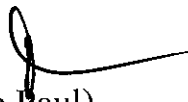



4th August, 2023 1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.

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.


(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

SCANNED
K. ST
POSTAWAN

09th March, 2023

Junior of learned counsel for the appellant present.
Mr. Muhammad Riaz Khan Paindakhel, 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
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.

Junior of learned counsel for the appellant requested for
adjournment on the ground that learned counsel for the appellant is
busy in the august Peshawar High Court, Peshawar. Adjourned. To
come up for arguments on 04.08.2023 before D.B. Parcha Peshi
given to the parties.

SCANNED
Peshawar



(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. Adjourned. 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.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member(E)

23/11.2021

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

~~Signature~~
Reader

3-3-22

Due to Retirement of the Hon. B. Chairman the case is adjourned to come up for the same as before on 14-6-22

Signature
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.

Signature

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

Signature

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

16.8.22

due to summer vacations the case is adjourned to 3.11.22 for the same

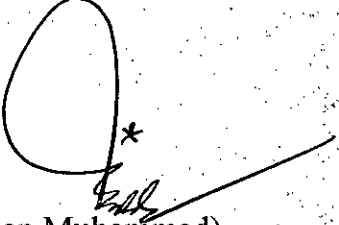
Signature

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.


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.


(MUHAMMAD JAMAL KHAN)
MEMBER

06.10.2020

Junior to counsel for the appellant present.

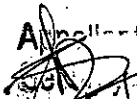
Learned senior counsel for the appellant is not in attendance today due to general strike on the call of Khyber Pakhtunkhwa Bar Council. The matter is adjourned to 8.12.2020 for hearing before S.B.



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.



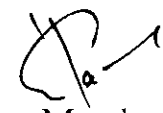

Appellant Deposited
Process Fee
21/12/20


(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____
Case No. - 933 /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. Badshah-ud-Din 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 style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20/03/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>20.03.2020</p> <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 style="text-align: right;"> Member</p>

SCANNED
KPST
Peshawar

The appeal of Mr. Badshahud Din PST GPS Tarparter no. 1 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. 46 /S.T,

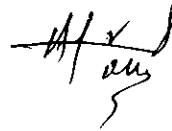
Dt. 9-1- /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Sir,

All the objections has been removed. Hence re-submitted today dated - 11-2-2020.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2019

BADSHAH UD DIN

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 3.
2	Appointment order	A	4.
3	Second appointment order	B	5.
4	Judgment	C	6- 13.
5	Appointment order	D	14- 13.
6	Medical certificate	E	16.
7	Departmental appeal	F	17.
8	Vakalat nama	18.

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**

APPEAL NO. _____/2019

Mr. Badshahud Din, PST BPS-12,
GPS Tarpatar No.1, 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. 30-11-1993 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 30-11-1993 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 30-11-1993 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 11/12/1995 with immediate effect. (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. 327/2016 before Peshawar high court Mingora Bench, 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 Dar-UI-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. 30/11/1993 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. 30-11-1993 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. 30-11-1993 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.

APPELLANT

Badshah Din
BADSHAHUD DIN

THOROUGH:

[Signature]
NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

[Signature]
**MIR ZAMAN SAFI
ADVOCATES**

BETTER COPY PAGE NO.4

OFFICE ORDER:-

Consequent upon the non availability of trained PTC, in the constituency, Mr. Badshah-Ud-Din, S/O Asfandiyar Khan Village Ushari DISTRICT Dir is hereby appointed on stop gap arrangements at GPS/MPS, Janar with effect from 3.12.1995 to 31.3.1996 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. 5691-93/PED/ESTAB:/

Dated Timergara the 30/11/1995

Copy forwarded to:-

ATTENDED

DIST. EDUCATION OFFICER (M)
MIR: DIB AT FIRKHARA

The candidate concerned for information.
The project of investigation for information.
The section for information.

Office of the District Education Officer (M) Mir: DIB AT FIRKHARA
No. 5651-73 / 100/1000 dated 20/11/07

(FAZIL MAJEED KHAN)
DIST. EDUCATION OFFICER (M)
MIR: DIB AT FIRKHARA

... the candidate concerned for information.
... the project of investigation for information.
... the section for information.
...
... at the pay scale of Rs. 1450-87/-
...
... at the pay scale of Rs. 1450-87/-
...
... at the pay scale of Rs. 1450-87/-

10-11

10-11

OFFICE ORDER.

The following adjustment of P.T.C. teachers are hereby ordered in the schools noted against their names with immediate effect in the interest of public service.

S.No.	Name of teacher:	School where adjusted.
1)	Mr. Azizud-Din, P.T.C, MPS, Jenora:	GPS, Jenar, against newly created post.
2)	Mr. Badshahud-Din, newly appointed on stop gap arrangement w.e.f. 2/12/95 to 31/3/96, vide Distt: Education Officer, (H) Prys: Dir at Timergara endst: No: 5691-93/PED/Estt: dated 30/11/95.	GPS, Jenar, against vacant post. GPS, Jenar against newly created post.


(YAR MOHAMMAD KHAN)
Sub Divisional,
Education Officer,
(H) Dir.

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (H) DIR.

Endst: No. 2251-54 / F.No. 4 / P.E/ASDED (H) Dir/Admn: Dated Dir the 11 / 12 / 1995.

Copy of the above is forwarded for n/a please to:-

1. The District Education Officer, (H) Primary Dir at Timergara.
2. The Head Teachers concerned.
3. The teachers concerned.
4. The Accountant of local office.


Sub Divisional,
Education Officer,
(H) Dir.

ATTACHED

BETTER COPY

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

W.P No. 327-M/2016

Muhammad Din and others.....**Petitioner**

Versus

Government of Khyber Pakhtunkhwa and others.....**Respondents**

Present: Syed Abdul Haq Advocate for petitioners
Mr. 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 service were no more 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 re-instatement 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 the 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 reveals that continuous appointments of the petitioners have been ordered with effect from the dates of their first appointment. The term "continuous appointment" mentioned in the orders issued by respondents signified 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 not could he assist this 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 re-instatement within the prescribed time. This stance or respondents does not carry weight In the face of their own 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". Perusal of the said list shows that names of the petitioners have been mentioned therein. In means that respondents have entertained the applications of petitioners for their re-instatement 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 re-instatement.
7. In light of the foregoing discussion, this writ petition is disposed of with directions to the respondents to consider the petitioners for their re-instatement 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 qualified. In case of not acquiring the said professional and academic qualification within a period to be specified by the department in the appointments will be considered as cancelled after expiry of that period.

Announced

11.04.2017

C-6 (5)

BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH /
DARULOAZA SWAT

No. 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 Asfandiyar Khan Resident of Osheral Almas Tehsil & District Dir Upper
 4. Aziz Ullah Khan (Ex-PTC) Son of Nadar Khan Resident of Shengara Baala Tehsil Barawal 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.

11 May 2016

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

09. The appointees will be governed by such rules and regulations/policies as prescribed by the Government from time to time.

shall be considered as
10

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

7

W.P. No. 327-M/2016

Muhammad Danish and others

versus

Govt. of Khyber Pakhtunkhwa and others

(Respondents)

PETITION

Syed Abdul Haq Advocate for petitioners

Mr. Sabir Shah, Adv. 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

Syed Abdul Haq
Advocate
C.O. No. 111 of 2016

Syed Abdul Haq

09. The appointees will be governed by such rules and regulations/policies as prescribed by the Government from time to time.

Syed Abdul Haq

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

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C.O EMIS (BPS-16)
Dir upper

W.P. No. 177 of 2010 Muhammad Din and others Vs. Govt of Khyber Pakhtunkhwa

09. The appointees will be governed by such rules and regulations/policies as prescribed by the Government from time to time.

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



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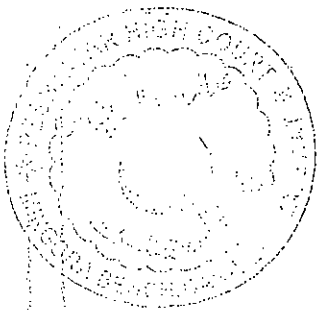
Asma ul Ullah
CO No. 181
D. 18/12/2015

WP No. 32744 of 2015 (Muhammad Din and others Vs. Govt. of Khyber Pakhtunkhwa)

09. The appointees will be governed by such rules and regulations/policies as prescribed by the Government from time to time.

Orin

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". Perusal 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.



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

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09. The appointees will be governed by such rules and regulations/policies as prescribed by the Government from time to time.

considered as

[Handwritten signature]

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.

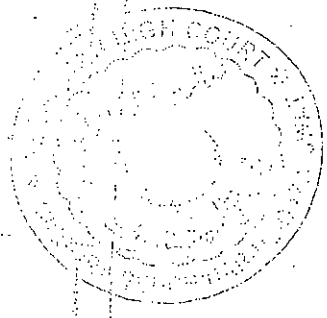
Sd. Ikramullah Khan-J

Sd. Abd-ul-Shakoor-J

Announced
11.04.2017

JUDGE

JUDGE



2460
Name of Appointee: [Signature]
Date of Appointment: 17-04-17
Date of Delivery of Copies: 18-04-17
No. of Copies: 6 P
Date of Delivery of Copies: 18-04-17

Office
17/4/2017

Considered to be true copy.

[Signature]
18/4/17

[Signature]

Ikramullah
C.O. & MIS (BPS-16)
Dir upper

09. The appointees will be governed by such rules and regulations/policies as prescribed by the Government from time to time.

[Signature]

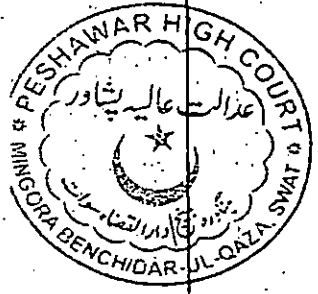
11/14

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

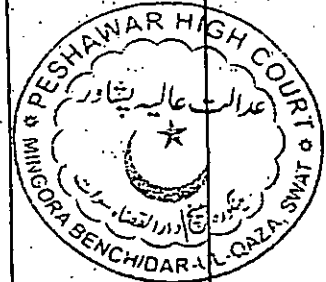
FORM OF ORDER SHEET

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
 <p align="center">ATTESTED</p> <p align="center">Examiner Peshawar High Court Bench Mingora Dar-ul-Qaza, Swat</p>	<p align="center">22.11.2017</p>	<p align="center"><u>W.P No. 696-M/2017</u></p> <p>Present: Syed Abdul Haq, Advocate for the petitioners. ***</p> <p><u>ISHTIAQ IBRAHIM, J.-</u> Through this single order we propose to decide this writ petition as well as the connected W.P No. 700-M/2017, involving common questions of law and facts, wherein the petitioners are seeking the following relief from this Court.</p> <p>“It is, therefore, humbly prayed that on acceptance of this writ petition in the light of aforementioned submissions, this Court may kindly issue appropriate writ to the Respondents No.3 to reinstate the petitioners on their own posts with all back benefits, according to the spirit of the Act. This Hon’ble Court may also issue directions to the concerned respondents to count their seniority from the date of their first appointment mentioned in PARA-2 of this writ petition”.</p> <p>2. In essence, the petitioners were appointed as untrained PTC teachers in the years 1995 and 1996 and</p>

11/13



ATTESTED

Examiner,
Peshawar High Court Bench
Mingora Darul-Qaza, Swat.

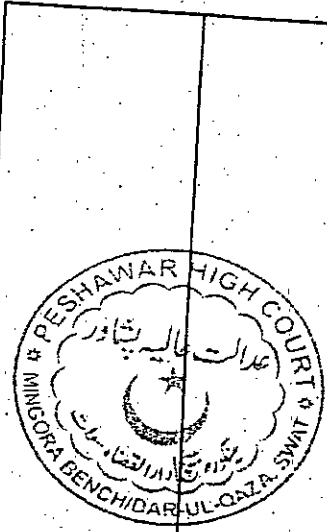
Petitioners have asserted that on promulgation of the Khyber Pakhtunkhwa Sacked Employees (Reinstatement) Act, 2012, they filed applications for their reinstatement in accordance with the Act *ibid* but the respondent department is not willing to consider them for their reinstatement despite they went from pillar to post in this regard. Hence, these writ petitions.

3. Arguments heard and record perused.

4. Admittedly, the Provincial Government has promulgated the Khyber Pakhtunkhwa Sacked Employees (Reinstatement) Act, 2012 with the object to redress the grievances of the sacked employees by allocating 30% quota for them in fresh recruitment. Section 2 (g) of the Act *ibid* defines those sacked employees who can get benefit of the Act whereas Section 7 thereof prescribes 30 days period after promulgation of the Act for submission of applications for reinstatement. Learned counsel for the petitioners submitted at the bar that the petitioners fulfill all the conditions laid down in the Act.

5. The issue of reinstatement of the sacked employees has already been resolved by Superior Courts through various judgments wherein it has been held that

U/C



provided they fulfill the criteria laid down in the Act. The issue of training of the sacked employees also arose before the august Supreme Court in C.P No. 401-P, 427-P and 431-P which were decided vide judgment dated 24.05.2017 with the following observations.

“We have been apprised by the learned counsel for the respondents that according to the advertisement and appointment letters issued to the respondents, two kinds of candidates could be appointed. (i) those who have the requisite academic qualifications and training, (ii) those who have the requisite academic qualifications but do not possess the necessary training. As regards the second category, such persons would be provided with an opportunity to complete the training within a specific period”.

6. Since, benefits of the Act *ibid* have already been extended to similarly placed persons, therefore, the petitioners are also entitled to the same relief. Resultantly, these writ petitions are 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.

S.No.
Name of Applicant: Asif Far Parhman
Date of Presentation of Applicant: 31-10-2020
Date of Completion of Copies: 31-10-2020
No of Copies: 2
Urgent Fee:

ied to be true copy
20-01-2020
EXAMINER
h Court, Mingora/Dar-ul-Qaza, Swat

Announced
22.11.2017

JUDGE

District Education Officer Male District Dir Upper



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

D-14

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 Ghaffor Khan	GPS Doon Payeen	Sheringal
03	Bacha Uddin	Asfandiyar Khan	GPS Tarpatar No.1	Tarpatar
04	Aziz Ullah Khan	Nadar Khan	GPS Marano	Darikand
05	Fazal Qadim	Sarhiland 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/FSG) 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

ATTACHED

[Handwritten signature]

Appointment Order PST (M) Sacked Employees

2

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.

15

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

751st: No. / File No. 123/ Applt./ DEO(M)/ ADO(P) Dated Dir (U) the /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 Mingaora 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

Moin-ud-Din Khattak

District Education Officer,
Male dir Upper

ATTACHED

① E ①⑥

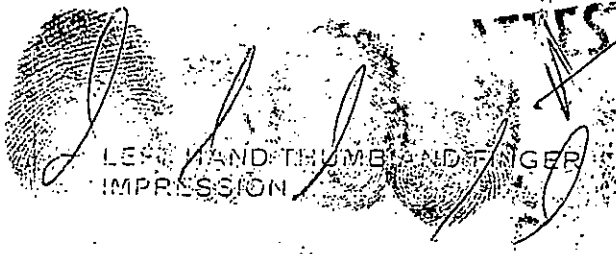
MEDICAL CERTIFICATE

Name of Official *Bacha ud Din*
 Cast or race *Muslim / Pakistani*
 Father's Name *Asfand Ali*
 Residence *village ushori Tehsil D.D. District upper D.D.*
 Date of Birth *22-3-1968 (According to CNIC)*
 Exact height by measurement
 Personal mark of identification
 Signature of the official *[Signature]*
 Signature of head of office

Seal of Officer.....

I do hereby certify that I have examined Mr. *Bacha ud Din* a candidate for employment in the office of the *Education Dept.* and cannot discover that he had any disease communicable of other constitutional affection or bodily infirmity except *Corrected by spectacle (near sight)*

I do not consider this as disqualification for employment in the office of the *Education Dept.* His age according to own statement *49* years and by appearance about *49* year.



[Signature]
 Medical Superintendent
 Civil Hospital *19/8/2011*
 Medical Officer
 D.D.
 upper

CHARGE REPORT

16/A

Concerned upon the department order of Mr. Badshah Uddin S/o Asfandyar ^{When} as a (PST) teacher on S-No.03 vide end No.5725-32 / file No.123 / apptt: /DEO(M) / ADO (p) dated dir (U) the 18-08-2017

I Badshah Uddin S/o Asfandyar ^{When} R/o almas upper Dir assumed the charge of PST at 19-08-2017 GNS Tarnatar no 3

Today on 19/08/2017 before afternoon

Copy forwarded to :-

- (1) District Education Officer Dir Upper
- (2) District Account Officer Dir Upper
- (3) Deputy District Education Officer (M) Dir Upper
- (4) Official Concerned

ATTESTED

Handwritten signature



To

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

F-17

DEPARTMENTAL APPEAL FOR FIXATION OF PAY IN BPS-12 w.e.f.
30-11-1993 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 30-11-1993 as stop gap arrangement later on I was regularly appointed against the said post vide order dated 11.12.1995 with immediate effect. 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. 30-11-1993 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. 30-11-1993 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



Your's Sincerely
Badshah Ud Din
BADSHAH UD DIN, PST
GPS Tarpatar No.1, Dir Upper

VAKALATNAMA

Before the up Honour Tribunal, Peshawar

OF 2019

Badshah-ud-din

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Dept.

(RESPONDENT)
(DEFENDANT)

I/We Badshah-ud-din

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

Badshahudin
CLIENT

A
ACCEPTED
NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

&
Mir Zaman Safi
MIR ZAMAN SAFI
ADVOCATES

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