


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 636/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	
1	14.09.2023	<p>The implementation petition of Mr. Khawaja Waqar Ahmad received today by registered post. It is fixed for implementation report before touring Single Bench at A.Abad on _____. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD**

Execution Petition No. 636/2023

IN

Service Appeal No. 148/2022

Khawaja Waqar Ahmed S/O Khawaja Muhammad, presently working as SPST GPS
Darra Mannah Tehsil Lower Tanawal District Abbottabad

.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary E&SED, Khyber
Pakhtunkhwa Peshawar & Others.

.....Respondents

EXECUTION PETITION

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1	Execution Petition alongwith affidavit	01 to 03	
2	Attested Copy of Judgment dated 22-06-2023	04 to 14	"A"
3	Copy of Application	15	"B"

Dated : 30-08-2023


Appellant
(In Person)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD**

Execution Petition No. 636/2023

Khyber Pakhtunkhwa
Service Tribunal

IN

Service Appeal No. 148/2022

Diary No. 7529

Dated 14/09/23

Khawaja Waqar Ahmed S/O Khawaja Muhammad, presently working as SPST GPS
Darra Mannah Tehsil Lower Tanawal District Abbottabad

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary E&SED, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (M) Abbottabad.
4. Sub Divisional Education Officer (M) Lower Tanawal Abbottabad.

.....Respondents

EXECUTION PETITION

EXECUTION PETITION SEEKING FOR IMPLEMENTATION OF
JUDGMENT DATED 22-06-2023 PASSED IN SERVICE APPEAL NO.
148/2022 BY THIS HONORABLE TRIBUNAL KHYBER PAKHTUNKHWA
AT CAMP COURT ABBOTTABAD.

Respectfully Sheweth:-

1. That petitioner / appellant filed Service appeal No. 148/2022 before the Khyber Pakhtunkhwa Service Tribunal Peshawar and same was allowed vide judgment dated 22-06-2023 passed in Appeal No. 148/2022 titled Khawaja Waqar Ahmed Vs Govt of Khyber Pakhtunkhwa & Others. (Copy of judgment dated 22-06-2023 is annexed herewith as **Annexure "A"**)

2. That the petitioner / appellant submitted an application on 12/07/23 before respondent No. 3 regarding implementation of the judgment but no vain. (Copy of application is annexed as **Annexure "B"**)
3. That the respondents are legally bound to implement the judgment of this Honorable Tribunal with letter & spirit but respondents are reluctant to implement the same.

It is therefore, very humbly prayed that on acceptance of instant execution petition judgment dated 22-06-2023 passed by this Honorable tribunal may graciously be implemented in its true letter & spirit.



(Khawaja Waqar Ahmed)
In Person

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD**

Execution Petition No. ____/2023

IN

Service Appeal No. 148/2022

Khawaja Waqar Ahmed S/O Khawaja Muhammad, presently working as SPST GPS
Darra Mannah Tehsil Lower Tanawal District Abbottabad

.....Appellant

VERSUS

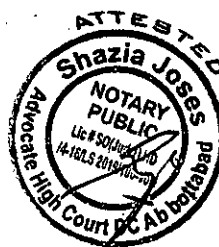
Government of Khyber Pakhtunkhwa, through Secretary E&SED, Khyber
Pakhtunkhwa Peshawar & Others.

.....Respondents

EXECUTION PETITION

AFFIDAVIT

I, Mr. Khawaja Waqar Ahmed S/O Khawaja Muhammad, presently working as SPST GPS Darra Mannah Tehsil Lower Tanawal District Abbottabad, do hereby affirm and declared that contents of forgoing reply are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.




DEPONENT

12-11/2023

ANNEX A
4

Service Appeal No.2232/2019 titled "Imtiaz Khan -vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" and connected appeal No: 2233/2019 titled "Muhammad Idrees-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others". Appeal No. 3082/2021 titled " Muhammad Tariq Abbasi-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 148/2022 titled "Khawaja Waqar versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 149/2022 titled "Abdul Razaq Ahmad versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" decided on 22.06.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss. Rashida Bano, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal at Camp Court Abbottabad.

AND HAVING NO LEGAL EFFECT UPON THE VESTED RIGHTS OF THE APPELLANT.

Service Appeal No.148/2022

Date of presentation of appeal.....01.02.2022
Dates of Hearing.....22.06.2023
Date of Decision.....22.06.2023

Khawaja Waqar Ahmad S/O Khawaja Muhammad R/o Patheel Sherwan Tehsil Lower Tanwal District Abbottabad, presently posted as SPST GPS Darra Mannah Circle Pind Kargu Khan Abbottabad.....Appellant

Versus

1. **Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa Peshawar.**
2. **The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.**
3. **District Education Officer (M) Abbottabad.**
4. **Sub Divisional Education Officer (M) Lower Tanawal Abbottabad.**
.....(Respondents)

Present:

Mr. Muhammad Liaqat, Advocate.....For the appellant.

Mr. Asad Ali Khan,
Assistant Advocate General.....For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE OFFICE ORDER NO.445-47/Lit DATED 18.01.2022 ISSUED BY RESPONDENT NO.3 VIDE WHICH DEPARTMENTAL REPRESENTATION OF THE APPELLANT WAS REJECTED WHICH IS TOTALLY AGAINST THE LAW, POLICY, WITHOUT JURISDICTION, ARBITRARILY, VOID AB-INITIO,

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No.2232/2019 titled "Imtiaz Khan -vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" and connected appeal No. 2233/2019 titled "Muhammad Idrees-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar, and others", Appeal No. 3082/2021 titled " Muhammad Tariq Abbasi-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 148/2022 titled "Khawaja Waqar versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 149/2022 titled "Abdul Razzaq Ahmad versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" decided on 22.06.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss Rashida Bano, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal at Camp Court Abbottabad.

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**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT ABBOTTABAD.**



BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
RASHIDA BANO ...MEMBER (Judicial)

Service Appeal No.2232/2019

Date of presentation of appeal.....26.12.2019
Dates of Hearing.....22.06.2023
Date of Decision.....22.06.2023

Imtiaz Khan son of Khan Bahadur, presently PST GPS Ghar Pair Tehsil and District Abbottabad.....**Appellant**

Versus

1. **Government** of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa Peshawar.
2. **The Director (E&SE)** Department, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (M)** Abbottabad.
4. **Sub Divisional Education Officer (M)** Lower Tanawal Abbottabad.
.....(**Respondents**)

by Hand
Adol Chigatani
For Further info

Present:

Mr. Muhammad Liaqat, Advocate.....For the appellant.

Mr. Asad Ali Khan,
Assistant Advocate General.....For respondents

12-7-23

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE OFFICE ORDER NO.13052/ADEO(LIT) DATED 18.12.2019 ISSUED BY RESPONDENT NO.3

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No.2232/2019 titled "Imtiaz Khan -vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" and connected appeal No. 2233/2019 titled "Muhammad Idrees-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others". Appeal No. 3082/2021 titled " Muhammad Tariq Abbasi-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 148/2022 titled "Khawaja Waqar versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 149/2022 titled "Abdul Kazzag Ahmad versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" decided on 22.06.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss. Rashida Bano, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal at Camp Court Abbottabad.



VIDE WHICH DEPARTMENTAL REPRESENTATION OF THE APPELLANT WAS DISMISSED WHICH IS TOTALLY AGAINST THE LAW, POLICY, WITHOUT JURISDICTION, ARBITRARILY, VOID AB-INITIO, AND HAVING NO LEGAL EFFECT UPON THE VESTED RIGHTS OF THE APPELLANT.

Service Appeal No.2233/2019

Date of presentation of appeal.....26.12.2019
Dates of Hearing.....22.06.2023
Date of Decision.....22.06.2023

Muhammad Idrees son of Muhammad Aslam, PST GPS Malsa, Tehsil & District Abbottabad.....Appellant

Versus

1. **Government** of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa Peshawar.
2. **The Director (E&SE)** Department, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (M)** Abbottabad.
4. **Sub Divisional Education Officer (M)** Lower Tanawal Abbottabad.
.....(**Respondents**)

Present:

Mr. Muhammad Liaqat, Advocate.....For the appellant.

Mr. Asad Ali Khan,
Assistant Advocate GeneralFor respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE OFFICE ORDER NO.13052/ADEO(LIT) DATED 18.12.2019 ISSUED BY RESPONDENT NO.3 VIDE WHICH DEPARTMENTAL REPRESENTATION OF THE APPELLANT WAS DISMISSED WHICH IS

ATTESTED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No.2232/2019 titled "Intiaz Khan -vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" and connected appeal No. 2233/2019 titled "Muhammad Idrees-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others". Appeal No. 3082/2021 titled "Muhammad Tariq Abbasi-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 148/2022 titled "Khawaja Waqar versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 149/2022 titled "Abdul Razzaq Ahmad versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" decided on 22.06.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss. Rashida Bano, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal at Camp Court Abbottabad.



TOTALLY AGAINST THE LAW, POLICY, WITHOUT JURISDICTION, ARBITRARILY, VOID AB-INITIO, AND HAVING NO LEGAL EFFECT UPON THE VESTED RIGHTS OF THE APPELLANT.

Service Appeal No.3082/2021

Date of presentation of appeal.....26.01.2021
Dates of Hearing.....22.06.2023
Date of Decision.....22.06.2023

Muhammad Tariq Abbasi son of Muhammad Firdos Khan, presently SPST GPS, Lora Tehsil Havelian, District Abbottabad.....Appellant

Versus

1. **Government** of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa Peshawar.
2. **The Director (E&SE)** Department, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (M)** Abbottabad.
4. **Sub Divisional Education Officer (M)** Lower Tanawal Abbottabad.
.....(Respondents)

Present:

Mr. Muhammad Liaqat, Advocate.....For the appellant.

Mr. Asad Ali Khan,
Assistant Advocate GeneralFor respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE OFFICE ORDER NO.13052/ADEO(LIT) DATED 18.12.2019 ISSUED BY RESPONDENT NO.3 VIDE WHICH DEPARTMENTAL REPRESENTATION OF THE APPELLANT WAS DISMISSED WHICH IS TOTALLY AGAINST THE LAW, POLICY, WITHOUT JURISDICTION, ARBITRARILY, VOID AB-INITIO,

ATTESTED

EXAMINERS
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No.2232/2019 titled "Imtiaz Khan -vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" and connected appeal No. 2233/2019 titled "Muhammad Idrees-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others", Appeal No. 3082/2021 titled "Muhammad Tariq Abbasi-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 148/2022 titled "Khawaja Waqar versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 149/2022 titled "Abdul Razzaq Ahmad versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" decided on 22.06.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss. Rashida Bano, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal at Camp Court Abbottabad.



AND HAVING NO LEGAL EFFECT UPON THE VESTED RIGHTS OF THE APPELLANT.

Service Appeal No.149/2022

Date of presentation of appeal.....01.02.2022
Dates of Hearing.....22.06.2023
Date of Decision.....22.06.2023

Abdul Razzaq S/O Muhammad Iqbal Khan R/o Haal Lakhala Tehsil Lower Tanwal District Abbottabad, presently posted as SPST GPS Lakhala Circle Pind Kargu Khan Abbottabad.....Appellant

Versus

1. **Government** of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa Peshawar.
2. **The Director (E&SE)** Department, Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer (M)** Abbottabad.
4. **Sub Divisional Education Officer (M)** Lower Tanawal Abbottabad.
.....(Respondents)

Present:

Mr. Muhammad Liaqat, Advocate.....For the appellant.

Mr. Asad Ali Khan,
Assistant Advocate General.....For respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE OFFICE ORDER NO.445-47/Lit DATED 18.01.2022 ISSUED BY RESPONDENT NO.3 VIDE WHICH DEPARTMENTAL REPRESENTATION OF THE APPELLANT WAS REJECTED WHICH IS TOTALLY AGAINST THE LAW, POLICY, WITHOUT JURISDICTION, ARBITRARILY, VOID AB-INITIO,

ATTESTED

CHIEF CLERK
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No.2232/2019 titled "Imtiaz Khan -vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" and connected appeal No. 2233/2019 titled "Muhammad Idrees-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others", Appeal No. 3082/2021 titled "Muhammad Tariq Abbasi-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 148/2022 titled "Khawaja Waqar versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 149/2022 titled "Abdul Razaq Ahmad versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" decided on 22.06.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss. Rashida Bano, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal at Camp Court Abbotabad.

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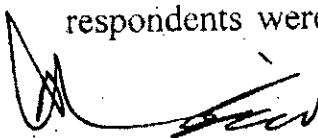
AND HAVING NO LEGAL EFFECT UPON THE VESTED RIGHTS OF THE APPELLANT.


JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment the above five appeals are going to be decided as all the appeals involve the same issue to be resolved, therefore, can be conveniently be decided together.

2. All the appellants are PTC/PST Teachers, appointed on different dates. All of them claim to have passed Higher Secondary School Certificate (HSSC) examination on different dates. The appellant claim promotion from the post of SPST (BPS-14) to the post of PSHT (BPS-15), which was denied to them because of a Notification No.(PE)4-5/SSRC/Meeting/2012/Teaching Cadre/2017 dated 30.01.2018, whereby, according to the respondents, the appellants did not fulfill the requisite criteria for promotion. The said notification is annexed with the reply according to which the requisite qualification for promotion was Bachelor Degree whereas all the appellants were having HSSC qualification. They had filed departmental appeals for their promotion to the next higher grade, which were not acceded to, compelling them to file the instant appeals.

3. On receipt of the appeals and their admission to full hearing, the respondents were summoned. Respondents put appearance and submitted



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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No.2232/2019 titled "Imtiaz Khan -vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" and connected appeal No. 2233/2019 titled "Muhammad Idrees-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others". Appeal No. 3082/2021 titled "Muhammad Tariq Abbasi-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 148/2022 titled "Khawaja Waqar versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 149/2022 titled "Abdul Razzaq Ahmad versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" decided on 22.06.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss. Rashida Bano, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal at Camp Court Abbottabad.

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written replies, raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellants.

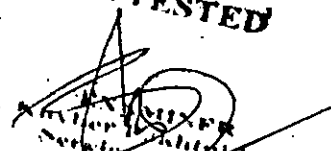
4. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.

5. The Learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Assistant Advocate General refuted the arguments of the learned counsel for the appellants and supported the stance of the respondent.

7. At the very outset the learned counsel for the appellants and learned Assistant Advocate General referred to the copy of the judgment of this Tribunal dated 17.03.2021, found placed in these appeals, passed in service appeals No.2231, 2234 to 2237 all of 2010 wherein the point involved in these appeals was decided by this Tribunal in the following manner:-

"2. The relevant facts leading to filing of instant appeals are that appellants were appointed as P.T.C/P.S.T having prescribed qualification. There were duly qualified and eligible for promotion however, promotion was denied only on the strength of an order of promotion issued by the Government of Khyber Pakhtunkhwa through notification dated 30.01.2018 wherein the requisite educational qualification was enhanced from Intermediate to B.A. Some of the appellants also filed Writ Petition before the august Peshawar

ATTESTED


Attesting Officer
Khyber Pakhtunkhwa
Service Tribunal



High Court Abbottabad Bench which was treated as departmental representation and was sent to the respondents for decision which was rejected, hence, the present service appeal.

3. We have heard Muhammad Liaqat Advocate for appellant and Riaz Khan Paindakheil learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Muhammad Liaqat Advocate counsel appearing on behalf of appellants, inter-alia, contended that the order dated 18.12.2019 is against law and facts which is void ab-initio and without legal authority. He argued that the impugned order is against the policy as a meeting was held on 08.05.2018 wherein issue of promotion was discussed at Serial No.10 and all the D.E.Os were directed that the promotion cases of the P.S.Ts to S.P.S.Ts/P.S.H.T must be entertained according to the previous policy of promotion while new rules are to be applied for new induction/recruitment. Learned counsel further submitted that the notification dated 30.11.2018 is not applicable in the case of appellants as at the time of their appointment, no such terms & conditions were incorporated in the appointment order of the appellants, hence, notification mentioned above has no legal value in the case of appellants and they are eligible for

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar



promotion in view of notification dated 13.11.2012.

5. As against that learned A.A.G submitted that as per notification dated 30.11.2018, the requisite qualification for promotion is Bachelor Degree, whereas, appellants do not fulfill the requisite qualification.

6. From the record, it is evident that the respondents had issued a notification dated 13.11.2012, wherein, method of recruitment/promotion has been laid down for Primary School Teachers (P.S.T BPS-12) Senior Primary School Teachers (S.P.S.T BPS-14) and Primary School Head Teachers (P.S.H.T B.P.S-15). Criteria for promotion from P.S.T to S.P.S.T is on the basis of seniority-cum-fitness with at least five years service with Intermediate or equivalent qualification. Similarly, promotion from S.P.S.T to P.S.H.T is based on seniority-cum-fitness with at least ten years service with Intermediate or equivalent. Appellants were appointed as P.S.T who were holding almost 20-25 years of service with Intermediate qualification obtained during the year 2014-16. Record reveals that the appellants approached the Hon'ble Peshawar High Court in Writ Petition for their promotion on the strength of Promotion Policy 2012 and the High Court converted their petition into

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



departmental appeals with directions to the respondents to consider their grievances and decide the same in accordance with law. The respondents accordingly processed their request but in the meanwhile, certain amendments were made in the promotion policy re-emerging as Promotion Policy 2018, wherein qualification for promotion was enhanced from Intermediate to Bachelor Degree, therefore, their requests were turned down as by now they were not eligible for promotion according to new policy. The appellants were qualified for promotion under the Policy of the year 2012 after obtaining the required qualification in 2014-16 but they were not promoted and their due right of promotion was violated. It is also evident from the Minutes of Meeting dated 16.05.2018 whereby respondent No.2 was conscious of the fact that promotions need to be done as per criteria laid down in 2012 Policy but somehow, the District Education Officer did not comply with such directions which resulted into miscarriage of justice.

7. In view of above, the instant appeals are accepted with direction to the respondents to consider the cases of promotion of the appellants as per guidelines contained in the Promotion Policy of 2012. Parties are left to bear their own costs. File be consigned to the record room."

ATTIESTED

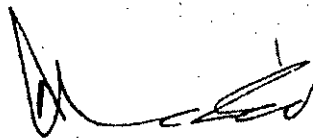
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No.2232/2019 titled "Imtiaz Khan -vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" and connected appeal No. 2233/2019 titled "Muhammad Idrees-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others", Appeal No. 3082/2021 titled "Muhammad Tariq Abbasi-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 148/2022 titled "Khawaja Waqar versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" Appeal No. 149/2022 titled "Abdul Rozzay Ahmad versus Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department (E&SED), Khyber Pakhtunkhwa, Peshawar and others" decided on 22.06.2023 by Division Bench comprising Kalim Arshad Khan, Chairman, and Miss. Rashida Bano, Member, Judicial, Khyber Pakhtunkhwa Service Tribunal at Camp Court Abbottabad.

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7. The facts and circumstances of the instant appeals are like those which have been decided by the Tribunal vide the above judgment. These appeals, being on the same footing, whereby all the appellants are seeking the same relief, therefore, these are also decided accordingly in view of the judgment of the Supreme Court of Pakistan reported as 2009 SCMR 1, wherein the Supreme Court of Pakistan held that, where a Tribunal or Supreme Court decide a point of law regarding terms and conditions of a civil servant, all similarly placed civil servants are to be extended the same relief without dragging them to the courts, irrespective of the fact whether they had litigated or not. Copy of this judgment be placed in all the connected files. Costs shall follow the event. Consign.

8. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 22nd day of June, 2023.*



KALIM ARSHAD KHAN
Chairman
Camp Court Abbottabad



RASHIDA BANO
Member (Judicial)
Camp Court Abbottabad

Adnan Shah
Certified to be true copy

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

06/07/23

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ANNEX

"B"

15

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحب (مردانہ) ضلع ایبٹ آباد
عنوان: درخواست برائے ترقی ایس۔ پی۔ ایس۔ ٹی سے پی۔ ایچ۔ ایس۔ ٹی

جناب عالی

گزارش ہے کہ سائل کی بطور پی۔ ایس۔ ٹی تعیناتی ۲۰۱۰ اپریل ۱۹۹۹ کو ہوئی تھی۔ اس کے بعد سائل کی پرموشن ۲۸ اپریل ۲۰۱۳ کو ہونا قرار پائی۔ لیکن چند ذاتی مجبوریوں اور وجوہات کی بناء پر سائل وہ ترقی لینے سے قاصر رہا۔
دریں اثناء سائل نے مورخہ ۱۲ جنوری ۲۰۲۲ کو سرورسز ٹریبونل پشاور میں رٹ دائر کر دی کہ سائل کو ترقی دی جائے۔ جو کہ عدالت عالیہ نے منظور فرماتے ہوئے مورخہ ۲۲ جون ۲۰۲۳ کو فیصلہ دیا کہ سائل PSHT BPS-15 کی ترقی لینے کا حقدار ہے۔ اور محکمہ طذا کو ہدایت کی کہ سائل کو SPST BPS-14 سے ترقی دے کر PSHT BPS-15 میں کیا جائے۔
لہذا التماس ہے کہ عدالت عالیہ کے فیصلہ مطابق سائل کی ترقی کے احکامات صادر فرمائے جائیں۔

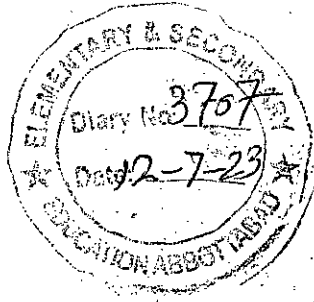
العارض

خواجہ وقار احمد ایس پی ایس ٹی

گورنمنٹ پرائمری سکول درہ مناپنڈ کرگوخان

لوہ قنول ایبٹ آباد

آج مورخہ: ۱۲ جولائی ۲۰۲۳



A Attested