

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

In Re to S.A 621/2022

Mst. Bakht Pari SST (BPS-16) GGHS Daskor Bala, District Dirr Upper

VERSUS

Director E & SE Department Khyber Pakhtunkhwa Peshawar and Others

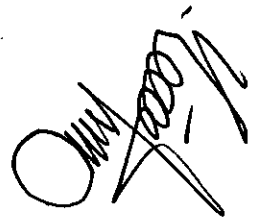
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Dated: 23/08/2023

Appellant

Through



Muhammad Usman Khan
Turlandi
Advocate, Supreme Court

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 7446
Dated 12/09/23

In Ref: to Service Appeal No. 621/2022.

Mst; Bakht Pari, SST (BPS-16) GGHS Daskor-Bala, District Dir
~~Lower~~ UpperAppellant.

Versus

Director E & SE Department Khyber Pakhtunkhwa & others.

Rejoinder on behalf of the appellant to the comments
filed by the Respondents No. 2 & 4 filed in Service Appeal
No.621/2022.

Respectfully Sheweth;

The appellant humbly submits as under:

Reply to the Preliminary objections:

1. Incorrect. The instant appeal having a solid locus standi and cause of action.
2. Incorrect. The Appellant has come to this honorable Tribunal with quite clean hand.
3. Incorrect. The appellant has nothing to do with any alleged concealment of facts on her part as she possessed the requisite qualifications from the competent/registered/recognized Institutions and had duly submitted her entire testimonials with the Respondents which were duly accepted and no objection whatsoever was forwarded at that time.
4. Incorrect. The Appeal in hand is fully competent and maintainable being well within time.
5. Incorrect. The appended copy of Service Appeal No. 20-43/2014 is self-explanatory which pertains to grant of benefits for BPS-16 and the moment when the requisite benefits were extended/ given by the respondents, the appeal was withdrawn by the appellant. Whereas the appeal in hand pertains to grant of benefits for BPS-14 and hence both the appeals are totally

different having totally different cause of action, different stances and different prayers.

6. Incorrect. The verdict passed by the Apex Supreme Court dated 24-05-2013 is self-explanatory and the orders dated 05-04-2012 passed by the Peshawar High Court Peshawar in WP No. 2819/2009 was ceased to remain more in field.

REPLY ON FACTS:-

1. Incorrect. The degree, "Sanad-ul-Firagh, Shahadat-ul-Alamia" from Darul Uloom Islamia, Anwar-ul-Uloom Nali par Dang Baba Mardan was already recognized in the year 1987 by the Government of the then NWFP, Education Department and properly affiliated vide Affiliation No. 3 with Pakistan Madrassa Education Board Islamabad dated 23-12-2003. (Copy of the official letter of recognition and affiliation with Pakistan Madrassa Education Board Islamabad is annexure "A" & "B" respectively). Moreover, the Madrassa Islamia Anwar-ul-Uloom Nali par, Dang Baba Mardan has also been registered under registration No. 9/159 dated 09-12-1967 under the Society Act and similarly Darul Uloom Ittehad ul Madaris Par Hoti Mardan has also been stand registered under the Society Act vide registration No. 78/5/41 dated 30-09-2005. (Copy of the registration No. 9/159 dated 09-12-1967 and No. 78/5/41 dated 30-09-2005 are annexure "C" & "D" respectively). Furthermore, HEC Islamabad official letter dated 07-04-2004 (Annex-"G" with the comments) has no retrospective effect and hence not attractive to the case of the appellant. Furthermore, the Government of Khyber Pakhtunkhwa has laid down the method of recruitment, qualification and other condition vide Notification dated 13-11-2012 and whereas qualification for Arabic Teacher has been given as under.
 (1) "Second class secondary School Certificate from a recognized Board with Shahadatul Alamia Fil Uloomul Arabia wal-Islamia from a recognized Tanzeematul Wifiquil Madaris or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Daroosh Chitral and any other government run Darul Uloom, as notified by the Government from time to time: or Second Class Master Degree from recognized University. (Copy of the Notification dated 13-11-2012 is annexure "E")
2. Incorrect. Detailed reply has been given in preceding Para-1 above.

3. Incorrect. Detailed reply has been given in preceding Para-1 above.
4. Incorrect. Detailed reply has been given in preceding Para-1 above.
5. Incorrect. Detailed reply has been given in preceding Para-1 above.
6. Incorrect. Since the comments under reply has been given and signed by the respondent No. 4 then it would be presumed to have a lame excuse of having no comments on their part.
7. Incorrect. When the parent department has given a right under proper cannon of law not only to the appellant but all other similarly placed colleagues who are still enjoying the said benefits, then the respondent no. 4 has no authority to create impediments and withheld such benefits.
- 8 & 9. Incorrect. The stance of the appellant is fully supported by the observation and direction of this august Tribunal given in similar Service Appeals No. 490, 491, 492/2005 which have further been upheld by the Apex Supreme Court of Pakistan and hence principle of consistency also demands equal treatment and as such, the impugned order is liable to be struck down.
10. Incorrect. The verdict passed by the Apex Supreme Court dated 24-05-2013 is self-explanatory and the orders dated 05-04-2012 passed by the Peshawar High Court Peshawar in WP No. 2819/2009 was ceased to remain more in field.
11. Incorrect. Detailed reply has been given in preceding Para-1 above.
12. Incorrect. Detailed reply has been given in preceding Para-1 above.
13. Incorrect, misconceived and misinterpreted. Letter of recognition by HEC Islamabad dated 10-02-2021 should not be read in isolation but should be read in juxtaposition with the order/judgment dated 24-05-2013 passed by the Apex Supreme Court.
14. Incorrect. Detailed reply has been given in preceding Para-8 & 9 above.

G R O U N D S:

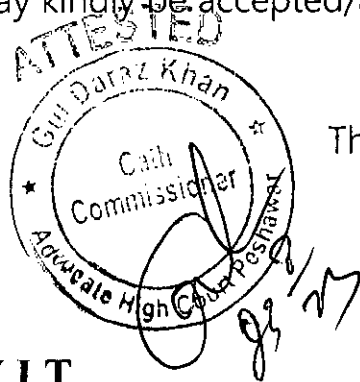
- A. Incorrect. Detailed reply has been given in preceding Para-1 above.
- B. Incorrect. Detailed reply has been given in preceding Para-13 above.

forward stance and cause of action having relying on the accepted norms of justice is but optimistic to acquire relief in the instant case from this honorable Tribunal.

On Grounds:-

- a) Incorrect and denied. Detailed reply has been given in Para-"5" of the preliminary objections given above.
- b) Incorrect and denied. Detailed reply has been given in Para-"5" of the preliminary objections given above.
- c) Incorrect and denied. Detailed reply has been given in Para-"5" of the preliminary objections given above.
- d) Incorrect and denied. Detailed reply has been given in Para-"8" of the Facts given above.
- e) Incorrect and denied. Detailed reply has been given in Para-"8" of the Facts given above.
- f) Incorrect and denied. Detailed reply has been given in Para-"7" of the preliminary objections given above.
- g) Incorrect and denied. Detailed reply has been given in Para-"4" of the facts given above.
- h) Incorrect and denied. Detailed reply has been given in Para-"5" of the preliminary objections given above.
- i) Incorrect and denied. Detailed reply has been given in Para-"5" of the preliminary objections given above.
- j) Para-"J" is legal one, hence needs no reply.

It is, therefore, requested that on accepting the instant rejoinder, the comments of the respondents be set at naught and the appeal may kindly be accepted/allowed as prayed for.



APPELLANT

Through

Muhammad Usman Khan
Turlandi
Advocate Supreme Court.

AFFIDAVIT

I, Mst; Bakht Pari, SST (BPS-16) GGHS Daskor-Bala, District Dir Lower.; Naila Gul D/O Shafique Ullah R/O Mohallah; Shagai, Village; Turlandi, Tehsil; Razzar and District Swabi, the appellant do hereby solemnly affirm that the contents of the accompanying "Rejoinder" in the subject appeal is true and correct to the best of my knowledge and belief and nothing has been kept or concealed therein from this honorable Tribunal.

Mst; Bakht Pari, (Appellant)

Dated: 9/08/2023.

16

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D

A

ANNEXURE

The Director of Education
(Schools) NWFP Peshawar.

No. 9388-93/S-12/Reg D/Uloom.

Dated Peshawar the 17/5-1987.

- To,
1. The District Education Officer.
(Male) Mingora Swat.
 2. The District Education Officer.
(Male) Mardan

Subject:- PERMANENT RECOGNITION OF DEENI MADARIS.

Memo: Reference Divisional Director of Education (Schools) Malakand Memo No.9197/PD-17/Recog: dated: 05.04.1987 and District Education officer (Male) Mardan Memo No.26091 dated: 19.11.1986.

The Secretary to Government of N.W.F.P Education Department Peshawar has been pleased to accord permanent recognition of the following Darul Ulooms with immediate effect.

1. Darul Uloom Madrassa Taleemul Quran Cloth Market Mingora Swat.
2. Darul Uloom Islamia, Anwar ul Uloom Nali Par Dang Baba Mardan.

S. J. Khan
Deputy Director (Schools)
For/Director of Education
(Schools) N.W.F.P Peshawar.

Endst No. 9388-93/Dated Peshawar the 17/5-1987.

Copy of the above is forwarded to the:-

- 1-2 Divisional Director Education (M. Malakand Division Saidu Sharif Swat, and Peshawar Division Peshawar.
- ✓ 3-4 Muhtamims Darul Uloom, Concerned.
- 5 Section Officer agre: Tech: Government of N.W.F.P Education Department Peshawar. w/r to his Memo No. Agre:Tech: 3-21/87-Deeni Eadu dated 11.05.1987.
- 6 P.A to Director of Education (Schools) N.W.F.P Peshawar.

M. J. Khan
Deputy Director (Schools)
For/Director of Education
(Schools) N.W.F.P Peshawar.

U. J. Khan
M. J. Khan
17/5/87

(15)

6

B

(35)

E



پاکستان مدرسہ ایجوکیشن بورڈ

اسلام آباد

حکومت پاکستان کے آرڈی نمنس نمبر XL

مجموعہ ۱۸ اگست ۲۰۰۱ء کے تحت قائم شدہ

۱۰-۸-۲۰۰۱

تاریخ: ۲۳ دسمبر ۲۰۰۳ء

حوالہ نمبر: ۷ (۱) پی ایم ای ٹی

مہتمم، دارالعلوم اسلامیہ انوار العلوم

نالی پار ہوتی، مردان

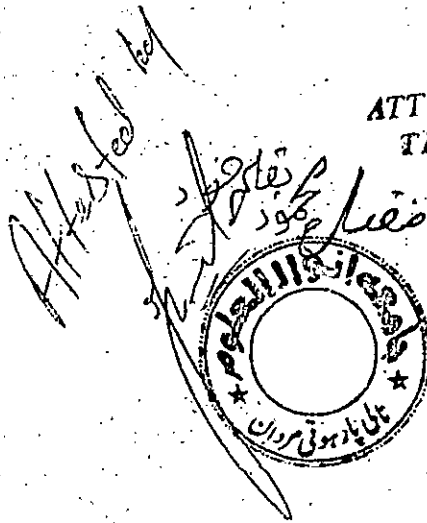
عنوان: الحاق ہمراہ پاکستان مدرسہ ایجوکیشن بورڈ (الحاق نمبر: ۳)

بحوالہ آپ کی درخواست برائے الحاق آپ کو مطلع کیا جاتا ہے کہ پاکستان مدرسہ ایجوکیشن

بورڈ نے الحاق کمیٹی کی سفارش پر "دارالعلوم اسلامیہ انوار العلوم"، نالی پار ہوتی، مردان کی

پاکستان مدرسہ ایجوکیشن بورڈ کے ساتھ الحاق کی منظوری عطا کر دی ہے۔

محمد رفیق صاحب
(ڈائریکٹر/میان صدیقی)
کوآرڈینیٹر/یکریٹری الحاق کمیٹی



ATTESTED TO BE
TRUE COPY

محمد رفیق صاحب

پاکستان مدرسہ ایجوکیشن بورڈ، حاجی گنج، بلاک نمبر ۵، اسلام آباد۔ فون نمبر: ۹۲۷۸۲۸۱، ۹۲۷۸۱۶۳، فیکس: ۹۲۷۸۱۸۲

Muhammad
Turkani
Advocate Supreme Court
Pakistan. No: 5045

16

C

7-35

دار الدارم
مدرسة اسلامية
9/159

Amex-B-2

47

ANNEXURE F

CERTIFICATE OF REGISTRATION OF SOCIETIES.

ACT XXI OF 1860.

No. 9/159 of 19 1967.

I hereby certify that Madrasa Islamia Awarul-
Majid, Muzil, Peshawar.

has this day been registered under the Societies
Registration Act XXI of 1860.

Given under my hand at Peshawar.

this 9th day of December

One thousand nine hundred and sixty seven.

Shamshir Ak 9/12/67
Asstt. Registrar of Joint Stock Companies,
Peshawar Region, Peshawar.

J. S. C. 24.
P. P. W. Karachi-19-10-57-1,304

no 80411 dated 9-12-67

TESTED TO BE
TRUE COPY

امامان الله و اولادہ

محمد اسحاق خان

Muhammaad
Turlandi
Advocate Supreme Court
Pakistan. No: 5045

17

8 D

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CERTIFICATE OF REGISTRATION OF SOCIETIES.
ACT XXI OF 1860.

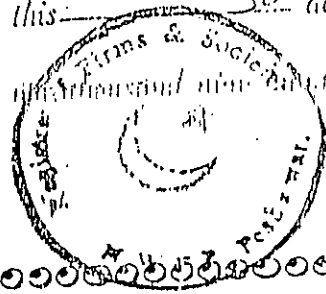
No. 78/15/186. Date 30/09/1905

I hereby certify that DARUL ULOOM ITTEHOUL MADARIS
AL-ISLAMIA, PAR HOPI DISTRICT NAIDAN.

has this day been registered under the Societies' Registration
Act XXI of 1860.

Given under my hand at PESHAWAR.

this 30th day of SEPTEMBER (1905).



Registrar of Joint Stock Companies
& Societies, N.W.F.P., Peshawar.

ATTESTED TO BE
TRUE COPY

Handwritten signature and date in Urdu: 30/9/1905

Handwritten signature and date in Urdu: 30/9/1905

Muhammad Usman
Tufandi
Advocate Supreme Court
Pakistan: No: 5045

مسلم خان پروان نائب صدر آل نزل ايجو کمیشن پشاور درگی
2012193

لجورالین
GHS NO 5
030093-7800 Darya

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.



NOTIFICATION

مسلم خان پروان نائب صدر آل نزل ايجو کمیشن پشاور

Peshawar, dated the November 13, 2012.

No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (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, qualification 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 said Appendix and the schedule therewith.

KPK
دال

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

Endst. 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 to Govt. of Khyber Pakhtunkhwa, Law Department.
4. The Secretary 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.
8. Copy to Malgan Ustazaan KPK

لجورالین
مسلم خان
GHS NO 5

مسلم خان پروان

Arabic Teacher (AT) (BPS-15).	(i) Second Class Secondary School Certificate, from a recognized Board with Shahdatul Alamia Fil Uloomul Arabia wal Islamia from a recognized Tanzimatul Wafaqul Madaris; or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by the Government from time to time; or (ii) Second Class Master's Degree in Arabic from a recognized University.	20 to 35 years.	By initial recruitment
11. Theology Teacher (TT) (BPS-15).	(i) Second Class Secondary School Certificate, from a recognized Board with Shahdatul Alamia from a recognized Tanzimatul Wafaqul Madaris or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by the Government from time to time; or (ii) Second Class Master's Degree in Islamiyat from a recognized University.	20 to 35 years.	(a) Seventy-five per cent by initial recruitment; and (b) twenty-five per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Qaris, with at least five years service and having qualification prescribed for initial recruitment of Theology Teacher. <u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment.
12. Senior Qari (BPS-15).			By promotion, on the basis of seniority-cum-fitness, from amongst Qaris, with at least five years service as such and having qualification prescribed for initial recruitment.
13. Certified Teacher (General) (BPS-15).	Bachelor's Degree or equivalent qualification from a recognized University with Certified Teacher	18 to 35 years.	(a) Forty per cent by initial recruitment; and

Handwritten signature:
 16/11/2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 243 /2014

F //

Mst. Bakht Pari..... Appellant

Versus

The Accountant General,
Khyber Pakhtunkhwa & others.....Respondents



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S.No	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal with Affidavit			1-5
2.	Copies of extracts of service book of appellant		A	6-11
3.	Copy of notification issued by director E&SE Department, Peshawar thereby appellant was promoted to the post of senior Arabic teacher (BPS-16)	21.02.2013	B	12-13
4.	Copy of office order issued by district education officer (Female), Dir Upper thereby appellant was adjusted against the vacant post in GGHS, Sundal.	28.02.2013	C	0-14
5.	Copy of Departmental Appeal/Representation of appellant with receipts of registry post	18.11.2013	D	15-17
6.	Wakalat Nama			

Bkate
Appellant

Through

Khush Dil Khan
Advocate,
Supreme Court of Pakistan

Dated: 14 / 02/ 2014

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 243 /2014

12

Mst: Bakht Pari,
Senior Arabic Teacher, (BPS-16)
Govt: Girls High School,
Sundal, Dir Upper.....Appellant

Govt of Peshawar
Director
196
14-2-2014

Versus

1. Accountant General,
Khyber Pakhtunkhwa, Peshawar.
2. District Accounts Officer,
Dir Upper.
3. Pay Fixation Party,
through the office of District Accounts Officer,
District, Dir Upper.
4. Secretary Elementary and Secondary Education,
Khyber Pakhtunkhwa, Peshawar.
5. Director,
Elementary and Secondary Education,
Khyber Pakhtunkhwa, Peshawar.
6. District Education Officer (Female),
Elementary and Secondary Education,
District, Dir UpperRespondents.

**SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNALS
ACT, 1974 FOR ISSUING THE DIRECTIONS TO
RESPONDENT NO.1 AND 2 FOR MAKING PAY
FIXATION IN BPS-16 AWARDED TO APPELLANT
ON HER PROMOTION TO THE POST OF SENIOR
ARABIC TEACHER**

14/2/2014

as-submitted to and filed.

29/2/14


ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

Respectfully Sheweth,

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Facts giving rise to the present appeal are as under:-

1. That the appellant initially joined the service of Education Department as trained Arabic Teacher in (BPS-09) and since then she was performing her duties efficiently with excellent service record. During her service she also improved her educational qualification from F.A to B.A in 2nd Division. Copy of extracts of service book are attached *as (Annex: A)*.
2. That a notification vide Ends: No.5193-99 dated 21.02.2013 was issued from the Directorate of respondent No.5 under his signature thereby appellant was promoted to the post of Senior Arabic Teacher placed in BPS-16. On her such promotion, she was transferred and posted against the vacant post in the GGHS, Sundal by an office order No.200-206 /F.No.52(1)/DEO(F)/SEB dated 28.02.2013 of the respondent No.6 and accordingly she assumed her duty there. Copy of notification dated 21.02.2013 *as (Annex: B)* and office order *as (Annex: C)*.
3. That when the appellant submitted her service book for making Pay Fixation in BPS-16 to the respondent No.3 (Pay Fixation Party) and claimed salary in BPS-16 on the eve of her regular promotion to the post of senior Arabic teacher (BPS-16) but the same was returned back on the plea that the Sanad of Shahadat-ul-Alamia was not recognized by the Higher Education Commission

ACCEPTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

which she possessed.

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Since the matter needs further consideration and the appeal is within time, therefore, admit for regular hearing 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 on 21.08.2014.

ACCEPTED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

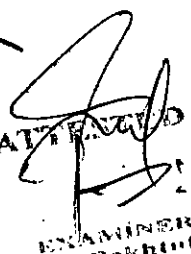
- C. That the respondents No.2 and 3 have not acted in accordance with law and not fixed the pay in BPS-16 in the service book of appellant malafidely.
- D. That the appellant is still getting salary of BPS-15 though she is performing her duty of the post carrying BPS-16 and thus she was deprived of the benefits of BPS-16 on baseless plea which is not sustainable under the law and rules and also against the fundamental rights as guaranteed under the constitution of Islamic Republic of Pakistan, 1973.
- E. That respondent No.1 also not acted in accordance with law and rules on subject and failed to pass any order on the departmental appeal/representation of appellant which is unjust and unfair.

It is, therefore, humbly prayed that on acceptance of this service appeal, the respondents No.1, 2 and 3 may graciously be directed to act in accordance with law and fix the pay of appellant in BPS-16 in view of her promotion to the post carrying BPS-16 and necessary entries be also made in her service book.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through 
Khush Dil Khan,
 Advocate,

Khush Dil Khan Advocate
 Supreme Court of Pakistan
 Ex Deputy Speaker, Provincial
 Assembly K.P
 Office: 9-4B, Haroon Menson
 Khyber Bazar Peshawar Ph-7711111


 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No. _____/2014

Mst. Bakht Pari..... Appellant

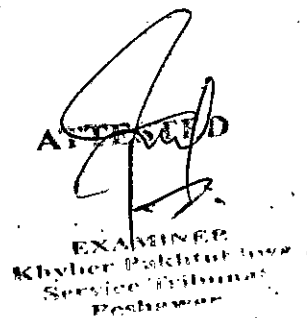
Versus

The Accountant General,
Khyber Pakhtunkhwa & others..... Respondents

Affidavit

I, Bakht Pari, Senior Arabic Teacher, GGHS, Sundal, Upper Dir, do hereby 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.

Blele
Deponent



Certified true & correct copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 21/08/2023
Number of Words -- 61-
Copying Fee --- 30/-
Agent --- 5/-
Total --- 35/-
Name of Clerk
Date of Copying
Date of Delivery of Copy 21/08/2023