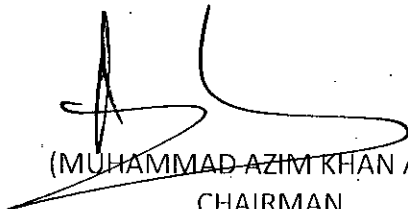


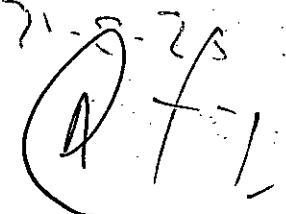
10.05.2016

Counsel for the appellant, M/S Khurshid Khan, SO and Hameed-ur-Rehman, AD (lit.) alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Vide our detailed judgment of today in connected service appeal No. 1390/2013 titled "Darwaiza-vs-Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Peshawar and others", this appeal is also disposed of as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
10.05.2016


(MUHAMMAD AZIM KHAN AFRIDI)
CHAIRMAN


(ABDUL LATIF)
MEMBER (EXECUTIVE)

21-8-81

15-1-581

12.08.2014

vide order sheet dated 12.08.2014, in connected appeal No. 1390/
2013 this appeal is adjourned to 29.10.2014.

READER

vide order sheet dated 12.08.2014, in connected appeal No. 1390/
2013 this appeal is adjourned to 25-3-15

READER

25-3-15

vide order sheet dated 12.08.2014, in connected appeal No. 1390/
2013 this appeal is adjourned to 10-7-15

READER

vide order sheet dated 12.08.2014, in connected appeal No. 1390/
2013 this appeal is adjourned to 18-8-15

READER

vide order sheet dated 12.08.2014, in connected appeal No. 1390/
2013 this appeal is adjourned to 12-1-2016

READER

vide order sheet dated 12.08.2014, in connected appeal No. 1390/
2013 this appeal is adjourned to 29.10.2014.

READER

vide order sheet dated 12.08.2014, in connected appeal No. 1390/
2013 this appeal is adjourned to _____

READER

vide order sheet dated 12.08.2014, in connected appeal No. 1390/
2013 this appeal is adjourned to _____

READER

13.12.2013

Counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on 07.02.2014.



Member

07.02.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 18.06.2013, he filed departmental appeal on 08.07.2013, which has not been responded within the statutory period of 90 days, hence the instant appeal on 07.10.2013. Points raised at the Bar need consideration. The appeal is admitted to 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 28.04.2014.


Member

07.02.2014

This case be put before the Final Bench  for further proceedings.


Chairman

28.4.2014



Counsel for the appellant and Mr. Ziaullah, GP with Wisal Muhammad, ADO for the respondents present and requested for time. To come up for written reply on 12.8.2014.


MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1404/2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	09/10/2013	<p>The appeal of Mr. Faqir Gul resubmitted today by Mr. Khan Akbar 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	22-10-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>12-12-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

This is an appeal filed by Mr. Faqir Gul today on 04/10/2013 for the grant of promotion against which he preferred a departmental appeal on 08.07.2013 which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

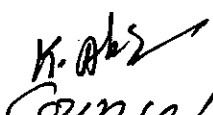
No. 1411 /ST,

Dt. 7/10/2013


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khan Akbar Khan Adv. Pesh.

Note :- The instant appeal was filed before expiry of statutory period, hence resubmitted after completion of statutory period.


Counsel
KHAN AKBAR KHAN
Advocate
High Court Peshawar

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOON
KHWA, PESHAWAR.**

Service Appeal No 1404/2013

Faqir Gul.....Appellant

VERSUS

Secretary to Govt of K P K & others

.....Respondents

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Service appeal		1-5
2.	Affidavit		6
3.	Copy of retirement order dated 22.01.2013	"A"	7
4.	Copies of PTC training Certificate and Certificate of intermediate	"B" & "C"	08-09
5.	Copies of Notification dated 11.07.2012 and Notification dated 13.11.2012	"D" & "E"	10-25
6.	Copy of application	"F"	26
7.	Copies of Office order No.4730 and Office Order No.1499	"G & "H"	27-28
8.	Copy of Application	"I"	29
9.	Wakalat Nama		30

Delby
Appellant

Through

K. Akbar Khan
(KHAN AKBAR KHAN)
Advocate, Peshawar.

Office: - 107-B, Town Tower, Jahangir
Abad, University Road,
Peshawar.

Cell No: - 0344-9111911

Dated:-02.10.2013

①

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOON
KHOWA, PESHAWAR.**

Service Appeal No 1404 /2013

~~Stamp~~
1435
04-10-13

Faqir Gul PST (Rtd) S/O Nazar Gul R/o Shaikhano Banda, Lund
Khowar, Tehsil & Distinct Mardan.....Appellant

V E R S U S

- 1). Secretary to Government of Khyber Pakhtunkhwa,
Elementary and Secondary Education Department,
Peshawar.
- 2). Director Elementary and Secondary Education Department
Khyber Pakhtunkhwa, Peshawar.
- 3). Executive District Officer (Male) Elementary and Secondary
Education Pakhtunkhwa, Mardan.
- 4). District Co-Ordination Officer Mardan.

.....Respondents

=====

**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTON KHOWA, SERVICE TRIBUNAL ACT, 1974 TO
THE EFFECT THAT THE APPELLANT MAY PLEASE BE
GRANTED PROMOTION IN THE LIGHT OF
NOTIFICATIONS DATED 11.07.2012 & 13.11.2012 AS
JUNIOR/COLLEQUES TO THE APPELLANT HAVE BEEN
PROMOTED WHILE THE APPELLANT HAS BEEN**

IGNORED ALTOGETHER.

=====

PRAYER IN APPEAL.

**On acceptance of this appeal the appellant may
please be promoted from BPS-12 to BPS-15 in the**

~~Stamp~~
L.S.O.
27/10/13

Re-submitted to ~~copy~~
and filed.

~~Stamp~~
L.S.O.
27/10/13

light of Notifications date 11.07.2012 &
13.11.2012.

=====

Respectfully Sheweth:-

1. That the appellant was working as Senior Primary School Teacher (PST) in District Mardan and after tendering long tenure of service extending to 26 years, he was allowed to proceed on retirement on attaining the age of superannuation on dated 22.01.2013, w.e.f. 17.11.2012 (Copy of the retirement order is attached herewith as *Annex:- "A"*).
2. That the appellant was a PTC trained teacher and had also passed B.A examination in the y1980 (Copy of PTC training certificate and Intermediate certificates are attached herewith as *Annex:- "B" & "C"* respectively)
3. That the Government of Khyber Pakhtunkhwa vide a Notification dated 11.07.2012 followed by another Notification dated 13th November 2012, introduced a policy of up-gradation for Primary School teachers (PST), whereby they were up-graded from BPS-12 to BPS-15 and BPS-14 on the basis of length of service. (Copies of Notification dated 11.07.2012 & Notification dated 13th November 2012 are attached herewith as *Annex:- "D" & "E"* respectively).
4. That after promulgation of the referred Notifications, the Departmental Promotion Committee held a meeting and the sine PST Teachers were held entitled to BPS-15 but the appellant was ignored altogether.
5. That against the said discrimination of the Department the appellant wrote an application to the respondent No.4 for considering his name for promotion to BPS-15 in the light of

above mentioned Notifications. (Copy of application is attached herewith as *Annex: - "F"*).

6. That on the said application, respondent No.4 sought advice from respondent No.2 vide his office letter No.4730 dated 6/5/2013, which was properly replied by respondent No.2 vide an Office Order No.1499 dated 18.06.2013, with the observation that those civil servant are entitled to promotion whose names have been cleared by the DPC and who got retired after the DPC meeting and not before. (Copy of the Office orders No.4730 dated 6.05.2013 and Office Order No.1499 dated 18.06.2013 are attached herewith as *Annex:- "G" & "H"* respectively).
- 6). That appellant on dated 08.07.2013 filed another application before the Respondent No.3, but so far no action has been taken over the said application. (Copy of the application is attached herewith as *Annex:-"I"*).
- 7). That being aggrieved from the acts and actions of the Respondents by not considering the appellant as entitled to BPS-15 in the light of Notification dated 11.07.2012 & 13.09.2012, and having no other adequate and efficacious remedy available to him, the appellant files this appeal inter-alia on the following grounds.

GROUND:-

- A). That the appellant having his service extending up-to 26 years has been totally ignored and has not been given any chance of up-gradation/promotion throughout his their professional career, inspite of having such a long spotless tenure of service.

- C). That the appellant fulfills the criteria given for promotion in the above mentioned both the Notifications; hence he was eligible to have been promoted to BPS-15.
- B). That act of the respondent department, thereby depriving the appellant from the above said benefit of up-gradation is illegal, unlawful without authority/ jurisdiction, as well as being based on malafide intentions of the respondent department is liable to be set aside.
- C). That the appellant has been serving on the above said post since long, whereas his minimum tenure of service is 26 years and has been waiting since long for his turn to be promoted/upgraded to some higher scale, however after having a tenure of such a long legitimate expectations the appellant has been treated unlawfully without any cogent/solid grounds.
- D). That considering some of the teachers for promotion by the Departmental Promotion committee while ignoring the appellant amounts to serious discrimination on their part.
- E). That the said act of the respondent department is not merely illegal as well as unlawful, but is also against the very clear Article of Constitution of Islamic Republic of Pakistan as engraved in the basic rights of said constitution.
- E). That the appellant has got every right to be treated equally with his other colleagues and closing all the ways of up-gradation/promotion for the appellant is against all the norms of justice.
- F). That Respondents have not treated the petitioner in accordance with law, rules and policy on subject and acted in violation of Article.4 of the constitution of Islamic Republic of

(S)

Pakistan, 1973 by not considering the Petitioners as entitled to the BPS-15 in the light of the referred Notifications, which is unjust, unfair and hence not sustainable in the eyes of law.



For the aforesaid reasons, it is, therefore, humbly prayed that on acceptance of this appeal, this Honourable Tribunal may graciously be pleased to direct the respondents to award promotion to the appellant in BPS-15 in the light of Notification dated 11.07.2012 & 13.11.2013.

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


Appellant

Dated:-02.10.2013s

Through


KHAN AKBAR KHAN
&

SAIF ULLAH MOHMAND
Advocate High Court.

CERTIFICATE:

Certified that as per information furnished by my client no such like service appeal on the subject has earlier been filed in this Hon'ble Tribunal.


ADVOCATE

8

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTOON
KHWA, PESHAWAR.

Service Appeal No _____ */2013*

Faqir Gul.....Appellant

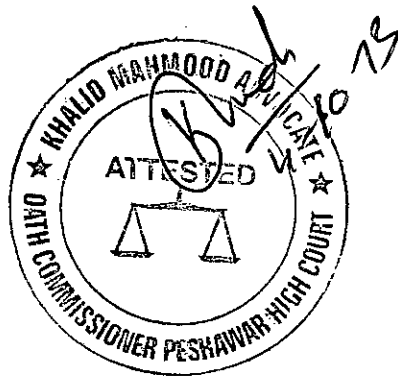
VERSUS

Secretary to Govt of K P K & others

.....Respondents

AFFIDAVIT

I, Khan Akbar Khan Advocate, as per instruction of my client, do hereby solemnly affirm and declare on Oath that the contents of the accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.



K. Akbar Khan
Deponent

14

EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECY: EDUCATION MARDAN.

PROPERTY NO. OF M.A.

Consequent upon the approval given by the District Coordination Officer Mardan vide letter NO.23388-89 dated, 15.7.12, sanction is hereby accorded to the grant of encashment of LPR in r/o Mr. Faqir Gul PET of S istia Gul Korbona Takht Sahi for the period of 149 days. He is further allowed to proceed on retirement from the Govt. service w.e.f 17.11.2012 (A.R) after completing his sixty years of age. This is final order and will not be withdrawn/cancelled at any stage.

Note.

Necessary entry to this effect should be made in his S/Book.

17255-51

(SABALDA ANAN MARWAT)
EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECY: EDUC: MDR:

Inst: NO. _____ / A.Gul PET. Dated: 22/11/12.

Copy forwarded to the:-

- 1. Dy: District Education Officer (R) Primary T. Sahi alongwith S/s.
- 2. DDO Mardan.
- 3. Official concerned.

Signature
EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECY: EDUC: MDR:

Annexure (B)

Serial No. 19255

کاملاً مستحق

University of Peshawar (PAKISTAN)



FADIR GUL

SON of NAZAR GUL

and a student of

MARDAN DISTRICT

having

passed the prescribed examination in

JUNE 19 80 is this

day admitted by the UNIVERSITY OF PESHAWAR to the DEGREE of

BACHELOR OF ARTS

in the Second Division

He

passed also in

ISLAMIA

as an additional optional subject.

The examination was taken ~~examinator~~ in parts

Registered No. 77-19255

Roll No. 1570

10th September 1980

مستحق

Signature: *Ishar Ahmad*
Subject Planning Division
University of Peshawar

Signature: *Fahad Khan*
Head Master
High School: Lund Khwa
(MARDAN)

Signature: *Abdullah Khan*
Signature: *Abdullah Khan*
Signature: *Abdullah Khan*



(B) Annexure (D)
AD 0
Pormey Seet
Huss

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

Dated Peshawar, 11.07.2012

NOTIFICATION:

No. SO (B & A)/1-18/E&SE/2012: Sanction of the Government of Khyber Pakhtunkhwa is hereby accorded to the up gradation of the posts for Grant of Incentive of Higher Pay Scale to different Categories/Cadres of teachers in Elementary & Secondary Education Department w.e.f. 01-07-2012 as per details given below:-

Sr. No.	Nomenclature of Teaching Cadre Post	Location	Existing Basic Pay Scale	New Approved Basic Pay Scale	Remarks
1.	Primary School Teacher (PST)	Govt. Primary School	BPS-5 BPS-6 BPS-7 BPS-9 BPS-10 BPS-12	(BPS-12)	The post of PST is upgraded to BPS-12. Accordingly, 33,497 posts of PSTs, already sanctioned in various pay scales are upgraded to BPS-12 for the present incumbents as well as future appointees.
2.	Senior Primary School Teacher (Sr. PST)	"do"	Newly Upgraded/ Redesignated Post	(BPS-14)	22,331 posts of the existing PSTs in various existing pay Scales are upgraded to BPS-14 and redesignated as Senior PST. The posts will be filled in the manner as may be prescribed by the Elementary & Secondary Education Department by making necessary service rules or amending the existing service rules, if any, for the post.
3.	Primary School Head Teacher (PSHT)	"do"	Newly Upgraded/ Redesignated Post	(BPS-15)	20,804 posts of the existing PST's (one post in each Primary School) are upgraded to BPS-15 and redesignated as Primary School Head Teacher, and will be filled in the manner as may be prescribed by the Elementary & Secondary Education Department by making necessary service rules or amending the existing service rules, if any, for the post.
4.	Certified Teachers (CT)	Govt. Middle/High/Higher Secondary School	BS-09 BS-10 BS-12 BS-14 BS-15	(BPS-15)	All the existing posts of CTs are upgraded to BPS-15 for the present incumbents to the post as well as future appointees.
5.	Senior Certified Teachers (Sr. CT)	"do"	Newly Upgraded/ Redesignated Post	(BPS-16)	One thirds (1/3 rd) of the total CT posts are upgraded to BPS-16 and redesignated as Senior CTs which will be filled in the manner as may be prescribed by the Elementary & Secondary Education Department by making necessary service rules or amending the existing service rules, if any, for the post.
6.	Arabic Teachers (A.T)	"do"	BS-09 BS-10 BS-12 BS-14 BS-15	(BPS-15)	All the existing posts of ATs are upgraded to BPS-15 for the present incumbents to the post as well as future appointees.
7.	Senior Arabic Teachers (Sr. AT)	"do"	Newly Upgraded/ Redesignated Post	(BPS-16)	One thirds (1/3 rd) of the total AT posts are upgraded to BPS-16 and redesignated as Senior AT, which will be filled in the manner as may be prescribed, by the Elementary & Secondary Education Department by making necessary service rules or amending the existing service rules, if any, for the post.
8.	Teacher of Theology (TT)	"do"	BS-07 BS-09 BS-10 BS-12 BS-14 BS-15	(BPS-15)	All the existing posts of TTs are upgraded to BPS-15 for the present incumbents to the post as well as future appointees.
9.	Senior Teacher of Theology (Sr. TT)	"do"	Newly Upgraded/ Redesignated Post	(BPS-16)	One thirds (1/3 rd) of the total TT posts are upgraded to BPS-16 and redesignated as Senior TT, which will be filled in the manner as may be prescribed by the Elementary & Secondary Education Department by making necessary service rules or amending the existing service rules, if any, for the post.
10.	Drawing Masters (DM)	"do"	BS-09 BS-10 BS-12 BS-14 BS-15	(BPS-15)	All the existing posts of DMs are upgraded to BPS-15 for the present incumbents to the post as well as future appointees.
11.	Senior Drawing Masters (Sr. DM)	"do"	Newly Upgraded/ Redesignated Post	(BPS-16)	one thirds (1/3 rd) of the total DM's posts are upgraded to BPS-16 and redesignated as Senior DM, which will be filled in the manner as may be prescribed by the Elementary & Secondary Education Department by making necessary service rules or

12.	Physical Education Teachers (PET's)	"do"	BS-09	(BPS-15)	All the existing posts of PETs are upgraded to BPS-15 for the present incumbents to the post as well as future appointees.
			BS-10		
			BS-12		
			BS-14		
			BS-15		
13.	Senior Physical Education Teachers (Sr. PET's)	"do"	Newly Upgraded/ Redesignated Post	(BPS-16)	One thirds (1/3 rd) of the total PETs posts are upgraded to BPS-16 and redesignated as Senior PET, which will be filled in the manner as may be prescribed by the Elementary & Secondary Education Department by making necessary service rules or amending the existing service rules, if any, for the post.
14.	Qari/Qaria	"do"	BPS-7	(BPS-12)	All the existing posts of Qari/Qaria are upgraded to BPS-12 for the present incumbents to the post as well as future appointees.
			BPS-9		
			BPS-10		
			BPS-12		
			BPS-14		
15.	Sr.Qari/Sr.Qaria	"do"	Newly Upgraded/ Redesignated Post	(BPS-15)	One thirds (1/3 rd) of the total Qari/Qaria posts are upgraded to BPS-15 and redesignated as Senior Qari/Qaria, which will be filled in the manner as may be prescribed by the Elementary & Secondary Education Department by making necessary service rules or amending the existing service rules, if any, for the post.

2. A policy shall also be devised in the framework of input/output criteria in terms of qualification, length of service, regularity, punctuality, results, curricular and co-curricular achievements and other performance indicators, so that the teachers do not take the scheme for granted but work for it.

3. District wise/ school wise breakup of the posts is enclosed herewith as Annexure-A.

SECRETARY

Endst: No. SO(FR)/FD/10-22(E)/2010 Dated Pesh: the 16/07 2012

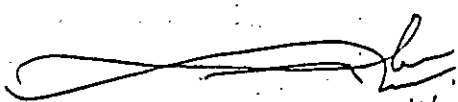
Copy is forwarded to Accountant General Khyber Pakhtunkhwa, Peshawar.
All District Account Officers


SECTION OFFICER (FR)
FINANCE DEPARTMENT

Endst. Of even Number & Date.

Copy of the above is forwarded to:-

1. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department, with reference to his letter No SO(FR)/FD/10-22(E)/2010 dated 26.06.2012.
2. P.S. to Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
3. P.S. to Special Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
4. P.S. to Deputy Secretary-II, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
5. P.S. to Minister of E&SE, Khyber Pakhtunkhwa.
6. The Director, E&SE Khyber Pakhtunkhwa, Peshawar.
7. All the Executive District Officers, E&SE Khyber Pakhtunkhwa.
8. The Managing Director, Printing Press, Khyber Pakhtunkhwa, Peshawar.
9. Master file.


(NOOR ALAM KHAN WAZIR) 11/07/2012
SECTION OFFICER (B&A)
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

NOTIFICATION

Peshawar, dated the November 13, 2012.

(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 Service (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, selection 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 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 Malgari Ustazari KPK

- The Director Curriculum & Teachers Education Abbottabad.
- The Director (PITE) Khyber Pakhtunkhwa Peshawar.
- The Director ESRU, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
- The Deputy Director Database(EMIS) E&SE Department.
- All District Coordination Officers in Khyber Pakhtunkhwa.
- All Executive District Officers Elementary & Secondary Education in Khyber Pakhtunkhwa.
- All District Accounts Officers in Khyber Pakhtunkhwa / Agency Accounts Officers FATA.
- All Agency Education Officers FATA.
- 5 to Governor, Khyber Pakhtunkhwa.
- 5 to Chief Minister, Khyber Pakhtunkhwa.
- 5 to Chief Secretary, Khyber Pakhtunkhwa.
- 5 to Minister E&SE Khyber Pakhtunkhwa Peshawar.
- 5 to Secretary E&SE Department.
- Master File.

10

KPK

JJ

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JJ

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Section Officer (Primary)

Jue 06 2, 19
APPENDIX

S.No.	Nomenclature of the post.	Minimum qualification and experience for initial appointment or by transfer.	Age limit.	Method of recruitment.
1.	2.	3.	4.	5.
1.	Secondary School Teacher (BPS-16).	(i) Second class Bachelor's Degree with two subjects as Chemistry, Botany, Zoology, Physics, Mathematics, Statistics Humanities and other equivalent groups from a recognized University; or (ii) M.A in Education or Bachelor's Degree in Education, from a recognized University.	18 to 35 years.	(a) Fifty percent by promotion on the basis of seniority-cum-fitness, in the following manner: (i) forty per cent from amongst the Certified Teachers (General), Certified Teachers (Agriculture), Certified Teachers (Industrial Arts) and Certified Teachers (Home Economics) with at least five years service as such and having qualification mentioned in column No. 3; (ii) four per cent from amongst the Drawing Masters with at least five years service as such and having qualification mentioned in column No.3; (iii) four per cent from amongst the Physical Education Teachers with at least five years service as such and having qualification mentioned in column No. 3.

(31)

KPK. Jue 06 2, 19

(14)

			<p>(iv) one per cent from amongst the Instructional Material Specialists, with atleast five years service as such and having qualification mentioned in column No. 3; and</p> <p>(v) one per cent from amongst the Arabic Teachers with at least five years service as such and having qualification mentioned in Column No.3; and</p> <p>(b) fifty per cent by initial recruitment.</p>
2.	Senior Arabic Teacher (SAT) (BPS-16)	<p>KPK. J. S. N. M.</p>	By promotion, on the basis of seniority-cum-fitness, from amongst Arabic Teachers, with at least five years service as such and having qualification as prescribed for initial recruitment of Arabic Teacher.
3.	Senior Theology Teacher (STT) (B-16).		By promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers, with at least five years service as such and having qualification as prescribed for initial recruitment of Theology Teacher.
4.	Senior Certified Teacher (SCT)(General) (BPS-16).		By promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers (General), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (General).

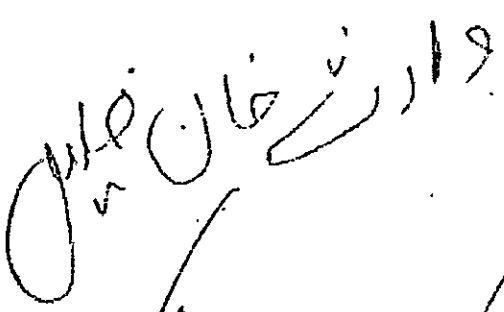
23

5. Senior Certified Teacher (Industrial Arts) (BPS-16).		By promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers (Industrial Arts), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (Industrial Arts).
6. Senior Certified Teacher (Agriculture) (BPS-16).	جولہ	By promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers (Agriculture), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (Agriculture).
7. Senior Drawing Master (BPS-16).		By promotion on the basis of seniority-cum-fitness from amongst Drawing Masters, with at least five years service as such and having qualification as prescribed for initial recruitment of Drawing Master.
8. Senior Certified Teacher (SCT) (Home Economics) (BPS-16).	جولہ	By promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers (Home Economics), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (Home Economics).
Senior Physical Education Teacher (BPS-16).		By promotion, on the basis of seniority-cum-fitness, from amongst Physical Education Teachers, with at least five years service as such and having qualification as prescribed for initial recruitment of Physical Education Teacher.

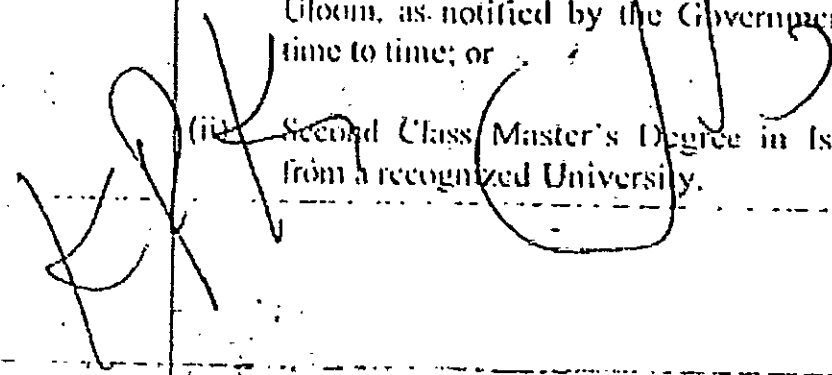
(B)

KPK

(C)

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 Tanzimuatul Wafaqul Madaris; or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Daroshi 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 
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 Daroshi 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.
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.
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

16




(17)

	<p>Certificate or two years Associate Degree in Education from a recognized University or eighteen months Diploma in Education.</p>		<p>(b) sixty per cent 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 Certified Teacher (General);</p> <p>Provided that if no suitable candidate is available amongst the Primary School Head Teachers for transfer, then the posts will be filled by promotion 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 Certified Teacher (General).</p> <p><u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment.</p>
<p>Certified Teacher (Industrial Arts) (HPS-15).</p>	<p>(i) Bachelor's Degree from a recognized University with two years training in the relevant technical subjects from any Government Industrial or Govt. Technical Vocational Institute or Center; or</p> <p>(b) Bachelor's Degree from a recognized</p>	<p>18 to 35 years.</p>	<p>(a) Forty per cent by initial recruitment; and</p> <p>(b) sixty per cent 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 Certified Teacher</p>

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University with nine months training from any Government Agro Technical Teacher Training Center of the Level of Certified Teacher, Agro technical (Industrial Arts).

(Industrial Arts):

Provided that if no suitable candidate is available amongst the Primary School Head Teachers for Promotion, then the posts will be filled by promotion 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 Certified Teacher (Industrial Arts).

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

Certified Teacher (Agriculture) (B.P.S. 15).

(i) Bachelor's Degree from a recognized University with one year training in Agriculture from any Government institute or center with nine months training from Government Agro Technical Teacher Training Center of the level of Certified Teacher Agro Technical (Agriculture); or

18 to 35 years.

(a) Forty per cent by Initial recruitment; and

(b) sixty per cent 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 Certified Teacher (Agriculture);

(ii) Bachelor's Degree with Agriculture as one of the subject, from a recognized University; or

(iii) Bachelor's Degree from a recognized

Provided that if no suitable candidate is available amongst the

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Certified Teacher (Home Economics) (BPS-15).

any Government Agro Technical Teacher Training Center of the Level of Certified Teacher, Agro technical (Agriculture).

- (i) Bachelor's Degree with Home Economics, as one of the subject, from a recognized University with in service training from Government Agrb Technical Teacher Training Center or
- (ii) Certified Teacher Certificate with Home Economics as one of the subjects, from any Government Training school or college with Bachelor's Degree; or
- (iii) Bachelor's Degree from a recognized University with nine months training from Government Agro Technical Teacher Training Center of the level of the Certified Teacher Agro Technical (Home Economics); or
- (iv) Bachelor's Degree, from a recognized

18 to 35 years.

promotion, then the posts will be filled by promotion 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 Certified Teacher (Agriculture).

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

- (a) Forty per cent by Initial recruitment; and
- (b) sixty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Primary School Head Teachers with at least five years service as such and having qualification prescribed for initial recruitment of Certified Teacher (Home Economics);

Provided that if no suitable candidate is available amongst the Primary School Head Teachers for promotion, then the posts will be filled by promotion 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

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<p>Drawing Master (BPS-15)</p>	<p>University with one year vocational training from any Governmental training center or institute with nine months training from Government Agro Technical Teacher Training center of the level of certified Teacher Agro Technical (Home Economics).</p>	<p>Certified Teacher (Home Economics). <u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment.</p>
<p>PK 15/11/15</p>	<p>Bachelor's Degree from a recognized University with one year Drawing Master (DM) course Certificate.</p>	<p>(a) Eighty per cent by initial recruitment; and (b) twenty per cent 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 Drawing Master: Provided that if no suitable candidate is available for promotion then on the basis of seniority-cum-fitness, from Senior Primary School Teachers with at least five years service and having qualification prescribed for initial recruitment of Drawing Master.</p>
<p>PK 15/11/15</p>	<p></p>	<p><u>Note:</u> In case of non-availability of suitable candidate for promotion, then by initial recruitment.</p>

PK

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

جیل ڈیپارٹمنٹ

SCHEDULE

Selection criterion and other conditions for direct recruitment against the below mentioned posts shall be as under:-

19/07/2019

<u>Arabic Teacher</u>	Total Marks: 100
<u>Educational Qualification</u>	
SSC	Marks obtained X 20 / total marks =
1SSC	Marks obtained X 20 / total marks =
B.A/BSc	Marks obtained X 20 / total marks =
M.A Arabic / Shakhadah Alaminah Fil Uloomul Arabiah wal Islamiah from a recognized Terzimatul Wasfiyah Makurris	Marks obtained X 20 / total marks =
Other MA/MSc/M.Ed / MA Edu	Marks obtained X 15 / total marks =
MPhil/PhD	Marks = 05

Theology Teacher

<u>Theology Teacher</u>	Total Marks: 100
<u>Category of Qualification</u>	
SSC	Marks obtained X 20 / total marks =
1SSC	Marks obtained X 20 / total marks =
B.A/BSc	Marks obtained X 20 / total marks =
M.A/MSc/M.Ed / MA Edu	Marks obtained X 20 / total marks =
M.A Theology / Shakhadah Alaminah Fil Uloomul Arabiah wal Islamiah from a recognized Terzimatul Wasfiyah Makurris	Marks obtained X 15 / total marks =
MPhil/PhD	Marks = 05

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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.	<p>(a) Eighty per cent by initial recruitment; and</p> <p>(b) twenty per cent 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 Teacher:</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 Teachers with at least five years service and having qualification prescribed for initial recruitment of Physical Education Teacher.</p> <p><u>Note:</u> In case of non-availability of suitable candidate for promotion, then by initial recruitment.</p>
Primary School Head Teacher (PSHT) (BPS-15).			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.
Senior Primary School Teacher (BPS-14).			By promotion, on the basis of seniority-cum-fitness, from amongst Primary School Teachers

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Drawing Master

Category of Qualification	Total Marks 100	For Candidate of Science group
SSC	Marks obtained X 20 / total marks = ____	5 Extra marks for P.Sc. 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection
HSSC	Marks obtained X 20 / total marks = ____	
B./BSc	Marks obtained X 20 / total marks = ____	
DM Certificate	Marks obtained X 20 / total marks = ____	
MA/MSc/M.Ed / MA Edu	Marks obtained X 15 / total marks = ____	
MPhil/PhD	Marks = 05	

Physical Education Teacher

Category of Qualification	Total Marks 100	For Candidate of Science group
SSC	Marks obtained X 20 / total marks = ____	5 Extra marks for P.Sc. 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection
HSSC	Marks obtained X 20 / total marks = ____	
B./BSc	Marks obtained X 20 / total marks = ____	
JJPE or Equivalent Certificate	Marks obtained X 20 / total marks = ____	
MA/MSc/M.Ed / MA Edu	Marks obtained X 15 / total marks = ____	
MPhil/PhD	Marks = 05	

24

KPK

19/11/20

2/11

Primary School Teacher

Category of Qualification	Total Marks 100 For Humanities group at Intermediate Level	For Candidate of Science group
SSC	Marks obtained X 20 / total marks = ___	5 Extra marks for F.Sc, 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection
HSSC	Marks obtained X 10 / total marks = ___	
B.A/B.Sc	Marks obtained X 25 / total marks = ___	
PST Certificate/ Diploma in Education / ADE.	Marks obtained X 20 / total marks = ___	
MA/M.Sc/M.Ed / MA Edu	Marks obtained X 20 / total marks = ___	
M.Phil/PhD	Marks = 05	

Other conditions:-

1. The concerned Appointing Authority will scrutinize and verify the documents and make the appointment as per prescribed rule and the will get the documents verified after the issuance of appointment orders within shortest possible time, not exceeding ninety (90) days.
2. The merit list prepared by the concerned appointing authority shall be displayed for ten days to receive the objections/appeals, if any, and shall issue the final merit list after making necessary corrections while addressing the observations/objections/appeals, followed by requisite appointment orders.
3. In case a document(s) is/are found fake/ forged/ bogus upon scrutiny/ verification, the service of the teacher concerned shall be terminated and the amount paid to him as salary shall be recovered from him and an FIR shall be lodged against him on account of forgery/fraud under the relevant law.
4. Don't attend from recognized Tazeeemat-ul-Wafaqul Madaris, 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 will be acceptable for the purpose of appointment against the posts of Arabic Teachers or Theology Teachers, as the case may be.

دستور العمل و دستورات

21/3/2013

دستور العمل و دستورات

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دستور العمل و دستورات

Signature (F)

25

28 Annexure (G) 6

DISTRICT EDUCATION

No. 66 4730 /

Dated. 6/5 /13

From;

District Education Officer,
(M) Mardan.

To,

The Director,
Elementary & Secondary Education
Khyber Pakhtoon Khwa Peshawar.

SUBJECT:

AWARD OF B.14, B.15 TO RETIRED TEACHERS.

Memo,

It is submitted that a numbers of PST s who has been retired during the period 1.7.12 to 11.2.13, have requested for award of B.14, B.15.

It is further submitted that the D.P.O has been awarded B.14, B.15 w.e.f 12.2.13 i.e the date of D.P.O meeting.

In this connection you are requested to please guide this office that whether they are entitle for award of B.14, B.15 or not.

[Signature]
DISTRICT EDUCATION OFFICER
(M) MARDAN
6/5/13

(28) Annexure H
13/2-2013



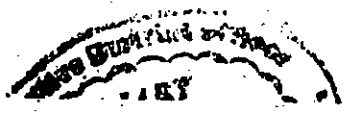
Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

No. _____ / F.No. Appeal/promotion Vol II/PST(II) Dated Peshawar the 18/6 /2013

To 7499
The District Officer
(Male)Mardan

Subject:- AWARD OF B-14 TO B-15 TO RETIRED TEACHERS.
Memo:

I am directed to refer to your letter No. 4730 dated, 6.5.2013 and to state that a retired person/Civil Servant is not entitled for promotion to B-14 or B-15. However is case the promotion of the Civil Servant is clear in the meeting of the DPC, but he is retired before the issuance of his promotion order, he will be entitled for national promotion so one who retired before the DPC meeting is not entitled for promotion.



[Handwritten Signature]
Deputy Director (Establishment)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar
18/6/2013

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08/7/2013

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BPS 15

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W A K A L A T N A M A

BEFORE THE COURT OF Service Tribunal KPK Peshawar

No _____ of 2013

Faviz Gul

(Petitioner)

(Plaintiff)

(Appellant)

VERSUS

Secretary of Govt of KPK

(Respondent)

(Defendant)

I/We Appellant

In the above noted Appeal do hereby appoint

and constitute **Mr. Khan Akbar Khan and Mr. Saif Ullah Mohmand**

Advocates as my/ our Counsels in the subject proceedings and authorize them to appear, plead etc compromise, withdraw or refer the matter for arbitration for me/ us without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel at my/our expense and receive all sums and amounts payable to me/ us and to all such acts which he may deem necessary for protecting my/ our interest in the matter. They are also authorized to file Appeal, Revision, Application for restoration or application for setting aside ex parte decree proceedings on my/ our behalf.

Dated: - / /2013

K. Akbar
(KHAN AKBAR KHAN)

And

Saif Ullah
(Saif Ullah Mohmand)

Advocates High Courts

Peshawar.

Office Address: - B-107, 2nd floor, Town Tower

Jahangir Abad, University Road,

Peshawar.

(Client)

Faviz Gul
S/O Nozad Gul

Before the Khyber Pakhtunkhwa service tribunal Peshawar.

SA# 1404/13 S. Appeal
No.1390.1392.1401 to
1405/2013.

Faqir Gul.

Appellant.

VS

Secretary to Govt of Kyber Pakhtunkhwa E&SE Department Peshawar and others....
Respondent.

Parawise comments on behalf of Respondent No.1 to 4.

Respectively sheweth.

Respondents submit as under.

Preliminary objections.

1. That the instant appeal is badly time barred.
2. That the appellant has concealed the material facts from this honorable court.
3. That the appellant has no cause of action as well as locus standi.
4. That the appellant has not come to this court with clean hands.
5. That the appellant has estopped by his own conduct.
6. That the present appeal is liable to be dismissed for nonjoinder/Misjoinder of necessary parties.
7. That the appellant filed this appeal on mala fide motives.
8. That the instant appeal is against the prevailing law and rules.
9. That the instant appeal is not maintainable in the present form and also in the present circumstances.

On facts.

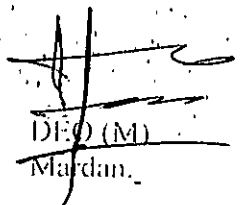
1. Pertains to personal record. Hence needs no comments.
2. Pertains to personal record. needs no comments.
3. Correct. the teachers were promoted according to policy.
4. Correct to the extent that DPC was held on 12-02-2013 and the eligible teachers were upgraded to B-14 & B-15 but incorrect to the extent that the appellant was ignored. The DPC held on 12-02-2013 and upgraded the teacher w.e.f 12-02-2013 while Appellant was retired on 13-02-2012 ie one year before the commencement of DPC so he was not entitled for up gradation.
5. His application was sent to respondent 2 who replied that the appellant is not entitled for up gradation (see Annex-1 of the instant appeal).
6. His appeal has no weightage and was filed
7. No Comments.

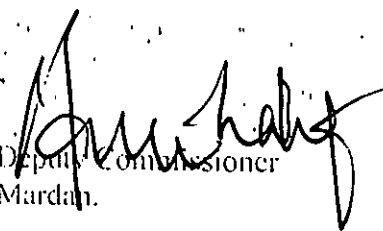
Grounds.

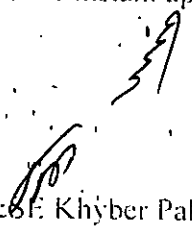
- A. Incorrect. He was retired long before the commencement of DPC and was not entitled.
- B. Incorrect. He is not entitled for up gradation as he was retired long before the DPC.
- C. Incorrect. The respondent department has acted according to law, rules.
- D. Incorrect. The up gradation/promotion is awarded according to policy, rules not on expectations.
- E. Incorrect. The department has acted according to rules and no discrimination has been made.
- F. Incorrect. The department has followed the existing policy.
- G. Incorrect. Denied
- H. Incorrect. As stated above, the department has acted upon existing policy and nothing has been violated.

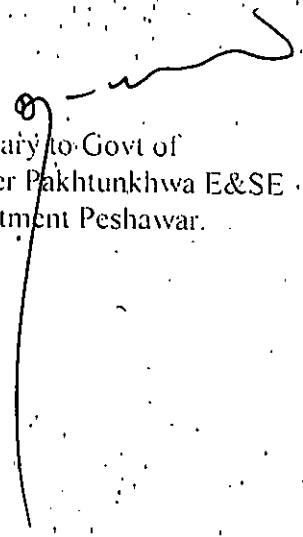
Prayer.

It is therefore, prayed that in the light of above facts and grounds the instant appeal may kindly be dismissed with cost.


DEO (M)
Mardan.


Deputy Commissioner
Mardan.


Director E&SE Khyber Pakhtunkhwa
Peshawar.


Secretary to Govt of
Khyber Pakhtunkhwa E&SE
Department Peshawar.

1

BEFORE THE CHAIRMAN SERVICE TRIBUNAL, KHYBER

PAKHTUNKHWA, PESHAWAR.

Service Appeal No 1404 /2013

Faqir Gul Ex-PST

VERSUS

Secretary to Govt of KPK & others

REJOINDER ON BEHALF OF THE APPELLANT TO

PARA WISE COMMENTS SUBMITTED BY

RESPONDENTS.

Respectfully Sheweth

REPLY TO PRELIMINARY OBJECTIONS:-

1. Para No.1 of the preliminary objections is incorrect; the instant appeal is based on recurring cause of action, wherein a beneficiary Notification has been challenged, which carries retrospective effect, hence, it is well within time.
2. Para No.2 of the preliminary objection is incorrect, the appellant has disclosed all the facts before this Honorable Tribunal and nothing has been concealed or withheld deliberately.
3. Para No.3 of the preliminary objections is incorrect and wrong, in fact fundamental rights of the appellant were infringed by the respondent, and

hence he has got a good cause of action and locus standi to file the instant appeal.

4. Para No.4 of the preliminary objection is false, frivolous and vexatious. In-fact the appellant has approached this Honorable Tribunal for the redressal of his grievances with clean hands.
5. Para No.5 of the Preliminary Objection is incorrect. Hence denied.
6. Para No.6 of the Preliminary objections is incorrect, false and frivolous, hence denied.
7. Para No.7 of the Preliminary objections is incorrect, the instant appeal has been filed by the appellant with good intention as his fundamental and valuable rights were infringed by the respondents by their illegal acts and actions.
8. Para No.8 of the Preliminary Objections is incorrect; the instant appeal has been filed according to well settled rules of Services Law.
9. Para No.9 of the Preliminary Objections incorrect, false and frivolous, the instant appeal has been filed by the appellant in order to check the ingress and illegality committed by the respondents, hence it is maintainable.

REPLY TO PARAWISE COMMENTS ON FACTS.

- 1&2. Para No. 1 & 2 of the comments needs no replies
3. Para No.3 of the comments also needs no reply.
4. Para No.4 of the comments is incorrect, false and vexatious, in-fact the Notification dated 11.07.2012 (Annexure E of the appeal) and Notification dated 13.11.2012 (Annexure F of the appeal), are beneficiary notifications and in the light of judgments of apex Court as well as this Honorable Tribunal such notifications carries retrospective effect, hence the benefits of these notifications should be extended to the appellant. Moreover the

2

matter in the instant appeal is a recurring cause of action, which is not hit by any time period.

Needless to mention here that at the time of promulgation of the above-mentioned both the Notifications, the appellant was in service as a senior PST.

It is also pertinent to mention here that the respondents have wrongly mentioned the date of retirement of the appellant as 13.02.2012, rather the appellant retired from services on attaining the age of superannuation on dated 17.11.2012. (Annexure A of the main appeal).

5&6. Para No. 5&6 of the comments are false and frivolous, detail reply has been given in Para No. 4 above.

7. Para No.7 of the comments need no reply.

REJOINDER TO THE COMMENTS ON GROUND:-

- A. Para No. A of the comment is false and incorrect. Detailed reply has already been given in Para No.4 of the reply to the comments. Moreover, due to the induction of policy dated 11.07.2012 and 13.11.2012, the appellant and his other colleagues have been deprived from the benefit of promotion/up-gradation, which were ignored throughout their long tenure of unblemished record.
- B. Para No.B of the comments is false and incorrect. Detail reply has been given in Para No.4 of the reply to the comments on facts as well as in the above Para No. A.
- C. Para No. C of the comments is false and incorrect. The appellant was fulfilling the criteria for promotion but despite that he was ignored by the respondent department.
- D. Para No. D of the comments is incorrect, the department has not awarded the promotion/up-gradation according to policy and rules but they have given priority to the blue eyed employees in the department.

E&F. Para No. E&F of the comments are false and frivolous. The acts and actions of the respondents department are not only illegal but are also against the clear-cut articles of constitution.

G. Para No. G of the comments is incorrect and false, hence denied. Detail reply has already been given the above paras.

H. Para No. H of the comments is incorrect, false and frivolous. Detail reply has already been given in the preceding paras.

It is, therefore, most humbly prayed that on acceptance of this rejoinder and the main appeal, the respondents may kindly be directed to award promotion to the appellant in BPS-15, and in the light of Notification dated 11.07.2012 & 13.11.2012.

Any other remedy to which appellant is found entitled, in the peculiar circumstances of the case may also be granted.

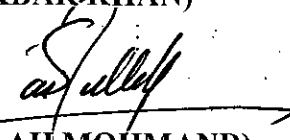

Appellant

Through

Dated: -29-10-2014


(KHAN AKBAR KHAN)

&


(SAIF ULLAH MOHMAND)
Advocates, High Court,
Peshawar.

5

Chairman Service Tribunal K.P.K.

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Service Appeal No. 1404/2013

Faqir Gul.....Appellant

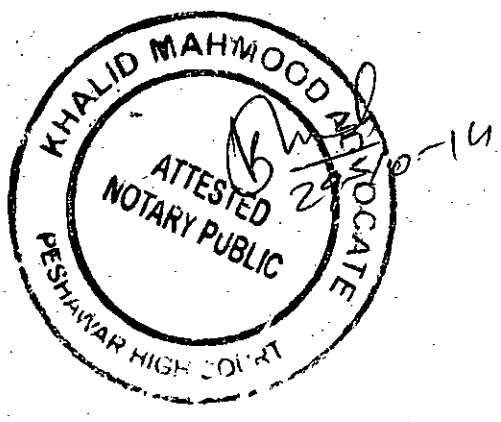
VERSUS

Secretary to Govt: of K.P.K &

others.....Respondents

AFFIDAVIT

I, Khan Akbar Khan Advocate, Peshawar, do hereby solemnly affirm and declare on Oath that the contents of the accompanying **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.



K. Akbar Khan
Deponent

①

BEFORE THE CHAIRMAN SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR.

Service Appeal No 1404 /2013

Faqir Gul Ex-PST

VERSUS

Secretary to Govt of KPK & others

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REJOINDER ON BEHALF OF THE APPELLANT TO
PARA WISE COMMENTS SUBMITTED BY
RESPONDENTS.

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Respectfully Sheweth

REPLY TO PRELIMINARY OBJECTIONS:-

1. Para No.1 of the preliminary objections is incorrect; the instant appeal is based on recurring cause of action, wherein a beneficiary Notification has been challenged, which carries retrospective effect, hence, it is well within time.
2. Para No.2 of the preliminary objection is incorrect, the appellant has disclosed all the facts before this Honorable Tribunal and nothing has been concealed or withheld deliberately.
3. Para No.3 of the preliminary objections is incorrect and wrong, in fact fundamental rights of the appellant were infringed by the respondent, and

hence he has got a good cause of action and locus standi to file the instant appeal.

- 4. Para No.4 of the preliminary objection is false, frivolous and vexatious. In-fact the appellant has approached this Honorable Tribunal for the redressal of his grievances with clean hands.
- 5. Para No.5 of the Preliminary Objection is incorrect. Hence denied.
- 6. Para No.6 of the Preliminary objections is incorrect, false and frivolous, hence denied.
- 7. Para No.7 of the Preliminary objections is incorrect, the instant appeal has been filed by the appellant with good intention as his fundamental and valuable rights were infringed by the respondents by their illegal acts and actions.
- 8. Para No.8 of the Preliminary Objections is incorrect; the instant appeal has been filed according to well settled rules of Services Law.
- 9. Para No.9 of the Preliminary Objections incorrect, false and frivolous, the instant appeal has been filed by the appellant in order to check the ingress and illegality committed by the respondents, hence it is maintainable.

REPLY TO PARAWISE COMMENTS ON FACTS.

- 1&2. Para No. 1 & 2 of the comments needs no replies
- 3. Para No.3 of the comments also needs no reply.
- 4. Para No.4 of the comments is incorrect, false and vexatious, in-fact the Notification dated 11.07.2012 (Annexure E of the appeal) and Notification dated 13.11.2012 (Annexure F of the appeal), are beneficiary notifications and in the light of judgments of apex Court as well as this Honorable Tribunal such notifications carries retrospective effect, hence the benefits of these notifications should be extended to the appellant. Moreover the

matter in the instant appeal is a recurring cause of action, which is not hit by any time period.

Needless to mention here that at the time of promulgation of the above-mentioned both the Notifications, the appellant was in service as a senior PST.

It is also pertinent to mention here that the respondents have wrongly mentioned the date of retirement of the appellant as 13.02.2012, rather the appellant retired from services on attaining the age of superannuation on dated 17.11.2012. (Annexure A of the main appeal).

5&6. Para No. 5&6 of the comments are false and frivolous, detail reply has been given in Para No. 4 above.

7. Para No.7of the comments need no reply.

REJOINDER TO THE COMMENTS ON GROUND:-

A. Para No. A of the comment is false and incorrect. Detailed reply has already been given in Para No.4 of the reply to the comments. Moreover, due to the induction of policy dated 11.07.2012 and 13.11.2012, the appellant and his other colleagues have been deprived from the benefit of promotion/up-gradation, which were ignored throughout their long tenure of unblemished record.

B. Para No.B of the comments is false and incorrect. Detail reply has been given in Para No.4 of the reply to the comments on facts as well as in the above Para No. A.

C. Para No. C of the comments is false and incorrect. The appellant was fulfilling the criteria for promotion but despite that he was ignored by the respondent department.

D. Para No. D of the comments is incorrect, the department has not awarded the promotion/up-gradation according to policy and rules but they have given priority to the blue eyed employees in the department.

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- E&F. Para No. E&F of the comments are false and frivolous. The acts and actions of the respondents department are not only illegal but are also against the clear-cut articles of constitution.
- G. Para No. G of the comments is incorrect and false, hence denied. Detail reply has already been given the above paras.
- H. Para No. H of the comments is incorrect, false and frivolous. Detail reply has already been given in the preceding paras.


It is, therefore, most humbly prayed that on acceptance of this rejoinder and the main appeal, the respondents may kindly be directed to award promotion to the appellant in BPS-15, and in the light of Notification dated 11.07.2012 & 13.11.2012.

Any other remedy to which appellant is found entitled, in the peculiar circumstances of the case may also be granted.

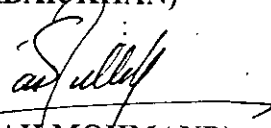

Appellant

Through

Dated: -29-10-2014


(KHAN AKBAR KHAN)

&


(SAIF ULLAH MOHMAND)
Advocates, High Court,
Peshawar.

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

Service Appeal No. 1704/2013

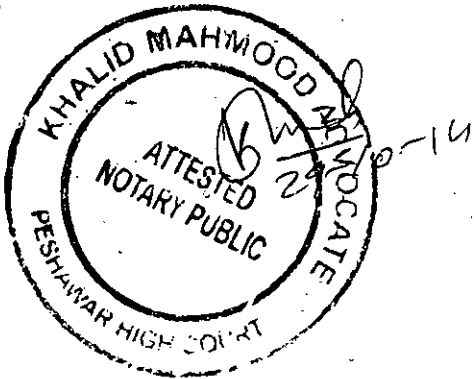
Faqir Gul.....Appellant

VERSUS

Secretary to Govt: of K.P.K &
others.....Respondents

AFFIDAVIT

I, Khan Akbar Khan Advocate, Peshawar, do hereby solemnly affirm and declare on Oath that the contents of the accompanying Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.



K.A.K.
Deponent