



4th 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
KAD
Beshawar


(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

09th March, 2023

Junior of learned counsel for the appellant present.
Mr. Muhammad Riaz Khan Pindakhel, Assistant Advocate
General alongwith Mr. Gohar Ali, Assistant for the respondents
present.

Junior of learned counsel for the appellant seeks
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

18.05.2023

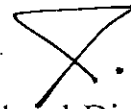
Junior of learned counsel for the appellant present. Syed
Alamzeb Shah, ADEO alongwith Mr. Asad Ali Khan, Assistant
Advocate General for the respondents present.

SCANNED
KPST
Peshawar

File to come up for alongwith connected Service Appeal No.
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)

3rd Nov. 2022

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


Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Adjudged. To come up for arguments on 16.12.2022 before the D.B.


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

16th Dec. 2022

Counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present. Mrs. Rozina Rehman, learned Member (J) is on leave, therefore, D.B is incomplete. The case is adjourned to 09.03.2023 for arguments before the D.B.


(Fareeha Paul)
Member(E)

SCANNED
KPST
Peshawar

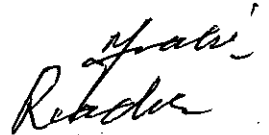
24.11.2021

Proper D.B is not available, therefore, case is adjourned to 3-3-2022 for the same.


READER

3-3-22

Due To Retirement of The Hon,ble Chairman
The case is adjourned on 14-6-22


Reader

14.06.2022

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present. Syed Alamzeb Shah, Legal Advisor for respondents No. 4 present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B on 16.08.2022.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

16.8.22

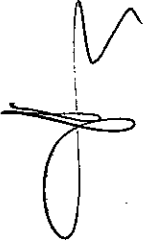

Due to summer vacations, the case is adjourned to 3.11.22 for the same.



P.S

28.07.2021

Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.

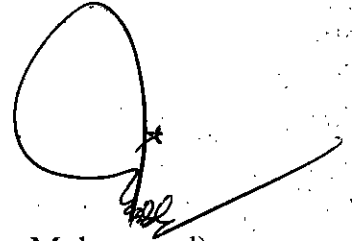


Chairman

08.03.2021

Junior to counsel for the appellant present. Addl: AG for respondents present.

Written reply not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission of written reply/comments.

Adjourned to 18.05.2021 before S.B.



(Mian Muhammad)
Member (E)

18.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 05.07.2021 for the same as before.



Reader

05.07.2021

Junior to counsel for the appellant present. Mr. Adeel Butt, Additional Advocate General alongwith Mr. Ahmad Hassan, Litigation Officer respondents present.

Respondents have not submitted reply/comments. They are required to submit reply/comments within 10 days in office, positively. In case the respondents have not submitted reply/comments within stipulated time, office shall put up the appeal with a report of non-compliance. To come up for arguments on 24.11.2021 before D.B.

Stipulated period has passed and reply has not been submitted.



Chairman

22.04.2020

Due to COVID19, the case is adjourned to 23.07.2020 for the same as before.



Reader

23.07.2020

Appellant is absent. The legal fraternity is observing strike today therefore, no proceedings could be conducted. The case is adjourned to 06.10.2020. To come up for previous proceedings before S.B.

03/08/20

(MUHAMMAD JAMAL KHAN)
MEMBER

06.10.2020

Junior to counsel for the appellant present.

Learned senior counsel for the appellant is not in attendance today due to general strike on the call of Khyber Pakhtunkhwa Bar Council. The matter is adjourned to 8.12.2020 for hearing before S.B.


Chairman


08.12.2020

Appellant present through counsel. Preliminary arguments heard. File perused.

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 08.03.2021 before S.B.

Appellant Deposited
Security Process Fee

21/12/20


(Rozina Rehman)
Member (J)

Form- A

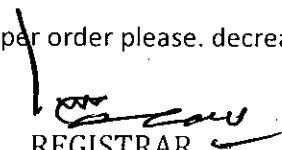

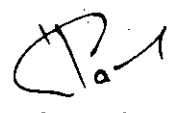
FORM OF ORDER SHEET

Court of _____

Case No.-

930

/2020

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 11/02/2020 | <p>The appeal of Mr. Rahatullah resubmitted 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. decrease</p> <p> REGISTRAR</p> |
| 2- | | <p>This case is entrusted to S. Bench. for preliminary hearing to be put up there on <u>20/03/2020</u></p> <p> CHAIRMAN</p> |
| | 20.03.2020 | <p>Nemo for the appellant. Lawyers community is on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for preliminary hearing on 22.04.2020 before S.B.</p> <p> Member</p> |


SC/ED/1
K.P.C.
Peshawar

The appeal of Mr. Rahat Ullah PST GPMS Mani Sar, District Dir Upper received today i.e. on 09.01.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of Judgment of High Court mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

No. 45 /S.T,

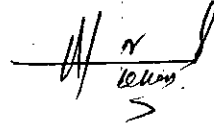
Dt. 9-1- /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Sir,

All objection has been removed,
Hence resubmitted today dated. 11-2-2020.


N
10/1/20
>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 930/2019

Rahatullah

VS

EDUCATION DEPTT:

INDEX

| S.NO. | DOCUMENTS | ANNEXURE | PAGE |
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| 2. | Appointment Order | A | 4. |
| 3. | 2 nd Appointment order | B | 5. |
| 4. | Judgment | C | 6-11. |
| 5. | Appointment order | D | 12-13. |
| 6. | Medical certificate | E | 14. |
| 7. | Departmental Appeal | F | 15. |
| 8. | Vakalatnama | | 16. |

APPELLANT

THROUGH:

[Signature]
NOOR MUHAMMAD KHATTAK
ADVOCATE

Room No. 3 & 4, Upper Floor,
Islamia Club Building,
Khyber Bazar, Peshawar
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 930 /2019

Mr. Muhammad-Din, PGT BPS-12,
GPS Palani, District Dir Upper..... Rahatullah.....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.

- 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. 327 before Peshawar high court Peshawar, which was allowed vide judgment dated 11/04/2017. 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 Darul qaza Bench judgment vide order dated 18/08/2017. 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 dated and medical certificate are attached as annexure **D & E)**
- 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..... **F)**
- 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-

H- 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.

I- 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

Muhammad Din

MUHAMMAD DIN

THROUGH:

N
NOOR MOHAMMAD KHATTAK

&

Shahzullah
SHAHZULLAH YOUSAFZAI
ADVOCATES

BETTER COPY PAGE PAGE-4

OFFICE ORDER:-

Mr. Mohammad Din Khan S/O Rohi Zamin Village Palam, Ushera Darra, Tehsil & District Dir is hereby appointed as stop gap arrangements at GPS/MPS, Kass Mithrowara with effect from 2.12.1995 to 31.12.96 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. 5682-84/PED/ESTAB:/A-15 dated Timergara the 30/11/1995

Copy forwarded to:-

A-4

OFFICE ORDER:-

Mr. Mohammad Din Khan, Mat: S/O Roh Zamin, _____ village
Palam Ushergai Dara Tehsil Distt: Dir is hereby appointed
as stop gap arrangements at GPS/MPS, Kass Nithrowara with effect from
at the pay scale of Rs. 1480/81/2695 subject to
the following terms and conditions:-

212
95

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 TIMERGARA.

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

Endst: NO. 5682 - S 4 / PED / Estab: / A-15 Dated Timergara the 30/10/95

Copy forwarded to:-

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

M. Anwar /

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

Handwritten signatures and initials

Stamp:
C.O EMIS (BPS-16)
Dir Upper

Handwritten notes:
30/10/95

OFFICE ORDER:-

Consequent upon the non availability of duly verified trained PTCs, in the merit list, continuous appointment of the following PTC, ~~कांकाकाकाका~~ untrained teachers in the BPS, NO.7 Rs, 1480-81/2695 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, Serai. |
| 3. | Sultan Alam, | :.Gamdat, |
| 4. | Nahid Shah, | :.Charkom. |
| 5. | Guldawat Khan, | :.Badalai. |
| 6. | Shawkat Ali, | :.Tatogram, |
| 7. | Anwar Zaib, | :.Shagai, |
| 8. | Iqbal Khan, | :.Shalgah. |
| 9. | Shad Mohd, | :.Mithrowara, |
| 10. | Anwar Said, | Dabona, |
| 11. | Badshah Zada, | :.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, | :.Mithrowra, |
| 19. | Sahibzada, | -do- |
| 20. | Fazal Karim, | :.Jugha, |
| 21. | Masawar Khan, | :.Serrai. |
| 22. | Bahadar Khan, | :.Birarai, |
| 23. | Mohd Alam Jan, | :.Tatogram, |

1. Their appointment 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: E-7 Dated Timergara the 09/4/96

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

M. Anwar/

Shahinullah
C.O EMIS (BPS-16)
Dir Upper

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

BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH /
DARULQAZA SWAT

V.P. 327-M/2016

1. Muhammad Din (Ex-PTC) Son of Roz Amin Resident of Palam UC Palam Tehsil & District Dir Upper.
 2. Muhammad Zahir (Ex-PTC) Son of Abdul Ghaffar Khan Resident of Duro Tehsil and District Dir Upper.
 3. Bacha Uddin (Ex-PTC) son of Asfandyar Khan Resident of Oshera Almas Tehsil & District Dir Upper
 4. Aziz Ullah Khan (Ex-PTC) Son of Nadar Khan Resident of Shengara Baala Tehsil Borawal District Dir Upper
 5. Fazal Qadim (Ex-PTC) Son of Sarbiland Khan Resident of Umralai payeen Tehsil Wari District Dir Upper
- Petitioners

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Secretary L&SE Civil Secretariat at Peshawar.
 - 2) Secretary Elementary and Secondary Education Civil Secretariat at Peshawar.
 - 3) Director Elementary and Secondary Education Civil Secretariat at Peshawar..
 - 4) District Education Officer (Male) at 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.

ATTESTED

Abisman Ullah
C.O EMIS (BPS-16)
Dir upper

11/12/2016

m

(7)

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINOR BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)

W.P. No. 527-M/2016

Muhammad Din and others

(Petitioners)

Versus

Govt. of Khyber Pakhtunkhwa and others

(Respondents)

Present:

Syed Abdul Haq Advocate for petitioners.

Mrs. Sabir Shah, A.A.G. for respondents.

Date of hearing:

11.04.2017


JUDGMENT

ABDUL SHAKOOR, J.- Through this writ petition, the petitioners herein have prayed this Court for issuance of an appropriate writ directing the respondents to reinstate them on the posts of primary school teacher.

2. Initially the petitioners were appointed as primary school teachers in 1995 on stopgap arrangement but subsequently they were declared as continuous against their respective posts. It was in 1997 when services of the petitioners were dispensed with on the ground that their services were no more

ATTSTED

Hessman Ullah
C.O. 527-M-2016-181
District Judge

M 
Syed Abdul Haq

Approved

W.P. No. 527-M/2016 Muhammad Din and others Vs Govt of Khyber Pakhtunkhwa

②

required to the department on arrival of trained teachers. As per assertions of the petitioners, on promulgation of the Khyber Pakhtunkhwa Sacked Employees Act, 2012, they submitted applications for their reinstatement being covered under the said law but the same were not considered, hence, the instant writ petition.

3. Respondents on the notice of this Court filed their para-wise comments whereby they denied the assertions of the petitioners.

4. We have heard learned counsel for the petitioners as well as the learned A.A.G. for the respondents and gone through the record.

5. No doubt, the petitioners had been appointed as primary school teachers as stopgap arrangements but later on their services have been extended from time to time. Copies of the extension orders of the petitioners are available on record which reveal that continuous appointments of the

ATTESTED

②

Qasimullah
C.O EMIS (BPS-16)
Dir upper

9

petitioners have been ordered with effect from the dates of their first appointment. The term "continuous appointment" mentioned in the orders issued by respondents signifies that the petitioners were inducted in the department on regular basis from the dates of their initial appointment. When confronted with the above, the learned A.A.G. could not defend the stance of the respondents that the petitioners were performing their duties on temporary basis nor could he assist this Court that the department had used the said term in some other meanings. Thus, we have no hesitation in holding that the petitioners were regular employees of the Education Department and they are entitled to be benefitted under the Khyber Pakhtunkhwa Sacked Employees Act, 2012.

6. The respondents have also alleged that the petitioners have not moved applications for their reinstatement within the prescribed time. This stance of respondents does not carry weight in the face of their own

ATTACHED

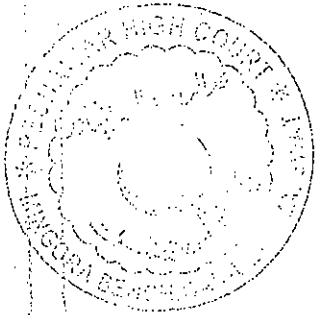


GA

Abdusamadullah
COE/MS/161
Dropper

(16)

record copies of which are annexed with petition under the heading "List of scrutiny sacked Employees during the year 1996 to 1998 (PST male) District Dir Upper". Refusal of the said list shows that names of the petitioners have been mentioned therein. It means that respondents have entertained the applications of petitioners for their reinstatement and a paper work was done in this regard. Therefore, there is no force in the contention of the learned A.A.G. that the petitioners have not submitted applications for their reinstatement.



GF

7. In light of the foregoing discussion, this writ petition is disposed of with directions to the respondents to consider the petitioners for their reinstatement under the Khyber Pakhtunkhwa Sacked Employees Act, 2012 on their turn. The petitioners will be bound to furnish an undertaking to the effect that they will complete PTC training and basic academic qualification i.e. intermediate after taking charge of their duties, if not already so

FILED

Amirullah
C-10 (S.P.S-16)

11

qualified. In case of not acquiring the said professional and academic qualification within a period to be specified by the department in the appointment orders, their appointments will be considered as cancelled after expiry of that period.

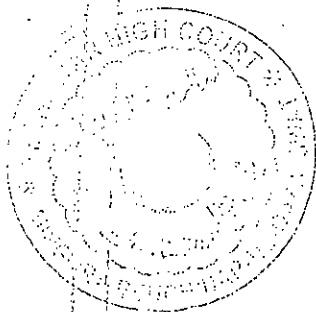
Sd. Ikramullah Khan-J

Sd. Abd'ul Shakoor J

Announced
11.04.2017

JUDGE

JUDGE



2460
No. of Appointment
Date of Appointment 17-04-17
No. of Copies 6
Date of Delivery of Copies 18-04-17

57/16
17/4/2017

Certified to be true copy

[Signature]

18/4/17

ATTESTED

Ikramullah
C.O. EMIS (BPS-16)
Dir upper

District Education Officer Male District Dir Upper



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

APPOINTMENT.

As per Decision of Honorable Peshawar High Court Mingora Bench/Dar-ul-Qaza Swat W-P 327-M/2016 Announced on 11.04.2017 & Letter Vide No.317/AD/(Litigation) Dated Peshawar the 02-08-2017 Director Elementary & Secondary Education Peshawar in the light of sacked employees (appointment) Act,2012(Khyber Pakhtunkhwa,Act NO.XVII-2012 and @ of 30% share from the available vacant Posts. The following Sacked employees are hereby ordered against the post of Primary School Teachers (PST) Male School based in BPS-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.# | Name | Father's Name | Place of Posting | Union Council |
|-----|-----------------|--------------------|-------------------|---------------|
| 01 | Muhammad Din | Roz Amin | GPS Palam | Palam |
| 02 | Muhammad Zahir | Abdul Ghaffar Khan | GPS Doon Payeen | Sheringal |
| 03 | Bacha Uddin | Asfandyar Khan | GPS Tarpatar No.1 | Tarpatar |
| 04 | Aziz Ullah Khan | Nadar Khan | GPS Marano | Darikand |
| 05 | Fazal Qadim | Sarbiland Khan | GPS Batali | Chapper |

TERMS AND CONDITIONS.

01. Appointment of Sacked employees shall be made through only regular basis to a civil post who possessed the prescribed qualification and experience required for the said post during the period from 1st day of November, 1993 to the 30th day of November 1996(both days inclusive) and were dismissed/removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on various grounds.
02. They will be on probation for a period of one year.
03. Appointment of Sacked employees subject to section 7 may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service.
04. The Sacked employees shall be appointed against thirty percent of the available vacancies in the Department.
05. As per court decision if the appointees fail to acquire the training PTC and the required qualification (FA/FSC) within three years, their appointments will be considered as cancelled after the expiry of that period.
06. The appointees will provide undertaking that they will be completed the requisite training during a period of three years.
07. They should obtain Medical Fitness certificate from Medical Superintendent Concerned.
08. The Sacked employees shall not be entitled to claim seniority and other back benefits. A sacked employee appointed under section 3 shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.
09. The appointees will be governed by such rules and regulations/policies as prescribed by the Government from time to time.

[Handwritten signature and initials]

Appointment Order PST (M) Sacked Employees

(13)

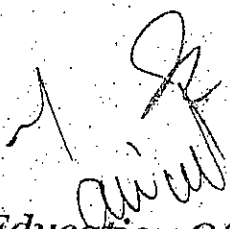
10. If the appointees fail to take over charge within fifteen days after issuance of this order, his appointment will be deemed as automatically cancelled.
11. Charge report should be submitted to all concerned.
12. All the drawing & Disbursing Officer are directed to verify their Academic and Professional Certificate/degree etc from the quarter concerned before starting their salaries otherwise they will be held responsible for the consequences if occurred in this regard.
13. The errors and omissions etc if found at any stage shall be rectified. In case of termination of said candidate, he will have no right to claim the order already issued in any court.
14. No. TA/DA is allowed.

(MOIN-UD-DIN KHATTAK)
District Education Officer,
Male Dir Upper

7Endst: No. 5725-32 / File No. 123/ Apptt./ DEO(M)/ADO(P) Dated Dir (U) the 18/08/2017.

Copy forwarded for information and necessary action to the:-

1. Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Assistant Registrar Peshawar High Court Mingabna bench, Dar-ul-Qaza Swat
3. District Accounts Officer Dir Upper
4. Dy: District Education Officer Male Dir Upper.
5. Sub: Divisional Education Officer Male Dir.
6. Sub: Divisional Education Officer Male Wari.
7. A.P EMIS Local Office.
8. Official Concerned.
9. M/File


District Education Officer,
Male Dir Upper

ATTESTED

MEDICAL CERTIFICATE

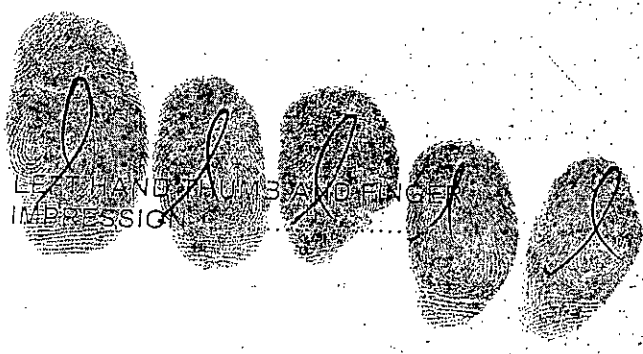
E-14

Name of Official Muhammad Din
 Cast or race Muslim / Pakista
 Father's Name Roz Amin
 Residence village 8 No ushara Fehs I
Dir District upper Dir
 Date of Birth 15-6-1970 (According to CNIC)
 Exact height by measurement 5-7"
 Personal mark of identification nil
 Signature of the official M. Din
 Signature of head of office

Seal of Officer

I do hereby certify that I have examined Mr. Muhammad Din a candidate for employment in the office of the Education Dept and cannot discover that he had nay disease communicable of other constitutional affection or bodily infirmity except No Such disabil seen

I do no consider this as disqualification for employment in the office of the Education Dept His age according to own statement 47 years and by appearance about 47 Year.



LEFT AND RIGHT THUMB AND INDEX IMPRESSION

[Signature]
 Medical Superintendent
 Civil Hospital
 M.D.Q Hospital
 Upper Dir

19/8/17

ATTESTED

To

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

F-15

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 I 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

M

Your's Sincerely

Muhammad Din

MUHAMMAD DIN, PST
GPS Palam, District, Dir Upper

VAKALATNAMA

Before the Appellate Tribunal, Peshawar

OF 2019

SCANNED
KPST
Peshawar

Rahat Ullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Dept.

(RESPONDENT)
(DEFENDANT)

I/We Rahat Ullah

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

Rahat Ullah
CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

KAMRAN KHAN
&

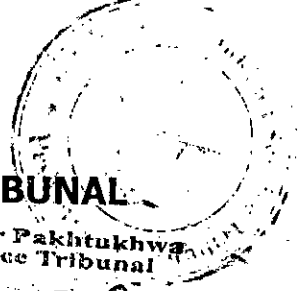
MIR ZAMAN SAFI
ADVOCATES

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Mobile No:0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



APPEAL NO. 278 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 295

Dated 9/1/2020

Mr. Bacha Sherin, PST (BPS-12),
GPS Jatgram 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. 01-01-1996 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. 01-01-1996 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:

Filed to-day
Registrar

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

09/01/2020 1-

That the appellant was initially appointed in the respondent Department as PTC now PST vide order dated 01-01-1996 as stop gap arrangement. (Copy of the appointment order is attached as annexure.....A)

Submitted to the
Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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.

3-

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 855/2016 before Peshawar high court Mingora Bench

A. No- 278/2020
Bacha Ghori



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.

[Signature]
Reader

19.06.2020

Appellant with counsel 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
[Signature]
26/6/20

[Signature]
(Rozina Rehman)
Member (J)

Part of P. No. _____
Number of Word 800 08/12/2020
Copying Fee 10.00
Urgent 4-00
Total 14.00
Name of Copyist _____
Date of Completion of Copy 08/12/2020
Date of Delivery of Copy 08/12/2020

Certified to be true copy
[Signature]
KHYBER PAKHTUNKHWA
Service Tribunal,
Peshawar