



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.



(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)

09th March, 2023

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



(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.

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)


SCANNED
KPST
Peshawar

SCANNED
KPST
Peshawar

3rd Nov. 2022

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

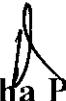
Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Adjudged. To come up for arguments on 16.12.2022 before the D.B.


(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
KFST
Peshawar

24.11.2021

Proper D.B. is not available, therefore, case is adjourned to ~~3-3-2021~~ for the same.


READER

3-3-22

Due to retirement of the Hon.ble chairman the case is adjourned on

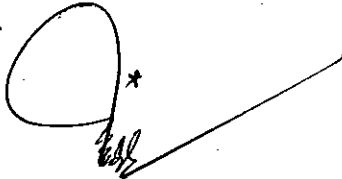
14-6-22

^{of date}
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 vacation the case is adjourned to 3.11.2022 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.



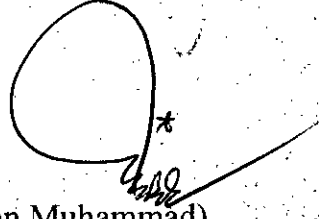
Chairman

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.

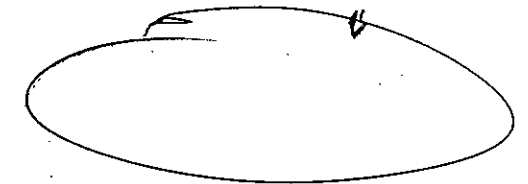
Stipulated period has passed and reply has not been submitted.

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

25.09.2020

Mr. Mir Zaman Safi, Advocate, for appellant is present. He submitted that issue involved in the instant service appeal is identical as involved in other five numbers of appeals one of which captioned Rahatullah Versus Education Department in which next date of hearing has been fixed as 06.10.2020 has been fixed, therefore, he requested that the instant appeal has to be fixed on that very date. Request is appropriate, propriety demands that identical issues are tackled simultaneously for avoiding conflicted judgments therefore, adjourned to 06.10.2020 for arguments, to be clubbed with referred to appeal.



(Muhammad Jamal Khan)
Member (Judicial)

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 08.12.2020 for hearing before S.B.



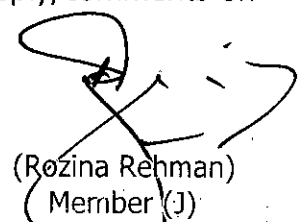
Chairman

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





(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ **8871/2020** _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/08/2020	<p>The appeal of Mr. Zahoor Alam presented today by Mr. Noor Mohammad 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</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28/09/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 8871 / 2020

ZAHOOR ALAM

VS

EDUCATION DEPTT:

INDEX

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

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2019

Mr. Zahoor Alam, PST (BPS-12),
GPS Bibyawar, 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. 30-01-1996 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. 30-01-1996 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:

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

- 1- That the appellant was initially appointed in the respondent Department as DM vide order dated 30-01-1996 as stop gap arrangement.(Copy of the appointment order is attached as annexure..... **A)**
- 2- 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 re-instatement being covered under the said law but the same was not considered, hence the appellant filed writ petition no.

794/2017 before Peshawar high court Mingora Bench, which was allowed vide judgment dated 22/11/2017 in favor of the appellant. Copy of the judgment is attached as annexure.....**B.**

- 4- That the appellant was appointed as PST w.e. from the date of 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 dated and medical certificate are attached as annexure **C & D)**
- 5- That the appellant filed Departmental appeal before respondents for fixation of pay w.e.f. the date of his first appointment i.e. 30/01/1996 but the same has not been responded within stipulated period of ninety days. Copy of departmental appeal is attached as annexure..... **E)**
- 6- 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. 30-01-1996 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. 30-01-1996 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

ZAHOOR ALAM


THORUGH:

NOOR MOHAMMAD KHATTA


KAMRAN KHAN

&


MIR ZAMAN SAFI
ADVOCATES

BETTER COPY

DIVL: DIRECTORATE EDUCATION(S)
MALAKAND DIVISION AT GULKADA, SWAT

APPOINTMENT ORDER:

Consequent upon the direction of Nawab Zada Khwaja Mohammad Khan Hoti, the Minister for Education (Schools) Secy: Colleges NWFP, Peshawar communicated vide his order No. 4534-45/PS/MIN/EDU dated Peshawar the 13/6/1995 and his explicit approval conveyed vide his office memo No. _____/Personnel telephone dated _____ and on the recommendation of Mr. Sahib Zada Tariq Ullah/MPA/Minister/Parliamentary Secretary Mr. Zahoor Alam /Qualification FA S/O Mumtaz Khan resident of Bibyawar District Dir Upper is hereby appointed purely on adhoc and temporary basis as stopgap arrangements against the vacant post of DM Rs. 1605/- Plus usual allowances as admissible under the rules at government High School Katan Bala District Dir with effect from _____ subject to the Government prescribed terms and condition.

Endst: 13463-96/ dated 30.01.1996

APPOINTMENT ORDER.

Consequent upon the direction of Muzib Zada Khwaja Mohd Khan
MHA, the Minister for Education (Schools) Secy: & Colleges WFP, Peshawar
communicated vide his order No. 4504-45/PA/MIN/SEU, dated Peshawar the
13/6/1995 and his explicit approval conveyed vide his office memo No. _____
/Personal telephone dated _____ and on the recommenda-

tion of Mr. Sahib Zada Tariqullah /MPA/Minister/Parliamentary Secretary
Mr. Zahoor Alam /Qualification PA /S/O, Muzib Khan

resident of Bilwayer Distt: Swat

is hereby appointed temporarily on ad-hoc and temporary basis as stop-gap
arrangements against the vacant post of DM @ Rs. 1505/- plus
usual allowances admissible under the rules of government. High

School, Kutan Bals District, Dir with effect from _____

subject to the government prescribed terms and conditions.

on the arrival of original incumbent his services
will be ceased automatically.

- TERMS AND CONDITIONS.
1. He will be governed by such rules and regulations as prescribed by the government of WFP from time to time.
 2. He will vacate the post on the arrival of the appointment of trained teacher belonging to the same cadre and service and his services will cease automatically.
 3. His services are purely temporary and terminable at any time without any notice, and his service will be liable to termination on one month's notice from either side. In case of resignation without notice, one month pay will be forfeited in lieu thereof.
 4. He should join the post within a week of this notification, otherwise ~~this~~ this order will be deemed cancelled automatically.
 5. His original certificates/Degrees should be checked and verified from the concerned Board/University immediately by the concerned DSO/Principal/H/M(DDO).
 6. Service Book of the teacher must be checked before handing over charge.
 7. He will produce health and age certificate from Medical authority concerned before taking over charge.
 8. His age should not exceed than 25 + 5 = 30 years ^{No} & over aged candidates ~~is~~ to be given charge.
 9. Charge reports should be submitted to all concerned within stipulated time.
 10. NO TA/DA is allowed.
 11. He will get himself trained /qualified within one year as per rules.

Muzib Zada Khwaja Mohd Khan
DIVL: DIRECTOR OF SECY: EDUCATION(S)
WALAKAND DIVISION AT GULKADA SWAT.

ATTESTED

W.P. 290 M/2017

3 (3)

1. Zahoor Alam Son of Mumtaz Khan Resident of Malakabad Bibywar Tehsil Dir District Dir Upper..... Petitioner

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 PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973

Respectfully Sheweth:

The facts of the instant are as under.

FACTS

- 1. That the Petitioner is permanent resident of District Dir Upper & having qualification Bachelor in Art. (Copies of all academic records are attached as annexure-1).
- 2. That the petitioner has requisite qualification & was appointed as untrained D.M (Drawing Master) in Govt.

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

FORM OF ORDER SHEET

6

Court No.
Case No.

14.11.2017

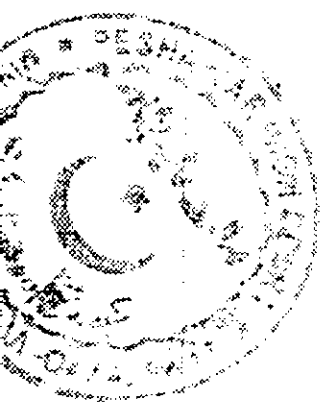
W.P. 794-M/2017
(Service Nacked Employees)

Present: Syed Waheed Haq, Advocate for the Petitioner.

DAL ANDYR ALI KHAN, J. - Muhammad Rabbir Shah,

Advocate General, present in the Court in other
...
The learned counsel
...
respondent No. 1. Dist
...
for its appointment under the
...
of employees of Government
...
a copy of a petition of
...
for the purpose of the learned counsel for
...
the respondent No. 1 of production
...
and that the
...
copy of the petition.

Be that it may, respondent No. 1 is directed to
consider application if already moved by the petitioner and
pending before the authority for consideration and pass an



C
B
S



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)

Dir Upper (Phone # 0944-884100) E-mail: deomdirupper@gmail.com

OFFICE ORDER:

In the light of the judgment passed by the Honorable Peshawar High Court Mingora Bench (Darul Qaza Swat) in Writ Petition No. 794-M/2017 dated 14/11/2017 and 700-M/2017 dated 22/11/2017 in pursuance of sacked employees Act (Appointment) 2012 @ 30% quota, following Sacked employees are hereby ordered against the post of Drawing Master (Male) BPS-15 (Rs. 16120-1330-56020) fixed Plus usual allowances as admissible under the rules on regular basis under the existing policy of the provincial government, in teaching cadre on the terms and conditions given below with effect from the date of taking over charge.

S.No	Name	Father Name	Address & CNIC	Place of Posting	Remarks
1	Ibrahim	Gul Badshah	Wari Dir Upper 15702-5828193-3	GHS Hayagay (Sh)	Appointed under sacked employees quota against VP
2	Zahoor Alam	Mumtaz Khan	Bibyawar Dir Upper 15701-8457979-1	GMS Bekaray	--do--

TERMS AND CONDITIONS:

- The appointees shall be appointed against 30% share of the available vacancies in district Dir Upper.
- As per court decision the appointment will be provide an undertaking that they will complete DM training in the equivalent qualification i.e. BA/BSc, if he has failed in the said condition, his appointment shall stand cancelled automatically.
- They should obtained medical fitness certificate from the medical superintendent concerned.
- The period during which a sacked employee remain dismiss 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.
- The sacked employees shall not be entitled to make any claim of seniority, promotion or other back benefits and their appointment shall be considered as fresh appointment.
- The appointment will be governed by such Rules, regulations policies, which may be prescribed by the Government from time to time.
- If the appointees failed to take over charge within 30 days after issuance of this order his appointment will be deemed as automatically canceled.

~~REJECTED~~

6

- h) Charge reports should be submitted to the concerned.
- i) Appointment is subject to the condition that his certificates/degrees must be verified from the concerned authorities if anyone found producing bogus certificate will be reported to the law enforcing agencies for further action.
- j) 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.
- k) Their services shall be terminated at any time, in case of his performance is found unsatisfactory during his probation period. In case misconduct, he will be proceeded under the rules.
- l) Their appointment subject to the final outcome of the decision of the supreme court of Pakistan.
- m) No TA/DA is allowed.


(ABDUL HAQ)
DISTRICT EDUCATION OFFICER (M)
DIR UPPER

Dated: 27/03/2018

Indst No. 1746-5 / Sacked Employees/DEO (M)/Estb (S)

Copy forwarder for information to the:-

- a) Registrar Honorable Peshawar High Court Mingora Branch.
- b) Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
- c) District Accounts Officer Dir Upper.
- d) Principal/Head master concerned school.
- e) Official concerned.


DISTRICT EDUCATION OFFICER (M)
DIR UPPER

V-9
99

MEDICAL CERTIFICATE

Name of Official
 Cast or race
 Father's Name
 Residence
 Date of Birth
 Exact height by measurement
 Personal mark or identification
 Signature of the official
 Signature of head of office

Seal of Officer
 (Faint circular stamp with illegible text)

I do hereby certify that I have examined Mr. a candidate for employment in the office of the and cannot discover that he had any disease communicable or other constitutional affection or bodily infirmity except

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

LEFT HAND THUMB AND FINGER IMPRESSION

Medical Superintendent
 Civil Hospital

ATTESTED

To,

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

E (10)

**DEPARTMENTAL APPEAL FOR FIXATION OF PAY IN
BPS-12 W.E.F 30.11.1995 I.E. FROM THE DATE OF
INITIAL APPOINTMENT**

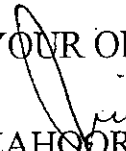
Respected Sir,

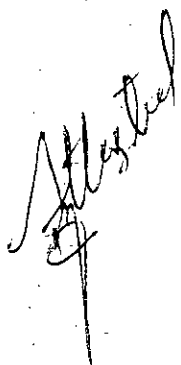
It is most humbly stated that I was appointed before your good self-Department as DM vide order dated 30.01.1996. That in the year 1997 the services were dispensed with on the ground that his services were no more required to the Department. That on promulgation of KP sacked Employees Act, 2012 I was 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 the Peshawar High Court Mingora Bench Judgment. That in response I have submitted my charge report and stated duty quite efficiently and upto the entire satisfaction of my superiors. That I am entitle for fixation of pay from the date of my initial appointment i.e. 30.01.1996 but the concerned authority has been appointed me with immediate effect i.e. form 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 30.01.1996 with all back benefits. Any other remedy which your good self deems fit that may also be awarded in my favor.

• Dated: 16.04.2020

YOUR OBEDIENTLY


ZAHOOR ALAM, PST
GPS Bibyawar, Dir Upper



VAKALATNAMA

Before the Up Senior Tribunal,

Peshawar OF 2020

Zahoor Alam

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Dept.

(RESPONDENT)
(DEFENDANT)

I/We Zahoor Alam

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. ___/___/2020

Zahoor Alam
CLIENT

[Signature]
ACCEPTED
NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI
&
[Signature]
MIR ZAMAN SAFI
ADVOCATES

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