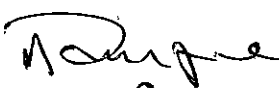
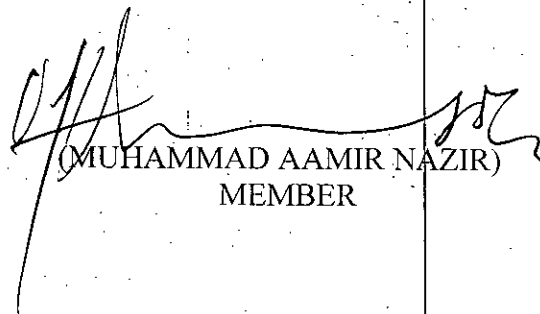
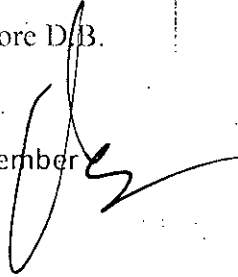


S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	09.12.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.1436/2013</p> <p style="text-align: center;">(Ihsan Ullah -vs- The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar and others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AAMIR NAZIR, MEMBER:</u></p> <p>Counsel for the appellant and Additional AG for the respondents present.</p> <p>2. In the instant appeal issue of up-gradation is involved and according to the judgment of august Supreme Court of Pakistan dated 17.02.2016-delivered in Civil Appeal No. 101 & 102-P of 2011 the service Tribunals have no jurisdiction to entertain any appeal involving the issue of up-gradation as it does not part of terms and conditions of service of the Civil servants.</p> <p>3. In view of the above the appeal was not found maintainable by this Tribunal for want of jurisdiction. The same is therefore dismissed. The appellant may seek his remedy before any other appropriate forum if so advised. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;">  (ASHFAQUE TAJ) MEMBER </div> <div style="text-align: center;">  (MUHAMMAD AAMIR NAZIR) MEMBER </div> </div> <p style="margin-top: 20px;"><u>ANNOUNCED</u> 09.12.2016</p>

17.08.2016

Mr. Sarfaraz Ahmed, Proxy on behalf of counsel for the appellant and Additional AG for respondents present. Mr. Sarfaraz Ahmed proxy on behalf of counsel for the appellant requested for adjournment as counsel for the appellant is not available today before the Tribunal. Adjourned for arguments to 9-12-16 before D/B.

Member



Member



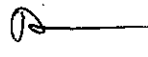
13.08.2015

Counsel for the appellant and Assistant A.G for respondents present. Rejoinder not submitted. Requested for adjournment. The appeal is assigned to D.B for rejoinder and final hearing for 2.12.2015.


Chairman

02.12.2015

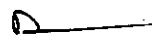
Appellant in person and Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to shortage of time. Therefore, the case is adjourned to 12.4.2016 for arguments.


Member


Member

12.04.2016

Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 17.08.2016.


Member

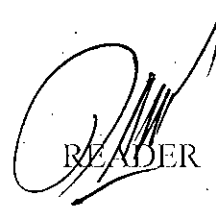

Member

subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 22.12.2014 before the Final Bench-II as identical cases are pending before the said bench.


Member

22.12.2014

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG for the respondents. The Tribunal is incomplete. To come up for the same on 02.03.2015.


READER

2.3.2015

Clerk of counsel for the appellant, and Addl. AG with Javed Ahmad, Supdt. for the respondents present and requested for further time. To come up for written reply on 5.5.2015 without fail.


MEMBER

5.5.2015

Junior to counsel for the appellant and Addl. AG with Javed Ahmad, Supdt. for the respondents present. Reply filed. Case to come up for rejoinder on 13.08.2015.


MEMBER

16.10.2014

Appeal No. 1436/2013
Ibrahimullah,

Appellant alongwith his counsel and Mr. Ziaullah, GP for the respondents present. Preliminary arguments heard and case file perused.

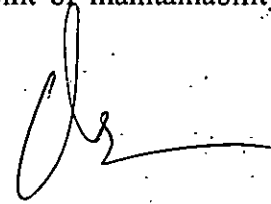
The learned Government Pleader while assisting the Court was of the view that appeal of the appellant is not maintainable as the requirement of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 have not been fulfilled. As Section-4 of the Act provides departmental appeal against the order challenged before the Tribunal, however no departmental appeal was filed by the appellant before the departmental authority, therefore, not maintainable. The learned GP relying on 2011 SCMR 1111 and Judgment of this Tribunal in Petition No. 1684/2013 dated 10.02.2014.

The Learned Counsel for the appellant contended that the appellant was appointed as PST and at the time of appointment the basic qualification for the post was Matric and PST Certificate. The Education Department issued a Notification dated 13.11.2012 wherein the basic qualification for PST Teachers has been enhanced to F.A. The qualification for promotion to BPS-15 now requires enhanced qualification of intermediate alongwith 5 and 10 years service respectively but the change in notification for promotion will affect the right of all the PST Teachers and now all of their chance for further promotion will be diminished due to none of their fault. As such the appellant will be deprived of his due right of promotion for ever. So the respondents may be directed to set aside the condition/term for promotion. i.e having qualification of F.A/F.Sc; for promotion. Counsel for the appellant further stated that similar nature of appeals No.1322/12 titled Mr. Ikramullah and No. 1323/12 titled Muhammad Parvez have already been admitted and pending before the learned Bench-II for regular hearing. He further relying on 1994 SCMR 1033 and 1991 SCMR 1041 wherein in case of a statutory rule or a notification adversely affects the terms and condition of a civil servant, the same can be treated as an order in terms of S,4(1) in order to file an appeal before the Service Tribunal. The appellant can come in appeal before the Tribunal without filing of a departmental appeal under Service Tribunal Act.

Keeping in view the Rules of consistency and admission of identical cases for full hearing by this Tribunal in Service Appeal No. 1322/12 and 1323/12, the case is admitted for regular hearing

28.05.2014

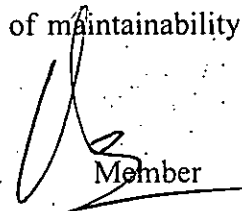
Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. The learned counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing specially on the point of maintainability on 24.07.2014.



Member

24.07.2014

Counsel for the appellant and Muhammad Jan, GP for the respondents present. The learned counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing specially on the point of maintainability on 16.10.2014.



Member


06.01.2014

No one is present on behalf of the appellant. Notice be issued to the appellant/counsel for the appellant for preliminary hearing on 31.01.2014.


Member


31.01.2014

Counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on 19.03.2014.


Member

19.03.2014

Counsel for the appellant and Mr. Zia Ullah, GP for the respondents present. The learned counsel for the appellant requested for adjournment. To come up for further preliminary hearing specially on the point of maintainability on 07.05.2014.


Member

07.05.2014


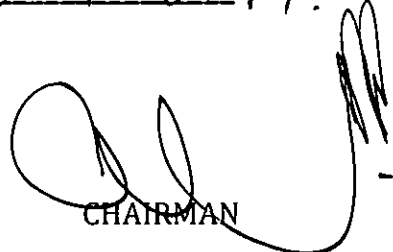
Assistant to counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Assistant to counsel for the appellant filed an application for adjournment. Application accepted. To come up for preliminary hearing specially on the point of maintainability on 28.05.2014.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1436 /2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25/10/2013	<p>The appeal of Mr. Ihsan Ullah resubmitted today by Mr. Abdul Ghaffar Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	31-10-2013.	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>6-1-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Ihsanullah son of Said Talha received today i.e. on 10.10.2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Heading of the appeal is incomplete which may be completed.
- 2- Copy of Impugned order is incomplete and illegible which may be completed and replaced by legible/better one.
- 3- Copies of departmental appeal and its rejection order are not attached with the appeal which may be placed on it.

No. 1441 /S.T.


Dt. 10/10 /2013.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Dear Sir,
Mr. Abdul Ghaffar Khan Adv. Pesh.

- ① Heading of the appeal has been completed.
- ② Only relevant portion of the appeal has been annexed while complete notification has been annexed with another connected appeal, which this Hon'able court has been pleased to admit for full hearing. The illegible copies have been added ^{along with} better copies of the documents. i.e. ^{along with} better copies of the illegible documents have been made & annexed.
- ③ In reply to the third objection it is stated that recruitment rules have been challenged in the instant rules which are construed by Superior Courts as final order directly amenable before the Tribunal & no departmental appeal is needed to be filed against them. Reliance is needed to be made to 1994 SCMR 1033, para 8.

Graciously the appeal may be put for hearing before a Bench for further proceedings.


Abdul Ghaffar Khan
Advocate High Court
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 1436 of 2013

Ihsan Ullah PST. Appellant

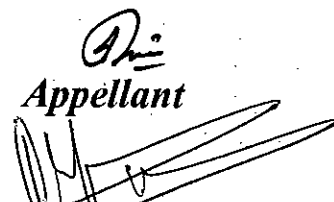
VERSUS

Govt of Khyber Pakhtunkhwa, through Secretary Elementary &
Secondary Education, Peshawar & others
..... Respondents

Index

S.No.	Description of documents	Annexure	Pages
1.	Memo of appeal		1-5
2.	Affidavit		6
3.	Addresses of the parties		7
4.	Application for temporary injunction		8-9
5.	Affidavit		10
6.	Application for condonation of delay		11-12
7.	Copy of Notification dated 13/11/2013	"A"	13-19
8.	Wakalat Nama		20

Dated 5-10-2013

Through 
Appellant
Abdul Ghaffar Khan
Advocate, High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 1436 of 2013

1462
10-10-13

Ihsan Ullah Son of Said Talha PST GPS Konai, Dir Upper
R/o Barawal Bandi, Dir Upper.

..... Appellant

VERSUS

- 1) Govt of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Peshawar.
- 2) Director, Elementary & Secondary Education, Peshawar.
- 3) Secretary, Finance Department, Govt of Khyber Pakhtunkhwa Peshawar.

..... Respondents

APPEAL U/S 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED NOTIFICATION DATED 13/11/2012
OF THE RESPONDENT NO.1

Prayer:

On acceptance of this appeal the Respondents may graciously be directed to amend the impugned Rule to the extent of giving the experience /length of service of the appellant a considerable place and allowing him promotion. It is further prayed that respondents may be directed to grant enhancement to the appellant to BPS-15 without tying up his length of service with any academic qualification beyond Secondary School Certificate.

Respectfully Sheweth:

- 1) That the appellant is working in the education department since his appointment against the posts of PTC Teacher (BPS-7), which has now been re-designed as primary school Teachers (PST).

re-submitted to Govt
and filed.

25/10/13

- 2) That stated post was later on upgraded and by now the post of PST is BPS-12, as such all the PST have now been rendering services in BPS-12.
- 3) That being the senior most teacher and having served for decades on the same post and having no future prospect for the enhancement of their scales, the teacher association struggle for a long time for providing a service structure that may accommodate the senior teachers in higher pay scale, either through promotion or up-gradation or through some time scale.
- 4) That on pressing the demand vigorously and with untiring zeal by the Senior Teachers, the respondents notified the Rules for the recruitment and promotion of the teachers vide notification dated November 13, 2012 (Annexure "A"), wherein PST (BPS-12) appears at S.No.21 with the required qualification and method of recruitment in the corresponding columns.
- 5) That at S.No. 19 of the rules (ibid) is the post of Primary School Head Teacher (PSHT) PBS-15, which is liable to be filled "by promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least ten years service and having qualification prescribed for initial recruitment of Primary School Teachers".
- 6) That in the given scenario, the Senior Teachers, including the appellant having been placed no where and they are left hire and dry, without any chance of promotion or enhancement of pay scale. On the contrary, their juniors who are equipped with an intermediate certificate would be able to obtain (BPS-15) and become the bosses of their own seniors.

7) That feeling aggrieved of the said rules the Appellant now assails the same through the instant appeal on the following amongst other grounds:

Grounds:

- A) That at the time of induction of the Appellant PTC the requisite qualification was only Secondary School Certificate (SSC) and no other academic qualification or, for that matter, any training was required as a condition precedent for appointment against this post. Therefore, the additional qualification of Primary School Teacher Certificate or Diploma in Education, introduced later on, cannot be given retrospective effect and super-imposed on the appellant.
- B) That apart from the academic or other qualification(s) required for the post of PTC or PST at different times, the teachers working on these posts, who were equipped with the requisite qualification of their times, cannot be treated differently for any purpose. The Appellant being SSC with required length of service has to be treated on equal footing with any PST having Intermediate, PSTC or Diploma in Education on his credit but appointed recently.
- C) That the rich experience of the appellant as PST cannot be ignored and it requires to be considered on the time tested analogy of **OLD IS GOLD.**
- D) That the rule of promotion against the post of Primary School Head Teacher (PSHT) is defective yet on another score, as the appellant and similar other Senior Teachers have been afforded no opportunity of further enhancement by way of promotion or otherwise in their service career.

E) That the appellant has been discriminated as similarly placed teachers in other provinces have been allowed time scale upto BPS-15. For instance the provinces of Balochistan and Sindh and the Govt of AJK have adopted a uniform policy by granting a time scale to the stated post on the following count:

BPS-7 to BPS-10	After 09 years
BPS-10 to BPS-11	After 14 years
BPS-11 to BPS-14	After 21 years
BPS-14 to BPS-15	After 25 years

F) That the impugned rules are not sustainable for yet another defect. All the rules on the subject of promotion in almost all departments give a good margin to experience /length of service but this criterion is lacking in the impugned provisions.

G) That in the matter of up-gradation of the same post of PST from BPS-9 to BPS-12 only length of Service of 10 years was required as requisite qualification and no other conditions were attached thereto.

H) That the Appellant have not been treated in accordance with law, as against the provisions contained in **Article 4 of the Constitution.**

I) That the appellant seeks leave to urge additional grounds, after the stance of the respondents become known to him.

5


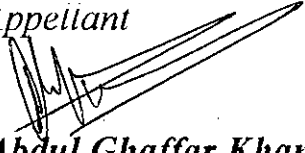
Prayer

In view of the above said facts, it is, therefore, prayed that on acceptance of this appeal the respondents may graciously be directed to amend the impugned rules to the extent of giving the experience/length of service of the appellant a considerable place and allowing him promotion. It is, further, prayed that respondents may be directed to grant enhancement to the Appellant to BPS-15 without tying up his length of service with any academic qualification beyond Secondary School Certificate.

Any other remedy to which the appellant is found fit in law, justice and equity may also be granted.

Dated 5-10-2013

Through


Appellant

Abdul Ghaffar Khan
Advocate, High Court,
Peshawar.

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. _____ of 2013

Ihsan Ullah PST. Appellant

VERSUS

Govt of Khyber Pakhtunkhwa, through Secretary Elementary &
Secondary Education, Peshawar & others

..... Respondents

AFFIDAVIT

I, Ihsan Ullah Son of Said Talha, PST GPS Konai, Dir
Upper R/o Barawal Dir Upper do hereby solemnly affirm and
declare on oath that the contents of this appeal are true and
correct to the best of my knowledge and belief and nothing has
been concealed from this Hon'ble Tribunal.



DEPONENT

Identified by



Abdul Ghaffar Khan
Advocate, High Court,
Peshawar.



10 OCT 2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. _____ of 2013

Ihsan Ullah PST. **Appellant**

VERSUS

Govt of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Peshawar & others

..... **Respondents**

Addresses of the parties

Appellant

Ihsan Ullah Son of Said Talha, PST GPS Konai, Dir Upper R/o Barawal Dir Upper

Respondents

- 1) *Govt of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Peshawar.*
- 2) *Director, Elementary & Secondary Education, Peshawar.*
- 3) *Secretary, Finance Department, Govt of Khyber Pakhtunkhwa Peshawar.*

Dated . 5-10-2013



Appellant

Through



**Abdul Ghaffar Khan
Advocate, High Court,
Peshawar.**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. _____ of 2013

Ihsan Ullah PST. Appellant

VERSUS

Govt of Khyber Pakhtunkhwa, through Secretary Elementary &
Secondary Education, Peshawar & others
..... Respondents

APPLICATION FOR TEMPORARY INJUNCTION TO
THE EFFECT THAT RESPONDENTS MAY KINDLY
BE RESTRAINED FROM TAKING ANY ACTION FOR
THE PROMOTION OF POSTS TO BPS-14 / 15 AS
ACCORDING TO THE PROCEDURE MENTIONED IN
THE IMPUGNED RULES / NOTIFICATION.

Respectfully Sheweth:

- 1) That the petitioner /appellant has filed the above titled service appeal before this Hon'ble Tribunal, in which no date of hearing has yet been fixed.
- 2) That respondents vide notification dated 13/11/2012 with regard to the fresh education policy has given a new method of promotion which is bound to violate the promotion right of thousands of teachers including the appellant.
- 3) That the petitioner /appellant has prima facie case and is very hopeful for the ultimate success of the appeal.
- 4) That all the three ingredients i.e. prima facie case, balance of convenience and irreparable loss as per spirit


of the rule for granting injunction are present in the said appeal.

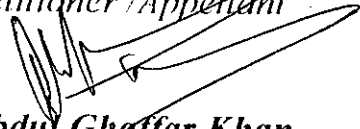
- 5) That in case the injunction as prayed for above is denied, the Petitioner /Appellant will suffer irreparable loss as the impugned vacancies will be fill up and there would be no chance for appellant's promotion. Therefore, it is in the interest of justice to stay further proceedings on the impugned notification till the final decision of the instant appeal.
- 6) That the facts and grounds taken in the memo of appeal may kindly be considered as part and parcel of the instant application.

It is, therefore, humbly prayed that in the light of the above said submissions this Hon'ble Tribunal may please be kind enough to restrain the concerned respondents from taking any action towards promoting the PSTs teachers on the basis of the noted notification.

Dated 5-10-2013

Through


Petitioner /Appellant


Abdul Ghaffar Khan
Advocate, High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. _____ of 2013

Ihsan Ullah PST. Appellant

VERSUS

Govt of Khyber Pakhtunkhwa, through Secretary
Elementary & Secondary Education, Peshawar & others
..... Respondents

APPLICATION FOR CONDONATION OF
DELAY IF ANY.

Respectfully Sheweth:



- 1) That the petitioner / appellant have filed the above captioned appeal in which no date of is yet fixed for hearing, before this Hon'ble Tribunal.
- 2) That the contents of the instant appeal which may kindly be read as an integral part of this petition.
- 3) That the petitioner /appellant before filing departmental appeal was repeatedly assured to help him by the respondents and the appellant visiting the offices of respondents time and again and at last on 07/06/2013 the petitioner / appellant were handed over general date which reply was earlier given to the petitioner /appellant of other cases / appeals.

- 4) That the petitioner /appellant's valuable rights are involved in the captioned appeal, therefore, the petitioner may not be knocked out merely on the basis of technicalities including limitation. Reference is made to the judgments reported in **PLD 2003 SC 724 = 2003 PLC (CS) 796.**
- 5) That even otherwise the impugned order passed by the respondent No.1 against the appellant is void *abi-initio* and it is an established principle of law that no limitation runs against the void order,

In view of foregoing circumstances, it is respectfully prayed that the instant petition may graciously be accepted and the delay, if any, in filing of the above departmental appeal may kindly be condoned in the interest of justice and the appeal be decided on merits and technicalities may kindly be avoided. Any other relief which this Hon'ble Tribunal deemed fit and proper may kindly be granted in the interest of justice.

Dated ~~5-10-2012~~ **5-10-2013**

Through


 Petitioner /Appellant

Abdil Ghaffar Khan
 Advocate, High Court,
 Peshawar.

(13)

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

Annex-A. 10 Better Copy

10 نوٹیفیکیشن سٹی. ایس. ایس. ٹی. اور ایس. ایس. ٹی. کے لئے
SS NOTIFICATION
پشاور، تاریخ نومبر 13 2013

JAELANGIR KHAN
Advocate Peshawar

SPECIAL ASSISTANT/Teaching Cadre- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pachtunkhwa Civil Service (Promotion and Transfer) Rules, 1959 and in suppression of all Notifications issued in this behalf the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby lays down the method of recruitment therein and the conditions specified in the Appendix to this Notification which shall be applicable to all the posts specified in Column No. 2 of the Schedule and the schedule therewith.

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

- 1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
- 2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
- 3. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
- 4. The Secretary Khyber Pakhtunkhwa Public Service Commission Peshawar.
- 5. The Additional General Manager Peshawar.
- 6. The Director (ESSE) Khyber Pakhtunkhwa Peshawar.
- 7. The Director Education (FAE), Peshawar.

مذکورہ بالا نوٹیفیکیشن کے تحت 15 نوٹیفیکیشن جاری کیے گئے ہیں۔
پشاور، تاریخ نومبر 13 2013

BETTER COPY

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

NOTIFICATION

Peshawar dated the November, 13 2012

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

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

No. & Date as above.

Copy forwarded to:-

- 1) The Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
- 2) The Secretary to Govt. of Khyber Pakhtunkhwa Finance Department.
- 3) The Secretary Govt. of Khyber Pakhtunkhwa Law Department.
- 4) The Secretary Govt. of Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- 5) The Accountant General Khyber Pakhtunkhwa, Peshawar.
- 6) The Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
- 7) The Director Education (FATA) Peshawar.

BETTER COPY

18	Physical Education Teacher (BPS-15)	Bachelor's Degree from recognized University with one year Junior Diploma in Physical Education Course or Army equivalency or equivalent qualification.	18 to 35 years	<p>(a) Eighty percent initial requirement; and</p> <p>(b) Twenty by promotion on the basis of seniority cum fitness, from amongst the Primary School Head Teachers with at least Five years service and having qualification prescribed for initial recruitment of Physical Education Teachers.</p> <p>Provided that if no suitable candidate is available for promotion then on the basis of seniority cum fitness from amongst senior Primary School Teacher with at least five years service and having qualification prescribed for initial recruitment of Physical Education Teacher.</p> <p>Note: In case of non-availability of suitable candidate for promotion, then by initial recruitment.</p>
19	Primary School Head Teacher (PSHT) (BPS - 15)			By promotion, on the basis of seniority cum fitness, from amongst senior Primary School Teacher with at least Ten years service and having qualification prescribed for initial recruitment of primary school teacher
20.	Senior Primary School Teacher, BPS-14			By promotion, on the seniority cum fitness, from amongst primary school teacher

BETTER COPY

21.	Primary School Teacher (BPS-12)	1) Intermediate or equivalent qualification, from recognized board with primary school teacher certificate / diploma in Education from recognized institute; or 2) Secondary School certificate from recognized board in 2 nd division with two years associate degree in education from recognized university.	18 to 35 years	By initial recruitment on merit at Union Council level; provided that if no suitable candidate within the Union Council is available, then from adjacent Union Councils on merit.
22.	Qari BPS – 12	Intermediate with Hafiz Quran and Qirat Sanad from recognized institutions	18 to 35 years	By initial recruitment.

BETTER COPY

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

Section Officer (Primary)

159

18 Physical Education Teacher (BPS-15)

Bachelor's Degree from a recognized University with one-year junior Diploma in Physical Education course or Army equivalency or other equivalent qualification.

18 to 35 years.

(a) Eighty per cent by initial recruitment; an

(b) twenty per cent by promotion, on a basis of seniority-cum-fitness; from amongst the Primary School He Teachers with at least five years service and having qualification prescribed for initial recruitment of Physical Education Teacher.

Provided that if no suitable candidate is available for promotion then on the basis of seniority-cum-fitness from amongst Senior Primary School Teachers with at least five years service and having qualification prescribed for initial recruitment of Physical Education Teacher.

Note: In case of non-availability of suitable candidate for promotion, then by initial recruitment.

By promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least ten years service and having qualification prescribed for initial recruitment of Primary School Teacher.

By promotion, on the basis of seniority-cum-fitness, from amongst Primary School Teachers.

19 Primary School Head

Teacher (PSTHT) (BPS-15)

20 Senior Primary School Teacher (BPS-14)

Attest
Oly

Attest
Oly
Solis

(25)

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

Attest
[Signature]

[Signature]
[Signature]
(Sd/-)

17

Particular

Category of Qualification	Total Marks 100	Total Marks 100
SSC	Marks obtained / 30 / total marks =	Marks obtained / 30 / total marks =
Dist. School from a recognized Institution	Marks obtained / 30 / total marks =	Marks obtained / 30 / total marks =
ISSE	Marks obtained / 30 / total marks =	Marks obtained / 30 / total marks =
PGDISE	Marks obtained / 30 / total marks =	Marks obtained / 30 / total marks =
MEDICAL / B.E.T / M.A. / P.H.D	Marks obtained / 30 / total marks =	Marks obtained / 30 / total marks =
UNEMPLOYED	Marks - 03	Marks - 03

26

Certified Teacher
(General, Industrial Arts, Agriculture, Home Economics)

Category of Qualification	Total Marks 100 For Humanities Group of Intermediate/Graduation Level	Total Marks 100 For Sciences Group
SSC	Marks obtained / 30 / total marks =	Marks obtained / 30 / total marks =
ISSE	Marks obtained / 30 / total marks =	Marks obtained / 30 / total marks =
B.E.T.	Marks obtained / 30 / total marks =	Marks obtained / 30 / total marks =
C.T. Certificate of Proficiency in Education	Marks obtained / 30 / total marks =	Marks obtained / 30 / total marks =
PGDISE	Marks obtained / 30 / total marks =	Marks obtained / 30 / total marks =
MEDICAL / B.E.T / M.A. / P.H.D	Marks obtained / 30 / total marks =	Marks obtained / 30 / total marks =
UNEMPLOYED	Marks - 03	Marks - 03

Affected
Dy
/

Affected
Dy
(Adv.)

18

Power School Teacher

Category of Qualification	Total Marks for Humanities group at Intermediate Level	For Candidate of Science group
SSC	Marks obtained: 331 / total marks =	5 Extra marks for ES, 3 Extra marks for H & S and 5 Extra marks for M & S will be added to the total score obtained by a candidate in writing the selection
HSSC	Marks obtained: 119 / total marks =	
ATPSSC	Marks obtained: 155 / total marks =	
ENT Certificate, Diploma in Education (A.D.P.)	Marks obtained: 150 / total marks =	
SEFA/SC/LE/MA/MA/MA	Marks obtained: 150 / total marks =	
M/BS/HT/D/HD	Marks = 03	

Other conditions:

- The concerned appointing authority will scrutinize and verify the documents and marks the appointment is for previous of date and the same shall be verified after the issuance of appointment orders within shortest possible time, not exceeding sixty days.
- The merit list prepared by the concerned appointing authority will be displayed for seventy days to receive the objections, if any, and shall close the merit list after making necessary corrections with substantiating the objections within next seven days, followed by regular appointment order.
- In case a document is not found to be correct/legitimate or observations to be corrected, the candidate will be asked to submit the corrected documents and pay to him or herself a fee of Rs. 100/- to be recovered from him and an F.P.S. shall be issued against him on receipt of the fee.
- Final merit list prepared from the merit list shall be posted against the names of the teacher candidates who are appointed on the basis of the merit list.

Uttam Datt Choudhary and any other Government and District Officer, as notified by the Government from time to time to have access to the records of the Government of Punjab, India.

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Handwritten signatures and initials

98

67

- 1. The Director Curriculum & Teachers Education Abbottabad.
- 2. The Director (PTE) Khyber Pakhtunkhwa Peshawar.
- 3. The Director ESNU, Elementary & Secondary Education (Khyber Pakhtunkhwa, Peshawar).
- 4. The Deputy Director Database/EKHS/ EASE Department.
- 5. All District Coordination Officers in Khyber Pakhtunkhwa.
- 6. All Executive District Officers/Elementary & Secondary Education in Khyber Pakhtunkhwa.
- 7. All District Accounts Officers in Khyber Pakhtunkhwa Agency Accounts Officers FAIA.
- 8. P.S to Controller, Khyber Pakhtunkhwa.
- 9. P.S to Chief Minister, Khyber Pakhtunkhwa.
- 10. P.S to Chief Secretary, Khyber Pakhtunkhwa.
- 11. PS to Minister, Peshawar, Khyber Pakhtunkhwa Peshawar.
- 12. PS to Secretary, Public Department.

Section Officer (Primary)

99

Attested
By
A

Attested
By
(A)

THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

SERVICE APPEAL No: ¹⁴³⁶ /2013

HA SAN ULLAH PST GDS KOKAI DIR (U) -----Appellant

VERSUS

Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar & others -----Respondents

PARAVISE COMMENTS FOR AND ON BEHALF OF THE RESPONDENTS 1 to 3.

Respectfully Sheweth:-

The Respondents submit as under:-

Preliminary objections

- 1 That that the Hon! able Service Tribunal has got no jurisdiction to entertain / adjudicate upon the instant service appeal.
- 2 That the instant appeal is bad for misjoinder & non joinder of the necessary parties.
- 3 That the appellant has no cause of action/locus standi.
- 4 That the appellant has not come to this Hon! able Tribunal with clean hands.
- 5 That the appellant has concealed the material facts from this Hon! able Tribunal, hence liable to be dismissed.
- 6 That the instant appeal is based on malafide intentions .
- 7 That the instant appeal is not maintainable in its present form as there is no departmental appeal filed by the appellant.
- 8 That the instant appeal is badly time barred.
- 9 That the appellant is not entitled for the grant of up-gradation to BPS-15.
- 10 That the present appeal is against the relevant rules & policy.
- 11 That the appellant has been treated as per rules & policy.
- 12 That the appellant is estopped by his own conduct to file the present appeal before this Hon! able Tribunal.

ON FACTS

- 1 That the Para-1 pertains to the service record of the appellant.
- 2 That Para-2 is correct, hence no comments.
- 3 That Para-3 needs no comments. The appellant does not qualify for the up gradation as he is a simple matriculate. The up gradation is meant for only such employees who qualifies the basic ^{qualification} i.e FA. (next page-2)

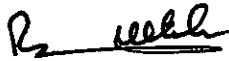
- 4 That Para-4 is incorrect & misleading on the grounds that the appellant lacks the prescribed qualification for up-gradation against the said post in BPS-14/15 as he has himself admitted that the prescribed qualification for said post has been enhanced from SSC to HSSC, hence he is not entitled for the grant of up gradation in BPS-14/15 in the presence of the current up-gradation policy of the Provincial Government.
- 5 That Para-5 is incorrect & denied, the stand of the appellant is incorrect & misleading on the grounds that up gradation against PST post in BPS-14/15 has been granted by promotion / up gradation on the basis of seniority cum-fitness with 10-years qualifying service against the said post along with the prescribed academic qualification FA/F. Sc, whereas the appellant lacks the required qualification for up gradation hence, he has been rejected in the light of prevailing up gradation policy of the Provincial Government. It is further submitted that promotion /up gradation is granted on the basis of seniority cum fitness along-with the required qualification and not on the basis of the initial recruitment against the said post. ~~(Annex A)~~
- 6 That Para-6 is incorrect & denied, the appellant could not qualify / meet the prescribed criteria and academic qualification for the grant of up-gradation against PST post in BPS-14/15 in the light of the relevant policy of the government, hence he could not be upgraded in the given circumstances.
- 7 That Para-7 needs no comments being legal, however, the respondents submit on the following grounds inter alia :-

ON GROUNDS

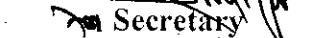
- A That ground-A is incorrect & misleading, the appellant has correctly been treated as per law, rules & policy in the instant case, hence the non grant of up gradation to the appellant by the respondents ~~is~~^{is} accordance ~~with~~^{with} law & policy.
- B That ground-B is also incorrect & denied, the appellant has been treated as per law & current up-gradation policy & found not eligible for up-gradation against the PST post from BPS-12 to 14/15.
- C That Ground-C is also incorrect & denied, detail reply has been given in the above mentioned Paras.
- D That ground-D is incorrect & misleading, detail reply of this ground has been given above, hence no comments.
- E That ground-E is also incorrect & misleading as there ^{is} no discrimination committed by the respondents.
- F That ground F is incorrect & denied, the appellant has been treated as per law, rules & policy in the instant case as mentioned in the above Paras.

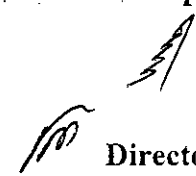

I That ground-I is legal, however the respondents seek leave to advance additional grounds /case law /record at the time of arguments before this Hon! able Tribunal.


In view of the above made submissions, it is requested that this Hon! able Tribunal may very graciously be pleased to dismiss the appeal with cost in favour of the respondent Department.


Secretary

Finance Department Khyber
Pakhtunkhwa, Peshawar


Secretary
(Estab:) Department Khyber
Pakhtunkhwa, Peshawar


Director
E&SE Khyber Pakhtunkhwa,
Peshawar. 


Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar