

18.05.2023

Junior of learned counsel for the appellant present. Syed Alamzeb Shah, ADEO alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

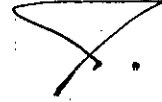
File to come up for alongwith connected Service Appeal No.

SCANNED  
KPST  
Peshawar

930/2020 on 04.08.2023 before D.B. Parcha Peshi given to the parties.



(Muhammad Akbar Khan)  
Member (E)



(Salah-ud-Din)  
Member (J)

\*kamranullah\*

4<sup>th</sup> August, 2023 1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith Syed Alamzeb Shah, ADO (Lit) for the respondents present.

2. Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 04.12.2023 before the D.B. PP given to the parties.

SCANNED  
KPST  
Peshawar



(Fareeha Paul)  
Member (E)



(Rashida Bano)  
Member (J)

\*Kaleemullah


08<sup>th</sup> Feb, 2023


Junior of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant stated that similar appeals titled "Rahatullah etc Versus Education Department" have been fixed on 09.03.2023 before Principal Bench of this august Tribunal at Peshawar, therefore, let this appeal be fixed on the said date at Principal Bench.

Let it be fixed at Principal seat of this august Tribunal to see the nature of all the appeals at Peshawar for 09.03.2023.

SCANNED  
KPST  
Peshawar

  
(Salah-ud-Din)  
Member (J)  
Camp Court Swat


  
(Kalim Arshad Khan)  
Chairman  
Camp Court Swat


09<sup>th</sup> March, 2023

Junior of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant has proceeded to his native village due to some domestic engagement. Adjourned. To come up for arguments on 18.05.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED  
KPST  
Peshawar

  
(Salah-ud-Din)  
Member (J)


  
(Kalim Arshad Khan)  
Chairman

10<sup>th</sup> Nov, 2022

Due to public holiday on account of Allama Iqbal Day, the case is

**SCANNED  
KPST  
Peshawar**

adjourned to 07.12.2022 for the same as before.

  
Reader

07.12.2022

Tour is hereby cancelled, therefore, the case is adjourned to 04.01.2023 for the same as before.

05.01.2023


Junior to counsel for the appellant present.

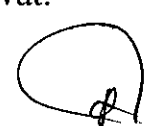
  
Reader

Muhammad Riaz Khan Piandakhel learned Assistant Advocate General for respondents present.

File to come up alongwith connected Service Appeal No. 278/2020 titled "Badshah Shareen Vs. Education Department" on 08.02.2023 before D.B at camp court Swat.

**SCANNED  
KPST  
Peshawar**

  
(Fareeha Paul)  
Member (E)  
(Camp Court Swat)

  
(Rozina Rehman)  
Member (J)  
(Camp Court Swat)

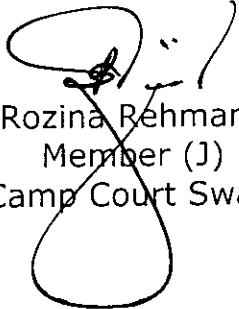
ORDER  
04.10.2022


Learned counsel for the petitioner present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments on restoration application heard and record perused.

The Service Appeal bearing No. 281/2020 titled "Haq Nawaz Versus Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar and three others", was dismissed in default vide order dated 05.07.2022. According to learned counsel for the petitioner, he was busy in the august Peshawar High Court, Peshawar as well as Principal bench of this Tribunal at Peshawar, therefore, he could not appear before the Tribunal on the said date. The petitioner has submitted an application for restoration of appeal on 22.07.2022, which is well within time. The application for restoration of service appeal is supported by duly sworn affidavit. Law also favours adjudication on merit by avoiding technicalities.

The application in hand is, therefore, accepted and Service Appeal bearing No. 281/2020 stands restored on its original number. To come up for arguments on 09.11.2022 before the D.B at Camp Court Swat.

ANNOUNCED  
04.10.2022

  
(Rozina Rehman)  
Member (J)  
Camp Court Swat

  
(Salah-Ud-Din)  
Member (J)  
Camp Court Swat

05.09.2022

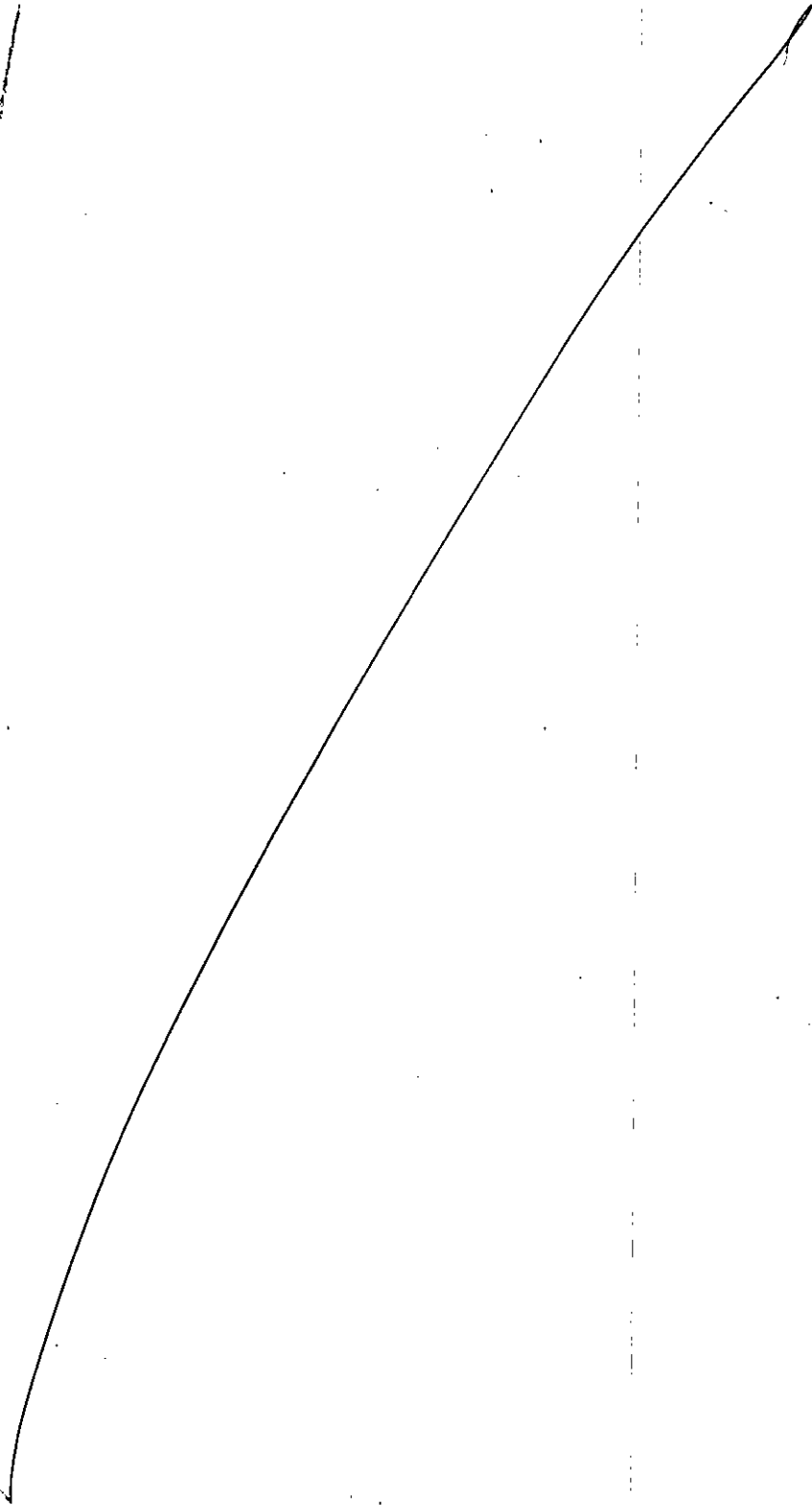
Clerk of learned counsel for the applicant present. Notice be issued to the respondents for submission of reply as well as arguments on restoration application on 04.10.2022 before the D.B at Camp Court Swat.

7.

*original must be requisitioned for the date fixed.*

(Mian Muhammad)  
Member (Executive)  
Camp Court Swat

*[Signature]*  
(Salah-Ud-Din)  
Member (Judicial)  
Camp Court Swat

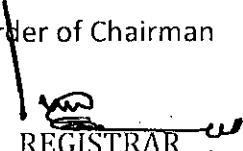


Form-A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Restoration Application No. 410/2022

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.07.2022	<p>The application for restoration of appeal No. 281/2020 submitted today by Mr.Noor Muhammad Khattak Advocate. It is fixed for hearing before touring Division Bench at Swat on <u>5-9-22</u>. Original file be requisitioned. Notices to the applicant and his counsel be also issued for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

CM. NO. R.A. no. 410/2022 /2022

IN  
APPEAL No. 281/2020

HAQ NAWAZ

VS

EDUCATION DEPT.

**INDEX**

S. NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of application	.....	1
2.	Affidavit	.....	2
3.	Order dated 5-7-2022	A	3-4

**APPELLANT**

THROUGH:  
NOOR MUHAMMAD KHATTAK  
ADVOCATE

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

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 281/2020

HAQ NAWAZ

VS

EDUCATION DEPT.

**APPLICATION FOR RESTORATION OF THE ABOVE**  
**MENTIONED APPEAL**

**R/SHEWETH:**

- 1- That the above titled service appeal was pending adjudication before this Honorable tribunal which was fixed on 05-07-2022.
- 2- That the counsel for the petitioner was busy in The Peshawar High Court at Peshawar as well as was engaged at principal bench of this honourable tribunal at Peshawar. That it is also worth mentioning that the subject appeals were not noted in the diary on that date.
- 3- That the mentioned service appeal was dismissed for non-prosecution vide order dated 05.07.2022. Copy of the order sheet 05.07.2022 attached as annexure .....A.
- 4- That as the matter pertaining in the instant appeal has not been decided on merit, therefore the mentioned service appeal may be restored for the sack of justice.
- 5- That there is no legal bar in restoring the mentioned appeal.

***It is therefore, most humbly prayed that on acceptance of this application the above mentioned service appeal may very kindly be restored.***

Dated:

PETITIONER/APPLICANT

Through:

**NOOR MUHAMMAD KHATTAK**

Advocate, Peshawar



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

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 281/2020

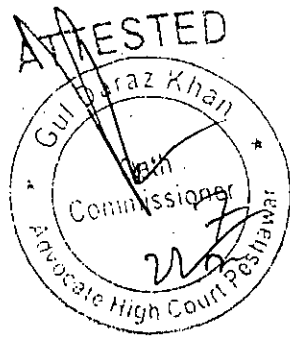
HAQ NAWAZ

VS

EDUCATION DEPT.

**AFFIDAVIT**

I, Noor mohammad khattak advocate, do hereby solemnly affirm that the contents of this **Restoration Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

SCANNED  
KPST  
Peshawar

07.06.2022

Appellant in person present. Mr. Kabirullah Khattak,  
learned Additional Advocate General for the respondents present.

Counsel are on strike. Adjourned. To come up for  
arguments on 05.07.2022 before D:B at camp court Swat.



(Mian Muhammad)  
Member (E)  
Camp Court Swat



(Kalim Arshad Khan)  
Chairman  
Camp Court Swat

05.07.2022

Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney alongwith  
Nasim Khan Section Officer for respondents present.

Case was called time and again but neither the appellant nor  
his counsel turned up till rising of the Bench. Consequently, instant  
service appeal is hereby dismissed in default for non-prosecution.  
Parties are left to bear their own costs. File be consigned to the  
record room.

Announced.  
05.07.2022



(Farzeha Paul)  
Member(E)  
Camp Court, Swat



(Rozina Rehman)  
Member(J)  
Camp Court, Swat


2

01.11.2021

Junior to counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

The learned Member (Judicial) is on leave, therefore, case is adjourned. To come up for arguments on 03.02.2022 before D.B. Respondents be put on notice to submit reply within 10 days in office.

  
Chairman

03.02.2022

The Tribunal is non-functional, therefore, the case is adjourned to 15.04.2022 before S.B for the same.

  
Reader

15.04.2022

Counsel for the appellant present. Mr. Kabirullah Khattak Addl. AG for respondents present.

Written reply/comments on behalf of respondents not submitted. Learned AAG seeks time to file written reply/comments. Last opportunity is granted to respondents for submission of written reply/comments. To come up for written reply/comments on 11.05.2022 before S.B at Camp Court Swat.

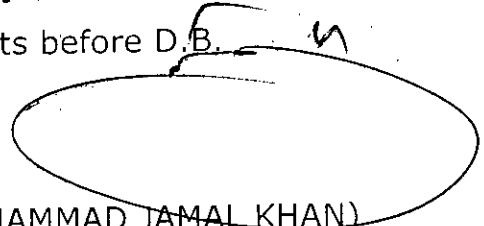


Chairman

11.01.2021

Mr. Noor Muhammad Khattak, Advocate, for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of respondent No. 2 Mr. Naseeb Khan, Section Officer (Litigation), is also present.

Written reply on behalf of respondents not submitted despite last chance given in the preceding order sheet dated 19.11.2020, therefore, the appeal is adjourned to 08.04.2021 on which date file to come up for arguments before D.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

08.04.2021


Due to demise of Hon'ble Chairman, the Tribunal is defunct, therefore the case is adjourned to 26.07.2021 for the same as before.

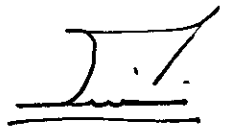
  
Reader

26.07.2021

Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not met preparation for arguments. Adjourned. To come up for arguments before the D.B. on 01.11.2021.

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

05.08.2020

Mr. Noor Muhammad Khattak, Advocate for appellant is present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Mohibullah, Assistant are also present.

Representative of the department requested for time to furnish written reply/comments. Time is granted. File to come up for written reply/comments on 29.09.2020 before S.B.

(MUHAMMAD JAMAL KHAN)  
MEMBER

29.09.2020

Junior to counsel for the appellant and Addl. AG alongwith Sajid Superintendent and Ahmad Hassan, Litigation Officer for the respondents present.

Representative of the respondents seeks further time to furnish reply/comments. Adjourned to 19.11.2020 on which date the requisite reply/comments shall be submitted without fail.

  
Chairman

19.11.2020

Junior to counsel for the appellant and Addl; AG present. No representative of respondents is available.

Learned AAG is required to contact the respondents and submit written reply/comments on 11.01.2021, as last chance.

  
Chairman

30.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 19.06.2020 before S.B.

  
Reader

19.06.2020

Counsel for the appellant present.

Contends that appellant was initially appointed as PTC now PST as stop gap arrangement but his services were dispensed with in 1997. He then submitted an application for his reinstatement on promulgation of KP Sacked Employees Act, 2012 which was not considered. He, therefore, filed Writ Petition which was allowed and the appellant was appointed. His departmental appeal for fixation of pay was not responded. It was further submitted that in the light of Rule 2.3 of the West Pakistan Pension Rules, 1963, the appellant is entitled for the grant of pay fixation from the date of initial appointment.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Notice be issued to the respondents. To come up for written reply/comments on 05.08.2020 before S.B.

Appellant Deposited  
Security & Process Fee  
25/6/20

  
(Rozina Rehman)  
Member (J)

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 281/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/01/2020	<p>The appeal of Mr. Haq Nawaz presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;">REGISTRAR 09/01/2020</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>10/02/2020</u></p> <p style="text-align: right;">CHAIRMAN</p> <p>10.02.2020</p> <p>Learned counsel for the appellant present. Heard.</p> <p>Learned counsel for the appellant could not demonstrate that the appellant can claim service back benefits under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012. Learned counsel for the appellant seeks adjournment for proper assistance. Adjourn. To come up for preliminary hearing on 30.03.2020. Learned counsel for the appellant may also submit copy of the judgment in Writ Petition bearing No.3-M of 2014 dated 28.03.2014 on the next date fixed.</p> <p style="text-align: right;">Member</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR.**

**Service Appeal No. 281/2020**

**Haq Nawaz, PST (BPS-12) District Dir Upper**

**..... (APPELLANT)**

**Versus**

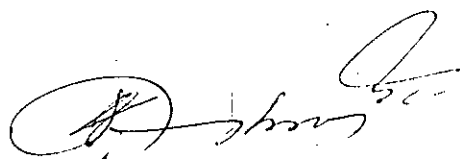
1. Secretary, Elementary and secondary Education Khyber  
Pakhtunkhwa Peshawar.
2. Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary and secondary Education Khyber  
Pakhtunkhwa Peshawar.
4. District Education Officer (M) DIR Upper

**..... (RESPONDENTS)**

**JOINT PARA WISE COMMENTS ON & FOR BEHALF OF RESPONDENT NO: 4 & Other**

**INDEX**

S#	Description	Page Nos	Annexure
1	Para Wise Comments		
2	Affidavit		A
3	Authority Letters		B



**District Education Officer (M)  
Dir Upper**



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR.**

**Service Appeal No. 281/2020**

**Haq Nawaz, PST (BPS-12) District Dir Upper**

..... (APPELLANT)

**Versus**

1. Secretary, Elementary and secondary Education Khyber Pakhtunkhwa Peshawar.
2. Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary and secondary Education Khyber Pakhtunkhwa Peshawar.
4. District Education Officer (M) DIR Upper

..... (RESPONDENTS)

**JOINT PARA WISE COMMENTS ON & FOR BEHALF OF RESPONDENT NO: 4& Other**

**Respectfully Sheweth: -**

**PRELIMINARY OBJECTIONS.**

1. That the Appellant is not the "aggrieved" persons with the meaning of Article 212 of the Constitution of the Islamic Republic of Pakistan 1973.
2. That the Appellant has got no cause of action /locus standi to file the instant appeal because the Appellant did not come on merit.
3. That the Appellant has not come to this Honorable court with clean hands.
4. That the Appellant is estopped by his own conduct.
6. That the instant writ petition suffers from laches, hence not maintainable in the present form.
7. That as per section 5 of the Sacked Employee Act 2012 the appellant is neither eligible nor entitled for the relief he prayed in the instant appeal.

**ON FACTS.**

1. Para -1 of the facts is correct hence need no comments.
2. Para- 2 of the facts is also correct hence need no comments.

3. Para-3 of the facts is correct up to the extent of the judgment in the writ petition No.256-M/2017, in compliance the appellant was appointed with immediate effect.

4. Para-4 of the facts is correct that the appellant was appointed as per judgment of the Honorable Peshawar High Court Mingora Bench.

Para-5 of the facts pertain to record up to the extent of the departmental appeal, furthermore the appellant was re-appointed as per judgment of the Honorable Peshawar High Court Mingora Bench with immediate effect whereas in section 5 of the SACKED EMPLOYEE ACT 2012, it is clearly stated that the appellant will not be entitled to claim seniority and other back benefit. It is also pertinent to mention here that as per terms and conditions No.08 of the appointment order dated 23/08/2018, "the Sacked Employees shall not be entitled to claim the seniority and other back benefits as sacked employee appointed under section 3 shall not be entitled to claim any seniority, promotion or other back benefits and his appointment order shall be considered as fresh appointment".

6. Para-6, need no comments.

### **GROUND.**

A) In correct. The respondents always follow rules and policies consigned by government and the Appellant has been treated as per law rules and policies.

B.) Incorrect, hence denied, the official respondents always follow rules and policies in letter and spirit and no illegality has been done by the official respondents.

C) Need no comments.

D) In correct hence denied. Detail reply has been submitted in the above Para's.

E) Need no comments.

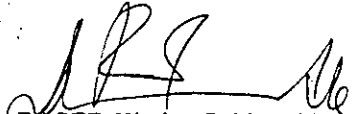
F) Incorrect hence denied and as per section f of the ACT ibid the appellant is not entitled for any back benefits.

G) Need No comments.

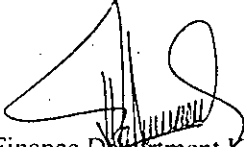
H) Legal, However the official respondent also seeks permission for additional grounds during arguments.

It is, therefore, humbly prayed that on acceptance of the above submission, the instant service appeal may very graciously be dismissed in favor of the answering respondents with cost.


Secretary:

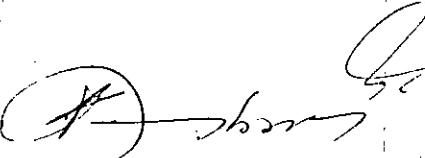
  
E&SED Khyber Pakhtunkhwa  
(Respondent No. 1)

Secretary:

  
Finance Department Khyber Pakhtunkhwa  
(Respondent No. 2)

Director:

  
E&SE Khyber Pakhtunkhwa  
(Respondent No. 3)

  
District Education Officer (M)  
Dir Upper  
(Respondent No. 4)

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

**Service Appeal No. 281/2020**

**Haq Nawaz, PST (BPS-12) District Dir Upper**

..... (APPELLANT)

**Versus**

1. Secretary, Elementary and secondary Education Khyber  
Pakhtunkhwa Peshawar.
2. Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary and secondary Education Khyber  
Pakhtunkhwa Peshawar.
4. District Education Officer (M) DIR Upper

..... (RESPONDENTS)

**Affidavit**

I, **Syed Alamze Shah** Litigation officer DEO (M) Dir Upper do hereby solemnly affirm and state on oath that the whole contents of this reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this August court.

**Identified by**

Addl; Advocate General  
Khyber Pakhtunkhwa.

**Deponent**

Syed Alamzeb Shah  
Dir Upper  
Litigation Officer DEO (M) Dir Upper

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

Service Appeal No. 281/2020

Haq Nawaz, PST (BPS-12) District Dir Upper

..... (APPELLANT)

**Versus**

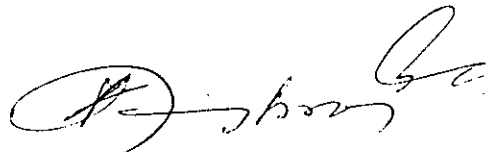
1. Secretary, Elementary and secondary Education Khyber  
Pakhtunkhwa Peshawar.
2. Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary and secondary Education Khyber  
Pakhtunkhwa Peshawar.
4. District Education Officer (M) DIR Upper

..... (RESPONDENTS)

AUTHORITY LETTER

Mr. Syed Alamzeb Shah Litigation Officer of the office DEO (M) Dir  
Upper undersignedis hereby authorized to submit the comments /reply  
in the service appeal No.281/2020

Title: Haq Nawaz v/s Govt: of KP on my behalf.



District Education officer (M)

District Dir

Upper

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

APPEAL NO. 281 /2019

**HAQ NAWAZ**

**VS**

**EDUCATION DEPTT:**

**INDEX**

<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
1	Memo of appeal	.....	1- 3.
2	Appointment order	<b>A</b>	4.
3	Second appointment order	<b>B</b>	5.
4	Judgment	<b>C</b>	6- 7.
5	Appointment order	<b>D</b>	8- 9.
6	Departmental appeal	<b>E</b>	10.
7	Vakalat nama	.....	11.

**APPELLANT**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK,**  
**ADVOCATE**

Flat No. 3, Upper Floor,  
Islamia Club Building,  
Khyber Bazar, Peshawar  
0345-9383141

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

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 281 /2019

Diary No. 292

Dated 09/11/2020

Mr. Haq Nawaz, PST (BPS-12),  
GPS Chapper warai, District Dir Upper.....**APPELLANT**

**VERSUS**

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Dir Upper.

.....**RESPONDENTS**

**APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN BPS-12 w.e.f. 30-11-1995 I.E. FROM THE DATE OF INITIAL APPOINTMENT TO THE POST OF PST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 30-11-1995 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

**Brief facts giving rise to the present appeal are as under:**

- 1- That the appellant was initially appointed in the respondent Department as PTC now PST vide order dated 30-11-1995 as stop gap arrangement.( Copy of the appointment order is attached as annexure..... **A)**
- 2- That later on the appellant was appointed against regular post vide order dated 09/04/1996 w.e.f. the date of his first appointment i.e. 30/11/1995. (Copy of second appointment order is attached as annexure..... **B)**
- 3- That it is worth mentioning here, that in 1997 the services of the appellant along with others were dispensed with on the ground that their services were no more required to the Department.

Filed to-day  
Registrar  
09/01/2020

- 4- That it is also worth mentioning, that on promulgation of KP Sacked Employee Act, 2012 appellant submitted an application for his reinstatement being covered under the said law but the same was not considered, hence the appellant filed writ petition no.700/2017 before Peshawar high court Mingora Bench, which was allowed vide judgment dated 22/11/2017. Copy of judgment dated 11/04/2017 is attached as annexure ..... C).
- 5- That the appellant was appointed as PST w.e.f. taking over charge in light of Peshawar high Court Dar-UI-Qaza Bench judgment vide order dated 27/03/2018. That in response the appellant submitted charge report and started his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure ..... D).
- 6- That the appellant filed Departmental appeal before respondents for fixation of pay w.e.f. the date of his first appointment i.e. 30/11/1995 but the same has not been responded within stipulated period of ninety days. Copy of departmental appeal is attached as annexure..... E).
- 7- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on following grounds inter alia.

**GROUND:**

- A- That the inaction of respondents by not allowing pay fixation to the appellant w.e.f. 30-11-1995 is against the law, facts, norms of natural justice and materials on the record.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and mala fide manner by not allowing pay fixation to the appellant w.e.f. 30-11-1995 and as such the inaction of the respondents is violative of law and rules.
- D- That the inaction of the respondents is discriminatory and against the norms of natural justice, therefore not tenable in the eye of law.
- E- That under Article 38 (e) of the Constitution of Pakistan, 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan, therefore in light of the above mentioned Article the appellant is fully entitled for the grant of pay fixation w.e.f. the date of initial appointment.



F- That promulgation of Sacked Employee Act, 2012 established that dismissal of appellant along with others from services was against the law, hence the appellant is entitled to pay fixation from date of his first appointment.

G- That in light of Rule 2.3 of the West Pakistan, Pension Rules, 1963 the appellant is fully entitle for the grant of pay fixation from the date of initial appointment.

H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 20.12.2019

**APPELLANT**

*Haq Nawaz*  
**HAQ NAWAZ**

**THROUGH:**

*[Signature]*  
**NOOR MOHAMMAD KHATTAK**

**SHAHZULLAH YOUSAFZAI**

**&**

*[Signature]*  
**MIR ZAMAN SAFI  
ADVOCATES**

**OFFICE ORDER:-**

Mr. Haq Nawaz Khan S/O Saeed Khan, Village Jelar Tehsil Wari DISTRICT Dir is hereby appointed as PTC, Teacher on stop gap arrangements at GPS/MPS, Kohan, Wari with effect from 2.12.1995 to 31.3.96 at the pay scale of Rs. 1480/81/2695 subject to the following terms and conditions:-

1. Charge report should be submitted to all concerned.
2. Health & age certificate should be produced from the civil surgeon DIR at Timergara.
3. He may not be handed over the charge if his age exceeds 30 years or below 18 years.
4. Before handing over charge to him their original documents should be checked.

( FAZLE NAEEM KHAN)  
DISTT: EDUCATION OFFICER(M)  
PRY: DIR AT TIMARGARA.

OFFICE TO THE DISTT: EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA.

Endst: No. 5664-66/PED/ESTAB:/A-15 dated Timergara the 30/11/1995

Copy forwarded to:-

OFFICE ORDER:-

A-④

Mr. Haq Nawaz Khan, Mat; S/O Saeed Khan,  
Village, Jalar, Tehsil Wari. Distt: Dir is hereby  
appointed as PTC, teacher on stop gap arrangements at GPS, MPS, Kohan,  
Wari. with effect from 21<sup>2</sup> to 31<sup>3</sup> at the pay  
scale of Rs, 1480/81/2695 subject to the following 95 terms and condition 96.

1. Charge report should be submitted to all concerned.
2. Health & Age certificate should be produced from the Civil Surgeon, Dir at Timergara.
3. He may not be handed over the charge if his age exceeds 30 years or below 18 years.
4. Before handing over charge to him their original documents should be checked.

S.No. 50

(FAZLI NAEEM KHAN)  
DISTT: EDUCATION OFFICER (M)  
PRY: DIR AT TIMERGARA.

OFFICE OF THE DISTT: EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA.

Enst: NO. 5664-66 / PED/Estab: /A-15 Dated Timergara the 30/11/95

Copy forwarded to:-

xxxxxx

1. The SDEO(M) Wari. for information.
2. The DAO, Dir at Timergara for ~~xxxxxx~~ information.
3. The candidate concerned for information & compliance.

DISTT: EDUCATION OFFICER (M)  
PRY: DIR AT TIMERGARA.

**ATTESTED**

30/11

OFFICE ORDER:-

Consequent upon the non availability of duly verified trained PTCs, in the merit list, continuous appointment of following PTC, ~~xxxxxxx~~ untrained teachers in the BPS, NO.7 Rs. 480-81/2695 are hereby ordered with effect from the date of their 1st appointment.

<u>SNO.</u>	<u>Name of Teacher.</u>	<u>Name of School.</u>
1.	Mohd Din Khan,	MPS, Srafo.
2.	Wali Khan,	GPS, Serrai.
3.	Sultan Alam,	: Gamdat,
4.	Nahid Shah,	: Charkom.
5.	Guldawat Khan,	: Badalsi.
6.	Shawkat Ali,	: Tatogram,
7.	Anwar Zaib,	: Shagai,
8.	Iqbal Khan,	: Shalgah.
9.	Shad Mohd,	: Mithrowara,
10.	Anwar Said,	Dabona,
11.	Badshah Sada,	: Barkha,
12.	Nizamud Din,	: Jai,
13.	Hayat Mohd,	: Kamalai,
✓ 14.	Haq Nawaz Khan,	: Qunjai.
15.	Yar Mohd,	: Chapar,
16.	Sher Akbar,	: Kaganokhwar,
17.	Shahinullah,	: Arakh,
18.	Rahatullah,	: Mithrowara,
19.	Sahibzad,	-do-
20.	Fazal Khan,	: Jugha,
21.	Maswar Khan,	: Serrai.
22.	Bahadar Khan,	: Birarai,
23.	Mohd Akbar Jan,	: Tatogram,

B-65

1. Their appointments are purely on temporary basis and can be terminated at any time without notice.
2. Other conditions are the same as given in their 1st appointment orders.

(FAZLI NAEEM KHAN)  
DISTT: EDUCATION OFFICER (M)  
PRIMARY DIR AT TIMERGARA.


OFFICE OF THE DISTT: EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA.

Endst: NO. 1165 PED/Estt: R-7 Dated Timergara the 21/4/96

Copy forwarded for information to the SDEO (M) Wari for information and record.

**ATTESTED**

M. Anwar/

  
(DY) EDUCATION OFFICER  
FOR/DISTT: EDUCATION OFFICER (M)  
PRIMARY DIR AT TIMERGARA.

**BEFORE THE PESHAWAR HIGH COURT MINGORA  
BENCH /  
DAR UL QAZA SWAT**

W.P. \_\_\_\_\_ -M/2017

(D)  
C - (6)

1. **Ibrahim Son** of Gul Badshah Resident of Manai (Daskor) Tehsil Wari.
2. **Rahat Ullah** son of Inayat Ullah Village Samkoot Tehsil Dir
3. **Fazal Ghafoor** Son of Muhammad Amin Khan Village Sondarawal Tehsil Barawal Bandai
4. **Haq Nawaz** Son of Saeed Khan Resident of Jalar Tehsil Wari
5. **Alam Khan** son of Pass Muhammad Resident of Malook Banda Tehsil Wari
6. **Zakir Ullah** Son of Ghulam Yousaf Village Tikar Kot Tehsil Barawal Bandai all Belong to District Dir Upper.....**Petitioners**

**VERSUS**

- 1) Govt. of Khyber Pakhtunkhwa, through Secretary E&SE Khyber Pakhtunkhwa at Peshawar
- 2) Director Secretary E&SE Khyber Pakhtunkhwa at Peshawar
- 3) District Education Officer (Male) District Dir Upper  
.....  
..... Respondents

**WRIT PETITIONER UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF  
PAKISTAN 1973**

Respectfully Sheweth;

The facts of the instant are as under.

**FILED TODAY**  
**05 OCT. 2017**  
Additional Registrar

**ATTESTED**

**PESHAWAR HIGH COURT, MINGORA BENCH**  
**(DAR-UL-QAZA), SWAT**

**FORM OF ORDER SHEET**

7

Court of .....

Case No. .... of .....

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
1	2	3
	22.11.2017	<p><b><u>W.P No. 700-M/2017</u></b></p> <p><b>Present:</b> Syed Abdul Haq, Advocate for the petitioners. ***</p> <p><b><u>ISHTIAQ IBRAHIM, J.</u></b>- Vide our detailed order in the connected W.P No. 696-M/2017, this writ petition is disposed of with the directions to respondents to consider the petitioners for their reinstatement against 30% quota provided they fulfill the criteria laid down in the Khyber Pakhtunkhwa Sacked Employees (Reinstatement) Act, 2012. Respondents are further directed to complete the process within 30 days after receipt of this judgment.</p> <p align="center"><u>Announced</u> <u>22.11.2017</u></p> <p align="right"><b>JUDGE</b> <i>[Signature]</i> <b>JUDGE</b></p> <p align="right">6432</p> <p>Name of Applicant..... <i>[Signature]</i></p> <p>Date of presentation of Applicant..... 22.11.17</p> <p>Date of completion of Copies..... 28.11.17</p> <p>No of Copies..... 20</p> <p>Amount Fee..... 4/-</p> <p>Date of Receipt of Fees..... 28.11.17</p>

**ATTESTED**

Tajamul\*

DB: Mr. Justice Ishtiaq Ibrahim  
Mr. Justice Muhammad Nasir Mahfooz

*Office 28/11*

# Office of the District Education Officer Male District Dir Upper



PH No. 0944-881400-Fax-880411  
E-mail deomdirupper@gmail.com

D-⑧

## APPOINTMENT.

In the light of the judgement passed by the Honorable Peshawar High Court Mingora Bench/Dar-ul-Qaza Swat in W-P NO. 663-M/2017 dated 13-02-2018, WP No. 700-M/2017 dated 22-11-2017, and in pursuance of Khyber Pakhtunkhwa sacked employees Act 2012 and out of quota @ 30% of the advertised posts, the following sacked employees are hereby appointed conditionally as Primary School Teacher (PST) in **BPS No. 12 (Rs.13320-960-42120)** Plus usual allowances as admissible under the rules & the existing policy of the Provincial Government in Teaching Cadre on the terms and condition given below with effect from the date of taking over charge.

S. No	Name	Father Name	Place of Posting	CNIC	Remarks
01.	Alam Khan	Pass Muhammad Khan	GPS Gogyal	15000-1876353-5	
02.	Haq Nawaz	Saeed Khan	GPS Chapper	15702-7240984-1	
03.	Bahadar Khan	Mohammad Zaman Khan	GPS Karkabanj	15702-2520269-9	
04.	Anwar Saeed	Abdul Ahad	GPS Meha	42501-4272039-5	
05.	Hamid Ullah	Abdullah	GPS Behsoinal	15702-3398037-3	


### TERMS AND CONDITIONS.

01. The appointment of sacked employee shall be made only on regular bases to a civil post during the period from 1<sup>st</sup> day of November 1993 to the 30<sup>th</sup> day of November 1996 (both days inclusive) and were dismissed/ removed, or terminated from service during the period of 1<sup>st</sup> day of November, to 31<sup>st</sup> day of December, 1998 on various ground.
02. Appointment of sacked employee subject to section 7 may be appointed in their irrespective cadre of his department, concerned in which he occupied civil posts before his dismissal, removal and termination from service.
03. The sacked employee shall be appointed against thirty percent of the available vacancies in the department.
04. As per court decision if the appointee fail to acquire the training PTC and the required qualification (FA/FSc within three years, their appointment will be considered as cancelled after the expiry of the period.
05. The appointee will provide undertaking that they will be completed the requisite training during a period of three years,
06. The appointee will provide Health and age certificate from the concerned Medical Superintendent.
07. The sacked employee shall not be entitled to claim seniority and other back benefits .They shall submit an undertaking on judicial stamp paper for not claiming any back benefits. A sacked employee appointed under section 3 shall not be entitled to make any claim of seniority, promotion or other back benefits and their appointment shall be considered as fresh appointment.
08. All the drawing and disbursing officers are directed to get a stamp paper as mentioned in S.No.07 and verify their academic and professional certificates/degree etc from the quarter concerned before starting their salaries otherwise they will be held responsible

**ATTESTED**

*Al*


- 08. All the drawing and disbursing officers are directed to get a stamp paper as mentioned in S.No.07 and verify their academic and professional certificates/degree etc from the quarter concerned before starting their salaries otherwise they will be held responsible for the consequences if occurred in this regard.
- 09. The appointee will be governed by such rules and regulations/policies as prescribed by the Government from time to time.
- 10. If the appointee fail to take over charge within fifteen days after issuance of this order, their appointment will be deemed as automatically cancelled.
- 11. Charge report should be submitted to all concerned.
- 12. The errors and omissions etc if found at any stage shall be rectified. In case of termination of said candidate, they will have no right to claim the order already issued in any court.
- 13. The period during which a sacked employee remain dismissed removed or terminated from service, till the date of their appointment shall be deemed his age to has been automatically relaxed and his no further relaxation under any rules for the time being in force.
- 14. Their appointment order is subject to the final outcome of the Supreme Court of Pakistan judgment.
- 15. No TA/DA is allowed.

  
**District Education Officer,**  
**Male Dir Upper**

Endst: No. 1734-4e / File No.123/Apptt:/ DEO (M)/ADO (P) Dated Dir (U) the 27 /03/2018.

Copy forwarded for information and necessary action to the: -

- 01. Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 02. District Accounts Officer Dir Upper
- 03. Dy: District Education Officer Male Dir Upper.
- 04. Sub: Divisional Education Officer Male Wari.
- 05. Official Concerned.
- 06. M/File

  
**District Education Officer,**  
**Male Dir Upper**

**ATTESTED**



To

The Director, E&SE Department,  
Khyber Pakhtunkhwa, Peshawar.

E-16

DEPARTMENTAL APPEAL FOR FIXATION OF PAY IN BPS-12 w.e.f.  
30-11-1995 i.e. FROM THE DATE OF INITIAL APPOINTMENT

Respected Sir,

It is most humbly stated that was appointed before your good self Department as PTC vide order dated 30-11-1995 as stop gap arrangement later on I was regularly appointed against the said post vide order dated 09.04.1996 w.e.f. the date of my first appointment i.e. 30.11.1995. That in year 1997 the services were dispensed with on the ground that his services was no more required to the Department. That on promulgation of KP Sacked Employee Act, 2012 I was submitted an application for reinstatement being covered under the said law but the same was not considered. Feeling aggrieved I was filed writ petition before the Peshawar High Court Mingora Bench, which was allowed. Dear Sir, I was appointed as PST w.e.f. taking over charge in light of Peshawar High Court Darul Qaza Bench judgment. That in response I have submitted my charge report and started duty quite efficiently and up to the entire satisfaction of my superiors. That I am entitle for fixation of pay from the date of my initial appointment i.e. 30.11.1995 but the concerned authority has been appointed me with immediate effect i.e. from the date of taking over charge. Sir, I am feeling aggrieved preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal I may kindly be allowed for pay fixation w.e.f. 30.11.1995 with all consequential benefits. Any other remedy which your good self deems fit that may also be awarded in my favor

Dated: 18.09.2019

*mf*

Your's Sincerely  
*Haq Nawaz*  
HAQ NAWAZ, PST  
GPS Chappar, Wari, Dir Upper

**VAKALATNAMA**

Before the Op. Service Tribunal, Peshawar.

OF 2019

Hag Nawaz

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Education Dept.

(RESPONDENT)  
(DEFENDANT)

I/We Hag Nawaz

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_\_/\_\_\_\_/2019

Hag Nawaz  
**CLIENT**

[Signature]  
**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**

**SHAHZULLAH YOUSAFZAI**

**&**  
[Signature]  
**MIR ZAMAN SAFI**  
**ADVOCATES**

OFFICE:  
Flat No.3, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.  
Mobile No.0345-9383141

A-3

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

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 281 /2020

Case No. 292  
Date 09/11/2020

Mr. Haq Nawaz, PST-(BPS-12),  
GPS Chapper warai, District Dir Upper.....



**VERSUS**

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Dir Upper.

.....RESPONDENTS

**APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN BPS-12 w.e.f. 30-11-1995 I.E. FROM THE DATE OF INITIAL APPOINTMENT TO THE POST OF PST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 30-11-1995 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

**Brief facts giving rise to the present appeal are as under:**

- 1- That the appellant was initially appointed in the respondent Department as PTC now PST vide order dated 30-11-1995 as stop gap arrangement. ( Copy of the appointment order is attached as annexure..... A)
- 2- That later on the appellant was appointed against regular post vide order dated 09/04/1996 w.e.f. the date of his first appointment i.e. 30/11/1995. (Copy of second appointment order is attached as annexure..... B)

- 3- That it is worth mentioning here, that in 1997 the services of the appellant along with others were dispensed with on the ground that their services were no more required to the Department.

Certified to be true copy

Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(9) 45



07.06.2022

Appellant in person present. Mr. Kabirullah Khattak, learned Additional Advocate General for the respondents present.

Counsel are on strike. Adjourned. To come up for arguments on 05.07.2022 before D.B at camp court Swat.

(Mian Muhammad)  
Member (E)  
Camp Court Swat

(Kalim Arshad Khan)  
Chairman  
Camp Court Swat

05.07.2022

Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney along with Nasim Khan Section Officer for respondents present.

Case was called time and again but neither the appellant nor his counsel turned up till rising of the Bench. Consequently, instant service appeal is hereby dismissed in default for non-prosecution. Parties are left to bear their own costs. File be consigned to the record room.

Announced  
05.07.2022

(Fareeha Paul)  
Member (E)  
Camp Court, Swat

(Rozina Rehman)  
Member (J)  
Camp Court, Swat

Date of Reception of Application 05/07/22  
 Number of Words 800  
 Copy fee 10/-  
 Urgent \_\_\_\_\_  
 Total 10/-  
 Name of Copyist \_\_\_\_\_  
 Date of Completion of Copy 20/7/22  
 Date of Delivery of Copy 20/7/22

Certified to be true copy  
  
 N.E.R  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

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

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 281/2020

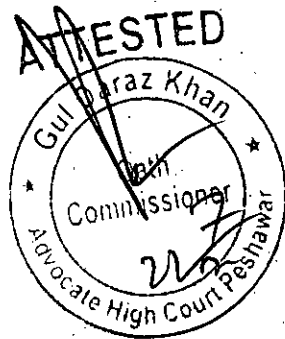
HAQ NAWAZ

VS

EDUCATION DEPT.

**AFFIDAVIT**

I, Noor mohammad khattak advocate, do hereby solemnly affirm that the contents of this **Restoration Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT