble Tribunal.
- C. Incorrect, As per Para-A.
- D. Incorrect, As Per Para-A.
- E. Incorrect, the respondents acted as per Law and Rules and principals laid down by apex court.
- F. Incorrect, detailed reply has been given in Para-B, however, the apex court laid down the principle in a judgment reported as 2010 PLC (CS) Supreme Court 924, is that each and every case has different facts and circumstances therefore, each case is to be decided on its own merits.
- G. As per Para A&F.
- H. Incorrect. The appellant is not entitled for the relief under Law and Rules.

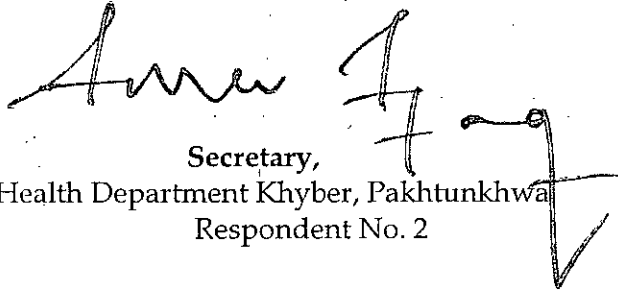
I. Incorrect, as per Paras above.


J. Legal, however the replying respondents also seek permission of this Honorable Tribunal to adduce other grounds during final hearing of the Case.

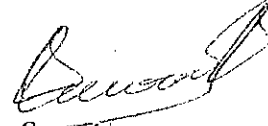
Prayer:-


It is, therefore, humbly prayed that the instant Service Appeal is based on misconception/misstatements hence may graciously be dismissed.

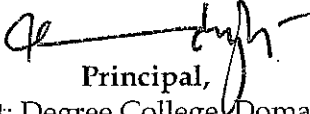

Chief Secretary,
Govt. of Khyber Pakhtunkhwa
Respondent No. 01


Secretary,
Health Department Khyber, Pakhtunkhwa
Respondent No. 2


Secretary,
Finance Department Khyber Pakhtunkhwa
Respondent No. 3


Secretary,
Higher Education Department
Khyber Pakhtunkhwa
Respondent No. 4


Director,
Higher Education Khyber Pakhtunkhwa
Respondent No. 5


Principal,
Govt; Degree College, Domail Bannu
Respondent No. 7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

Appeal No 1469/2019

Saif Ullah JanPetitioner

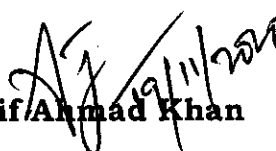
VERSUS

Govt: of KPK Through Chief Secretary Peshawar Respondent

INDEX

S.No	Description Of Documents	Annexure	Pages
1	Para Wise Comments		1-2
2	Authority Letter		3
3	Affidavit		4
4	Acknowledgment		5
5	Wakalat-Nama		6

Dated:04/11/2020


Atif Ahmad Khan
Litigation Officer,
Bannu Medical College,
MTI, Bannu
0334-880-3020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

Appeal No 1469/2019

Saif Ullah JanPetitioner.

VERSUS

Govt: of K.P.K Through Chief Secretary Peshawar Respondent.

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO:6.

RESPECTIVELY SHEWETH:

THE ANSWERING RESPONDENT, MOST HUMBLY SUBMIT, AS UNDER,

PRELIMINARY OBJECTIONS;

1. That the appellant has no cause of action to file the instant appeal.
2. That the appellant has no locus standi to file the instant appeal.
3. That the instant appeal is not maintainable in its present form.
4. That the instant appeal is barred by law.
5. That the appellant has concealed material facts in the instant appeal.
6. That the appellant is estopped by their own conduct.
7. That no vested rights of the appellant were violated.
8. That the appeal of the appellant is not related with respondents no.6. The respondent no 6 is serving under MTI Act 2015, which is according to law an autonomous body. Any civil servant who is not accepting MTI and remains as a civil servant is deemed to be a civil servant.

REPLY OF APPEAL;

1. Para 1 of the appeal has not pertained to defendant no 6.
2. Para 2 of the appeal is not related to respondent no 6.
3. Para 3 of the appeal is Pertain to record.
4. Para 4 of the appeal is correct.
5. Para 5 of the appeal pertain to record, however para 5 of the appeal is not concerned with respondent no 6.
6. Para 6 of the appeal is not concerned with respondent no 6.
7. Para 7 of the appeal is correct.
8. Para 8 of the appeal is correct.
9. Para 9 of the appeal is incorrect.




10. Para 10 of the appeal is not concerned with respondent no 6.

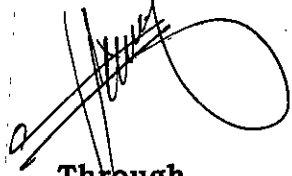
11. Para 11 of the appeal is pertained to record.

REPLY OF GROUNDS

- A.** Para 'A' of the ground of appeal is not related with respondent no 6.
- B.** Para 'B' of the ground of appeal is incorrect. In this regard letter No:SOH-III/10-4/2018(Saifullah) dated 23 Oct 2018 annexure F of the appeal is very much clear in which the government of Khyber Pakhtunkhwa Health department clearly stated that "*the officer concerned has already joined department of Higher Education and there is no question of granting of back benefit on the basis of M.L.I. SC degree*".
- C.** Para 'C' of the ground of appeal is incorrect.
- D.** Para 'D' of the ground of appeal is incorrect.
- E.** Para 'E' of the ground of appeal is correct to the extent that the respondents are bound under the law to follow the law rules and regulations governing the subject matters, rest of the para is incorrect.
- F.** That the case mentioned in para 'F' of the ground of appeal is totally different from the case of appellant.
- G.** Para 'G' of the ground of appeal is not related with respondent no 6.
- H.** Para 'H' of the ground of appeal is incorrect.
- I.** Para 'I' of the ground of appeal is not correct.
- J.** Para 'J' of the ground of appeal is legal one.

Therefore, it is humble prayed that the appeal of appellant please may be dismissed to the extent of respondent no 6 with cost.


Dean
Bannu Medical College,
Bannu
(Respondent No6)


Through
Hafiz Muhammad Hanif Advocate
Legal Consultant MTI, Bannu

AUTHORITY LETTER

Mr. Atif Ahmad Khan Litigation officer Bannu Medical College Bannu is hereby authorized to submit Para-Wise Comments in Appeal **No: 1469/2019 Titled Saif - ullah Jan VS Govt of Khyber Pakhtunkhwa Through Chief Secretary Peshawar** and authorized to attend the said Appeal on behalf of Respondent No: 6 Dean Bannu Medical College, Bannu till final judgment.



Dean

Bannu Medical College,

Bannu

(Respondent No.6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR

Appeal No 1469/2019

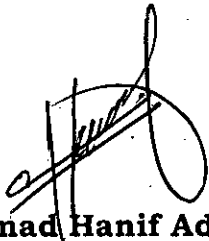
Saif Ullah Jan Petitioner

Govt of KPK Through Chief secretary PeshawarRespondent

AFFIDAVIT

I, Mr. Atif Ahmad Khan Lab Technologist/Litigation Officer, Bannu Medical College, Bannu, do hereby solemnly affirm and declare on oath that the content of written reply on behalf of Respondent No.6 are true and correct to the best of my knowledge and belief that nothing has been concealed from this Honorable Service Tribunal Peshawar.

Identified by



**Hafiz Muhammad Hanif Advocate
Legal Consultant BOG MTI, Bannu**

Identified by



Mr. Atif Ahmad Khan,

Litigation Officer,

Bannu Medical College, MTI, Bannu

(Deponent)

CNIC: 11101-9082000-5

20th June, 2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for the respondents present.

Learned counsel for the appellant relies on judgment dated 08.06.2015 of this Tribunal in Service Appeal bearing No. 1339/2011 titled "Javed Iqbal Vs. Government" wherein reference was given to judgment dated 13.05.2015 in Service Appeal No. 1687/2011. Learned counsel referred to para-8 of the judgment in Service Appeal No. 1339/2011, wherein a number of other appeals were also decided. Service Appeal No. 1687/2011 and Service Appeals mentioned in Para-8 of the judgment dated 08.06.2015 be requisitioned. The learned counsel is also directed to produce copies of the judgments of august Supreme Court of Pakistan upholding the judgments of this Tribunal, whereby the relief desired by the other similarly placed person was granted. He may do so within 15 days. To come up for arguments on 26.07.2022 before the D.B.

(Fareeha Paul)
Member(E)

(Kalim Arshad Khan)
Chairman

THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

In Service Appeal No. 1702 / 19

Khalid Mahmood S/o Muhammad Ayub (Ex-Patwari, Ghazi Haripur) R/o Village Chamba Pind,
Tehsil and District Haripur(Appellant)

Versus.

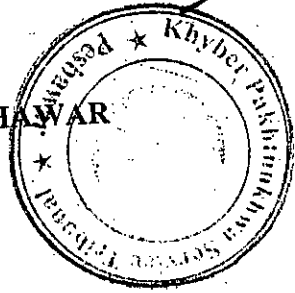
1. Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.
2. Commissioner, Hazara Division Abbottabad.
3. Deputy Commissioner, Haripur(Respondents)

AFFIDAVIT

I do hereby solemnly affirm and declare on oath that the contents of para wise
comment in the above titled appeal are true and correct as per my knowledge and nothing has
been concealed from this honourable court.


DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR



Service Appeal No 1339 /2011

1319
14-07-11

Javed Iqbal,

Librarian, Govt College of Management Sciences,

Sangota Swat.

....Appellant

Versus

- Ex parte*
14-2-12
1. Secretary to Government of Khyber Pakhtunkhwa, Industries, Commerce and Technical Education Department, Peshawar.
 2. Secretary to Government of Khyber Pakhtunkhwa, Education Department Peshawar.
 3. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.
 4. Director General Technical Education and Manpower Training, Khyber Pakhtunkhwa, Peshawar.
-Respondents

Appeal under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974.

Prayer:

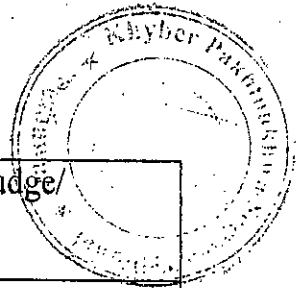
On acceptance of this Service Appeal the impugned Notification No SO(IND)TE/1-17/2010 dated 23-02-2011 whereby the Appellant has been promoted from the post of Librarian (BPS-16) against upgraded post of Librarian (BPS-17) with immediate effect i.e., 23-02-2011 rather than from the date of acquiring M.L.I.Sc Degree may kindly be set aside and the Respondents may kindly be directed to grant BPS-17 to the Appellant from the date of acquiring M.L.I.Sc Degree or date of appointment which ever is later, along with all other back benefits.

Respectfully Sheweth

Brief but relevant facts of the case are as follows:

ATTESTED

EXAMINER
Khyber P.
Service Tribunal
Peshawar



Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	08.06.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p style="text-align: center;">Appeal No. 1339/2011</p> <p>Javed Iqbal Versus Secretary to Government of Khyber Pakhtunkhwa, Industries, Commerce & Technical Education Department, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER.-</u> Counsel for</p> <p>the appellant (Mr. Muhammad Ayub Khan Shinwari, Advocate) and Government Pleader (Mr. Ziaullah) for the respondents present.</p> <p>2. This appeal has been filed by Mr. Javed Iqbal Librarian under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the notification dated 23.2.2011 whereby the appellant had been promoted from the post of Librarian BPS-16 to the upgraded post of Librarian BPS-17 with immediate effect rather than from the date of acquiring M.L.Sc. Degree. The appellant prayed that respondents may be directed to grant BPS-17 to the appellant from the date of acquiring M.L.Sc. Degree or from the date of appointment whichever is later alongwith all back benefits.</p> <p>3. Facts of the case as averred from the memo: of appeal are that appellant was appointed as Librarian BPS-16 on the recommendations of the Khyber Pakhtunkhwa</p>

ATTESTED

[Signature]
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

Public Service Commission on 11.03.1997. That at the time of appointment he had already qualified M.L.Sc. Degree from University of Peshawar in Session, 1996. That colleagues of the appellant working in different colleges were awarded BPS-17 personal by the order of Government of Khyber Pakhtunkhwa. Similar relief was granted to DPE's in colleges while Librarians and DPEs serving in Higher Secondary Schools were ignored. The latter were allowed similar upgradation in BPS-17 on the interference of the Service Tribunal and judgments of the Service Tribunal challenged in august Supreme Court of Pakistan were upheld by the Superior Court. The appellant filed departmental appeal for award of B-17 from the date of acquiring of M.L.Sc. Degree before respondent No. 4 which has not been decided till date, hence on expiry of statutory period of ninety days, the instant appeal has been filed.

4. The learned counsel for the appellant argued that the appellant had not been treated justly, fairly, equitably and in accordance with the law, rules and verdicts of the Superior Court. He submitted that in spite of the clear verdicts of the Service Tribunal and the Supreme Court of Pakistan in identical cases, the respondents refused to grant relief to the appellant on the ground that he did not get any verdict in his favour from the Service Tribunal or Supreme Court of Pakistan. That the appellant has been discriminated against which is

17
A

RECEIVED
17/03/97
SECRETARY
PUBLIC SERVICE COMMISSION
ISLAMABAD

against the fundamental rights enshrined in and protected by the Constitution of Islamic Republic of Pakistan, 1973. He further argued that the question involved in the instant appeal has been decided by the Service Tribunal and Supreme Court of Pakistan, therefore, the respondents are legally bound to follow them and allow BPS-17 to the appellant from the date of appointment. He produced recent judgment of this Tribunal dated 13.04.2015 in Service Appeal No. 1687/2011 and prayed that the appeal may be accepted in terms of the above judgment.

5. The learned Government Pleader resisted the appeal and stated that case of the appellant was not identical to those decided by the Service Tribunal and Supreme Court of Pakistan. He further argued that the appellant failed to agitate the issue in time and any relief at this juncture was likely to affect other officers working in Technical Education Department. He prayed that the appeal may be dismissed.

6. Arguments of the learned counsel for the parties heard and record perused with their assistance.

7. From perusal of record it transpired that this Tribunal granted relief in a number of cases and latest case decided on 13.04.2015 in Service Appeal No. 1687/2011 is an identical case. The instant appeal is therefore, accepted in terms of the above judgment. Parties are left to

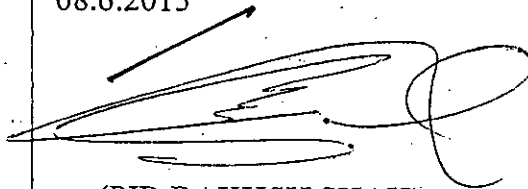
ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

bear their own costs. File be consigned to the record room.

8. This order will also dispose of identical Service Appeal No. 1340/2011, Inam-ul-Haq, No. 1341/2011 Manzoor Ahmad, No. 1342/2011 Umer Khitab, No. 1343/2011 Aqila Naz, No. 1351/2011 Syed Jamal Shah and No. 1352/2011 Alamgir Shah, in the same manner.

ANNOUNCED
08.6.2015



(PIR BAKHSH SHAH)
MEMBER



(ABDUL LATIF)
MEMBER

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 12/01/2021
Number of Copies 7000
Copy 22.00
Urgent 4.00
Total 26.00
Name of Applicant [Signature]
Date of Completion of Copy 12/01/2021
Date of Delivery of Copy 12/01/2021

بعدالت سرویس سر پیوٹل خیر بخش خواہ لہ شہاد

کورت فیس
قیمت ایک روپیہ

مورخہ 4 نومبر
مقدمہ سیف الدین صاحبان
دعوی سرویس ایپیل
جرم

۲۰۲۰ء منجانب
بنام گورنمنٹ آف خیر بخش خواہ لہ شہاد
چیف سیکرٹری، لہ شہاد

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ ان مقام میساور کے لئے حافظ محمد حنیف ایڈووکیٹ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو راضی نامہ و مقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زراس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا ایپیل کی برآمدگی اور منسوخی دائر کرنے ایپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب ستر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہوگا تقاضا باہر، وڈ وکیل صاحب پابند ہوں گے کہ پیروی مقدمہ مذکور کریں۔ لہذا وکل صاحب لکھ دیا کہ سند ہے۔

Attest
نائب
موجودہ

۲۰۲۰ء
العبد

ماہ نومبر 4
گواہ شد
العبد

Respondent No 6
Dean Bannu Medical College
College, Bannu