


FORM OF ORDERSHEET

Court of _____

Case No. 894/Neem/2014

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27/09/2023	<p>The present appeal was decided by this Hon'ble Service Tribunal on 25.03.2019. Thereafter, against the judgment of this Tribunal Civil Petition was filed before the Supreme Court Pakistan and the Supreme Court of Pakistan vide its order/direction dated 05.05.2023 converted the Civil Petition into an appeal and remanded the same to this Tribunal for decision afresh after hearing the parties, in accordance with law. Let it be fixed for hearing before Division Bench at Peshawar on <u>02-10-2023</u> Parties be informed accordingly.</p> <p style="text-align: right;">By the Order of Chairman  REGISTRAR</p>

Ph: 9220581
Fax:9220406

SCANNED
KPST
Peshawar
20/9/23
REGISTERED
No. C.A. 502/2023 - SCJ
SUPREME COURT OF PAKISTAN.

Islamabad, dated 31/8, 2023.

From

The Registrar,
Supreme Court of Pakistan,
Islamabad.

To

The Registrar,
K.P.K., Service Tribunal,
Peshawar.

Subject: CIVIL APPEAL NO. 502 OF 2023.
OUT OF
CIVIL PETITION NO. 2331 OF 2019.
Kashif Rehman.

Versus

Director Elementary and Secondary Education Department,
Peshawar and others.

On appeal from the Judgment/Order of the K.P.K., Service
Tribunal, Peshawar dated 25.03.2019, in S.A. No. 894 of 2014.

Dear Sir,

I am directed to forward herewith a certified copy of the
Order/Judgment of this Court dated **05.05.2023**, converting into appeal
the above cited civil petition, allowing and remanding the same, in the
terms stated therein, for information and necessary action.

I am also to invite your attention to the directions of the Court
contained in the enclosed Order for immediate compliance.

Please acknowledge receipt of this letter along with its
enclosure immediately.

Encl: Order:

Yours faithfully/



(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

84/23

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE UMAR ATA BANDIAL, CJ
MRS. JUSTICE AYESHA A. MALIK
MR. JUSTICE ATHAR MINALLAH

C.P.2331/2019

(Against the judgment dated 25.03.2019
passed by the KPK Service Tribunal, Camp
Court, DI Khan in Service Appeal
No.894/2014)

Kashif Rehman ...Petitioner(s)

Versus

Director Elementary & Secondary Education ...Respondent(s)
Department, Peshawar & others

For the Petitioner(s) : Mr. Muhammad Anwar Awan, ASC

For the Respondent(s) : Mian Shafqat Jan, Addl. AG KPK

Date of Hearing : 05.05.2023

ORDER

UMAR ATA BANDIAL, CJ: Our order dated
04.08.2022 passed in this petition summarises the dispute raised
therein. It is reproduced below:

*"The learned counsel for the petitioner submits that the
petitioner was promoted to the post of Sr. PET in BS-16
on 27.05.2013. During the time when his service appeal
was pending adjudication, the petitioner was again
promoted to the post of D.P.E in BS-16. The
memorandum dated 18.04.2014 by the Directorate of
Elementary & Secondary Education, KP addressed to
the District Accounts Officer, D.I. Khan acknowledges
that the petitioner's colleague had been promoted as
DPE in BS-16 in the year 2006 The petitioner's case
was deferred for want of ACR's and not on account of
any fault on his part. The petitioner has therefore
claimed in the service appeal that he should be granted
promotion with effect from 2006. That aspect of the case
has not been examined by the learned Tribunal in the*

ATTESTED



Court Associate
Supreme Court of Pakistan
Islamabad



impugned judgment dated 25.03.2019. Submits that the service appeal of the petitioner has been disposed of on wrong premises."

2. In view of the afore-noted contention of the learned counsel for the petitioner, we asked for the response of the learned Addl. Advocate General, KPK, who acknowledges that the merits of the case have not been dealt with by the impugned order dated 25.03.2019 passed by KPK Service Tribunal ("Tribunal"). In the circumstances, we consider that to be fair and appropriate, the matter be remanded to the learned Tribunal to examine the questions raised by the petitioner. The parties shall be at liberty to file further documents in aid of their respect pleas.

3. Accordingly by consent, this petition is allowed and converted into appeal and the matter is remanded to the Tribunal.

Handwritten signatures and initials, including "NG" and "T".



Islamabad

05.05.2023

Rashid/

Not approved for reporting

Handwritten signature and date: 23/5/23

Certified to be True Copy

Handwritten signature

**Court Associate
Supreme Court of Pakistan
Islamabad**

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR
CAMP AT D.I.KHAN.

CM No :- 2018:
Appeal No :- 894 of 2014.

Khyber Pakhtukhwa
Service Tribunal

Diary No. 2263

Dated 12-12-2018

Kashif Rehman VS Govt; of KPK & others

Put up to the court with
relevant appeal.

SERVICE APPEAL

APPLICATION FOR AMENDMENT IN WRIT PETITION FOR JUST DECISION OF CASE

12/12/18.
Respectfully Sheweth,

1. That this petition is pending adjudication before this honorable court.
2. During the pendency of appeal its comes to knowledge that appellant was promoted in B-16 as Senior PET but later on vide Notification dated 07-03-2014, appellant was promoted as DPE in B-16. The appellant is working in Grade B-16 since 2013 and respondent once again promoted the appellant in same grade as DPE which is against law and rules which fact must be amended in the appeal. Copy of Notification dated 27-05-2013 is annexed.
3. That this honorable court has vast power to accept the instant application.

It is therefore prayed that the application may kindly be
accepted.

YOUR HUMBLE APPLICANT

Kashif Rehman

Dated; 10-12-2018.

Muhammad Anwar Awan
Muhammad Anwar Awan
Advocate Supreme Court.

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR
CAMP AT D.I.KHAN.**

CM No :- 2018.
Appeal No :- 894 of 2014.

Kashif Rehman VS Govt; of KPK & others

SERVICE APPEAL

AFFIDAVIT

Muhammad Anwar Awan Advocate , do hereby solemnly affirms and declare on
OATH That the petition is drafted on the direction of applicant so contents of
application are true and correct to the best of my knowledge and belief and that
nothing has been concealed from this honorable court.

Anwar Ad
DEPONENT

Dated; 10-12-2018.

**Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar**

PH No. 091-9210389, 9210938,
9210437, 9210957, 9210468

Fax 091-9210936, 0800-33857

E-mail rafiq_kk851@yahoo.com



Notification

1566
03-6-13

Consequent upon the recommendations of the Departmental Promotion Committee and in pursuance of the Government of Khyber Pakhtunkhwa Elementary and Secondary Education Notification NoSO(B&A)/1-18/E&SE/2012 dated 11.07.2012 and Finance Department Endorsement No SO(FR)/FD/10-22(E)/2010 dated 16.07.2012, the following Male PETs B-15 are hereby promoted to the post of Senior PET BPS-16 (Rs.10000-800-34000) 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 condition given below with immediate effect and further they will be posted in the Government Higher Secondary /High Schools by the District Education Officers concerned against the newly upgraded Senior PET BPS-16 posts:-

Total No. of PET(M) Posts duly verified by the DAO	228
1/3 share of Senior PET Posts	76
Share of promotion 100 %	76
Already Promoted to the post of Senior PET B-16	66
Post available for Promotion to the post of Senior PET B-16	10
Promoted to the post of Senior PET B-16 in this order	09
Deferred for Promotion	01

S.#	Sen #	Name of official	Place of Posting	Date Of Birth	Remarks
1	56	Tahir Rehman MSc	GHS Garah Essa	01/07/1969	Services placed at the disposal of DEO (M) D I Khan for further posting.
2	57	Jamshed Khan	GMS JK Qureshian	15/04/1970	---Do---
3	59	Kashif Rehman	GMS Muqem Shah	05/09/1970	---Do---
4	65	M. Khalid Khan	GMS Dinpur	18/04/1965	---Do---
5	66	Kaleem Nawaz	GMS Mandhran Saidan	10/05/1969	---Do---
6	67	Mohsin Abbas	GMS Basti Ali	12/03/1970	---Do---
7	69	Hanif Ullah	GMS Gurwali	09/05/1970	---Do---
8	83	Muhammad Yousaf	GHS No.5 D.I.k	01/04/1969	---Do---
9	91	Irfan Ullah	GMS Ch Laal Wala	01/06/1977	---Do---

Terms and conditions:-

- 1 They would be on probation for a period of one year extendable for another one year.
- 2 They will be governed by such rules and regulations as may be issued from time to time by the Govt.
- 3 Their services can be terminated at any time, in case his performance is found unsatisfactory during probationary period. In case of misconduct, he shall be preceded under the rules framed from time to time.
- 4 Charge report should be submitted to all concerned.
- 5 Their Inter-Se seniority on lower post will remain intact.
- 6 No TA/DA is allowed for joining his duty.
- 7 They will give an undertaking to be recorded in their service book to the effect that if any over payment is made to him in light this order will be recovered and if he is wrongly promoted he will be reversed.

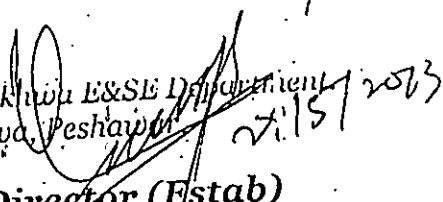
(Muhammad Rafiq Khattak)
Director
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.

3809-08

Endst. No. / File No. 1/Promotion Senior PET B-16: Dated Peshawar the 28/05/2013.

Copy forwarded for information and necessary action to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. District Education Officers (M) D I Khan
3. District Accounts Officer D I Khan
4. Official Concerned.
5. PS to the Secretary to Govt: Khyber Pakhtunkhwa E&SE Department
6. PA to the Director E&SE Khyber Pakhtunkhwa Peshawar
7. M/File


Dy: Director (Estab)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT, D.I.KHAN.

Service appeal No. 894/2014

Date of institution ... 30.05.2014
Date of decision 25.03.2019

Kashif Rehman DPE BPS-16 GHSS, Lar, D.I.Khan... (Appellant)

Versus

Director Elementary & Secondary Education Department, Peshawar and
three others. ... (Respondents)

Present

Mr. Muhammad Anwar Awan,
Advocate ... For appellant.

Mr. Farhaj Sikandar,
District Attorney ... For respondents.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN
MR. AHMAD HASSAN, ... MEMBER.

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. Instant judgment is proposed to dispose of also Appeal No. 895/2014 (Jamshed Khan Vs. Director Elementary & Secondary Education, Peshawar and others), as both the appellants have similar grievance and the facts leading to the filing of appeals in both the cases are same. The prayers in both the appeals are to the effect that the

appellants be promoted in BPS-16 since the year 2006 with all back/future benefits.

2. The averments made in the memoranda of appeals are to the effect that the appellants were recruited on 14.04.1994 by the Divisional Director, Elementary & Secondary Education, D.I.Khan after due process/course. They took over the charge and started performing duty. While working as PETs in BPS-15 the promotion of appellants was due in the year 2006, alongwith their other colleagues, as D.P.E (BPS-16). The case of promotion of appellants was, however, deferred by the Departmental Promotion Committee due to non- completion of their ACRs for the year 2005 while some others were promoted. On 13.11.2007, the Government of Khyber Pakhtunkhwa upgraded the post of D.P.E from BPS-16 to BPS-17 and consequently the incumbents were awarded the relief. The appellants were subsequently promoted as D.P.E BPS-16 but with immediate effect and were not granted seniority from the year, 2006. The appellants submitted departmental appeals on 20.03.2014 which were not responded to, hence the appeals in hand.

3. We have heard learned counsel for the appellants, learned District Attorney on behalf of the respondents and have perused the available record.

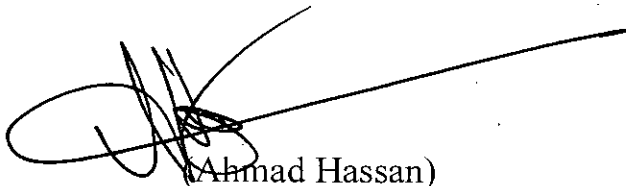
4. It is gatherable from record that the appellants moved applications on 10.12.2018 for amendment in the instant appeals (wrongly noted as Writ Petitions). It was contended in the applications that the appellants were promoted in BPS-16 as Senior P.E.T, however, subsequently they were again promoted in same grade as D.P.E. To question the said act of respondents amendment was sought to be made in the appeals in hand. Pertinently, the said applications were pending disposal till hearing of appeals today.

5. Learned counsel for the appellants, during his arguments, laid all the emphasis on the proposition put forth through the applications for amendment in the appeals. On the other hand and distinctive to the arguments, the record including the departmental appeals submitted by the appellants did not contain any such ground. The amendment sought, therefore, appears to be an afterthought which is not allowable at this stage, more particularly, when such stance was never agitated by the appellants in their respective departmental appeals or in the appeals before the Tribunal. The applications as well as the appeals in hand are, for the said reason, without any merits warranting acceptance. The same are, therefore, dismissed hereby.


It is however, noted that, in view of the provisions of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and plethora of judgments of Apex Court, as well as of this

Tribunal, seniority of a civil servant is to be reckoned from the date of deferment of his promotion by the DPC or the PSB in case the deferment is not attributable to him and is for want of availability of his service record.

Parties are left to bear their respective costs. File be consigned to the record room.

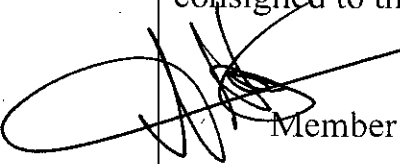
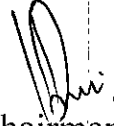


(Ahmad Hassan)
Member



(Hamid Farooq Durrani)
Chairman
Camp Court, D.I.Khan.

ANNOUNCED
25.03.2019

S.No.	Date of Order or proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	25.03.2019	<p><u>Present.</u></p> <p>Mr. Muhammad Anwar Awan, Advocate --- For appellant</p> <p>Mr. Farhaj Sikandar, District Attorney --- For respondents</p> <p>Vide order detailed judgment of today, the appeal in hand is dismissed.</p> <p>Parties are left to bear their respective costs. File be consigned to the record room.</p> <p> Member</p> <p> Chairman Camp Court D.I.Khan</p> <p><u>Announced</u> 25.03.2019</p>

25.02.2019

Mr. Anwar Awan learned counsel on behalf of appellant absent
Adjourn. To come up for further proceedings/arguments on 26.02.2019
before D. B at Camp Court D.I.Khan.

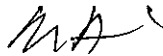
Member

Member

Camp Court D.I.Khan

26.02.2019

Mr. Anwar Awan learned counsel for the appellant absent.
Mr. Farhaj Sikandar, District Attorney for the respondents
present. Adjourn. To come up for arguments on 25.03.2019 before
D.B at Camp Court D.I.Khan.



(M. Amin Khan Kundi)
Member
Camp Court D.I.Khan



(M. Hamid Mughal)
Member
Camp Court D.I.Khan


23-10-18


Case is hereby cancelled, therefore the case is adjourned for the same on 29.11.2018 at camp court D.I.Khan.



28.11.2018

Appellant alongwith his counsel present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Kamran, ADO for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 18.12.2018 before D.B at Camp Court D.I.Khan.


(Ahmad Hassan)
Member
Camp Court D.I.Khan


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan


18.12.2018


As per direction of the worthy Chairman Khyber Pakhtunkhwa Service Tribunal, D.I.Khan tour dated 18.12.2018 has been rescheduled and the case is re-fixed for 27.12.2018.


Reader

27.12.2018

Counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO for the respondents present. Learned counsel for the appellant requested for adjournment for arguments. Adjourned. To come up for arguments on 25.02.2019 before D.B at Camp Court D.I.Khan.

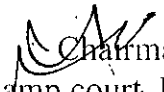

(Hussain Shah)
Member
Camp Court D.I.Khan


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

13.03.2018


Appellant in person and Addl: AG alongwith Mr. Muhammad Kamran, ADO for the respondents present. Appellant seeks adjournment as his counsel is not in attendance. Granted. To come up for arguments on 25.04.2018 before D.B at camp court, D.I.Khan.


Member


Chairman
Camp court, D.I.Khan


25.04.2018

Tour is hereby cancelled, Therefore the case is adjourned for the same on 30.07.2018 before D.B.


Reader
Camp court D.I Khan

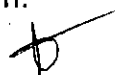
30.07.2018


Counsel for the appellant present. Mr Muhammad Kamran, ADO for respondent present. Tour is hereby cancelled. Therefore the case is adjourned for the same on 10.09.2018 before D.B.


Reader
Camp court D.I Khan

10.09.2018


Clerk of the counsel for appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Muhammad Kamran, ADDO for the respondents present. Clerk of the counsel for appellant requested for adjournment on the ground that learned counsel for the appellant is busy before the Hon'ble Peshawar High Court Bench D.I.Khan. Adjourned. To come up for arguments on 23.10.2018 before D.B at Camp Court D.I.Khan.



(Ahmad Hassan)
Member
Camp Court D.I.Khan


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

24.01.2018


Junior counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Kamran, ADO for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy in the Hon'ble Peshawar High Court Bench D.I.Khan. Adjourned. To come up for arguments on 19.02.2018 before D.B at Camp Court D.I.Khan.



(Ahmad Hassan)
Member
Camp Court D.I.Khan


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

19.02.2018

Junior counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Kamran, ADO for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 13.03.2018 before D.B at Camp Court D.I.Khan.


(Ahmad Hassan)
Member
Camp Court D.I.Khan


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

28.11.2017

Counsel for the appellant present. Mr. Farhaj Sikandar District Attorney for the respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 27.12.2017 before D.B at Camp Court D.I.Khan.



(Gul Zeb Khan)
Member



(Muhammad Amin Khan Kundi)
Member

Camp Court D.I.Khan

27.12.2017

Learned counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO (litigation) for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 24.01.2018 before D.B at Camp Court D.I.Khan.



(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan


(Muhammad Hamid Mughal)
Member
Camp Court D.I.Khan

28.11.2017

~~Appellant present. Mr. Farhaj Sikandar District Attorney for the respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 27.12.2017 before D.B at Camp Court D.I.Khan.~~


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

24.07.2017

None present on behalf of the appellant. Mr. Farhaj Sikandar, District Attorney for the respondents present. Notice be issued to appellant and his counsel for attendance for 26.09.2017 before D.B at Camp Court D.I.Khan.

(Gul Zeb Khan)
Member

(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

Pir Zada 26.09.2017

M. Iqbal

Junior to counsel for the appellant and Mr. Farhaj Sikandar, District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 24/10/2017 before DB at Camp Court D.I.Khan.

28.11.2017

Counsel for the appellant present. Mr. Farha Sikandar, District Attorney alongwith Mr. Atta ullah, Superintendent for official respondent also present. Counsel for the appellant stated at the bar that he has challenged the seniority list pertaining to the year 2011 of the Store Keeper Government Technical Vocation Centre. He further stated that the department has prepared the tentative seniority list of the said department on 31.12.2015 wherein the mistake has been rectified by the department but final seniority list has not been furnished so far,

24.10.2017

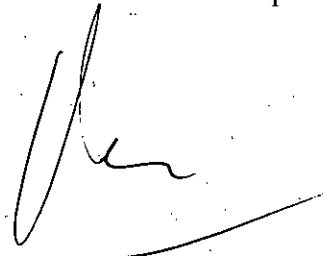
None for the appellant present Mr. Farkhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO (Lit) for respondents present. Notices be issued to the appellant and his counsel. Last opportunity granted. Adjourned. To come up for arguments on 28.11.2017 before D.B at camp Court D.I.Khan.

(Gul Zeb Khan)
Member
(Executive)

(Muhammad Amin Khan Kundi)
Member
(Judicial)
Camp Court D.I.Khan

24.05.2016

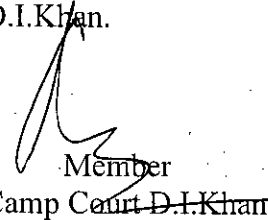
Clerk to counsel for the appellant and Farhaj Sikandar, GP for respondents present. Rejoinder not submitted. Requested for time. To come up for rejoinder on 25.10.2016 at camp court D.I. Khan.



Member
Camp Court D.I.Khan

25.10.2016

Mr. Muhammad Sadiq, Junior to counsel for the appellant and Mr. Farhaj Sikandar, Government Pleader for the respondents present. Rejoinder not submitted. Junior to counsel for the appellant requested for further time for submission of rejoinder. Request accepted. To come up for rejoinder on 22.02.2017 before S.B at Camp Court D.I.Khan.



Member
Camp Court D.I.Khan

22.02.2017

Clerk counsel for appellant and Mr. Farhaj Sikandar, Government Pleader for respondents present. Clerk counsel for appellant submitted rejoinder which is placed on file. To come up for arguments on 24.07.2017 before D.B at Camp Court D.I.Khan.



(ASHFAQUE TAJ)
MEMBER
Camp Court D.I.Khan

894/14



23.11.2015

Counsel for the appellant and Mr. Farhaj Sikandar, GP with Khalid Saeed Akhtar, ADO for respondents No. 1, 2 and 4 present and again requested for time to file written reply. Notice has not been issued to respondent No. 3. Fresh notice be issued to him positively. Case to come up for written reply positively on 30.12.15 at camp court, D.I.Khan.


MEMBER
Camp Court, D.I.Khan


30.12.2015

Since tour to D.I.Khan for the month of December, 2015 has been cancelled, therefore, case is adjourned to 26.1.2016 for the same.



MEMBER
Camp Court, D.I.Khan

26.01.2016

Appellant present in person and Mr. Farhaj Sikandar, GP with Khalid Saeed, ADO for the respondents present and reply filed. Copy handed over to appellant. To come up for rejoinder at camp court D.I.Khan on 24.5.16.


MEMBER
Camp court, D.I.Khan

27.4.2015

Appellant with counsel (Mr. Muhammad Anwar Awan, Advocate). Preliminary arguments heard.

Counsel for the appellant submitted that promotion of the appellant was deferred for want of ACR for the year, 2005 and lateon when he was promoted vide notification dated 07.3.2014, immediate effect was given to his promotion. The learned counsel for the appellant submitted that according to law and rules, the appellant should have been promoted from the date when his other colleagues were promoted in the year, 2006. If an authority is needed 2011-SCMR-389 would suffice.

Points raised need consideration. The appeal is admitted for full hearing, subject to all legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for respondents. Case to come up for written reply on 28.09.2015 at camp court, D.I.Khan.


MEMBER
Camp court, D.I.Khan

28.09.2015

Counsel for the appellant and Mr. Farhaj Sikandar, GP with Khalid Saeed Akbar, ADO for the respondents No. 1, 2 and 4 present and requested for adjournment. Fresh notice be issued to the respondent No. 3. Case to come up for written reply on 23-11-15 at camp court, D.I.Khan.

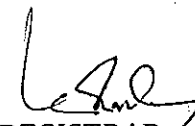


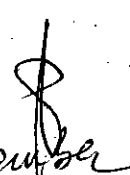

MEMBER
Camp court, D.I.Khan

Appellant Deposited
Security & Process Fee

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 894/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30/06/2014	<p>The appeal of Mr. Kashif-ur-Rehman resubmitted today by Mr. Muhammad Anwar Awan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	3-11-2014	<p>This case is entrusted to Touring Bench D.I.Khan for preliminary hearing to be put up there on <u>25-11-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	25-11-14	<p>Since the Tribunal is incomplete therefore this case is adjourned to 24-2-15 for preliminary hearing at camp court D.I.K.</p> <p style="text-align: right;"> Registrar Camp Court, D.I.K.</p>
4	24-2-15	<p>Counsel for the appellant present and requested for adjournment. Case adjourned to 27/4/2015 for preliminary hearing at Camp Court, D.I.Khan.</p> <p style="text-align: right;"> Member Camp Court, D.I.K.</p>

This is an appeal filed by Mr. Kashif-ur-Rehman today on 30/05/2014 against the order dated 7.03.2014 against which he preferred a departmental appeal on 20.03.2014 which is premature as laid down in an authority reported as 2005-SCMR-890.

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

No. 8678 /ST,


Dt. 30/5 /2014


**REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.**

Mr. M. Anwar Awan Adv. D.I.Khan

Respected Sir,

Resubmitted.

 Adv
17/6/14.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal no. 894 / of 2014.
Neem

Khashif Rehman

VERSUS

Govt; Of KPK and others

INDEX

No.	Particulars	Annexure	Pages
1	<i>Appeal</i>		<i>1-4</i>
2	Copy Of DPC dated 21.10.2006	A	<i>5-6</i>
3	Copy of Letters	B	<i>7-8</i>
4	Copy of Letter 07.03.2014	C	<i>9</i>
5	Copy of representation & Receipt	D	<i>10-12</i>
6	Copy of letter dated 18.04.2014.	E	
7	Wakalat Nama	F	

Your Humble Petitioner

Neem
Through Counsel

Dated; 28-05-2014.

Anwar Adv.
Muhammad Anwar Awan
Advocate Supreme Court

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal no... 894/ of 2014.
Neem

CAMP COURT AT DIKHAN.

Kashif Rehman DPE B-16 GHSS Lar D.I.Khan.

VERSUS

799
30/5/2014

1. Director Elementary and Secondary Education Deptt: Peshawar.
2. District Education Officer Elementary and Secondary Education Deptt: D I khan
3. District Account Officer Kachery Road Dera Ismail Khan.
4. Government of KPK through secretary Elementary and Secondary Education Deptt: Peshawar.

APPEAL AGAINST PROMOTION ORDER DATED 07.03.2014

UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974.

That the brief facts of the case are as under:

1. That the appellant being eligible and having required qualification was appointed by the Divisional Director Education, Elementary & Secondary Education D.I.Khan after due course/ process of recruitment on 14.04.1994.
2. That, after furnishing Medical Fitness Certificate and taking over the charge of said post, the appellant started performing her official duties regularly with due diligence, care devotion and to the satisfaction of superiors and leave no stone unturned in performance of his/her official duties.
3. That the appellant is working as PET in (B-15) having qualification of BA/SDPE and my promotion was due in 2006 along with his other colleagues from PET (B-15) to DPE (B-16). That the case of promotion of appellant was put before DPC but was deferred due to non completion of ACR of 2005 of appellant by the department and other colleagues as well as junior to the appellant were promoted. Copy of DPC is Annexure A.
4. The appellant contacted several time to the department for completion of his ACR and his promotion and higher authorities always assure that appellants

30/5/14
30/5/14

was promoted from 2006 after completion of his record. Copy of letters dated 08.09.2012 & 10.07.2013 is Annexure B.

5. That on 13-11-2007 the Government of Khyber Pukhtunkhwa up graded all the posts of DPE from B-16 to B-17 and all the colleagues and appellant juniors are now working in B-17.
6. That during the period mention above the appellant contacted several time to his high-ups who always recommended his case and lastly appellant was promoted as DPE B-16 but with immediate effect and he was not granted seniority from 2006. Copy of Order dated 07.03.2014 is Annexure C.
7. That after communication of promotion order with immediate effect, feeling aggrieved of the above action in violation of law and principal of natural justice, the appellant filed departmental appeal dated 20-03-2014. After the lapse of requisite period, the appellant is constrained to file this appeal. Copies of departmental appeal and receipts are Annexure D.
8. That feeling aggrieved from above said action appellants are constrained to approaches this honorable court on the following amongst other:-

GROUNDS: _

1. That the order dated 07.03.2014 is against law, facts, record and natural justice.
2. That the preparation of ACR is the duty of the department and appellant has no fault in this respect but no action would be taken against the concerned staff for non preparation of ACR at the time of DPC.
3. That appellant was serving in the department since 1994 and his colleagues were posted as DPE since 2006 but appellant was once again ignored through impugned order and he was promoted to B-16 with immediate effect.
4. That after issuance of impugned order, the respondent No-1 once again admitted the case of the appellant but reluctant to

Amir

give seniority/promotion from 2006. Copy of Letter dated
18.04.2014 is Annexure E.

In wake of above submissions, it is respectfully prayed that on
acceptance of instant appeal, the orders may please be set
aside/modified and appellants may graciously be promoted in
B-16 since 2006 with all back/ future benefits.

YOUR HUMBLE APPELLANT



Kashif Rehman
Through Counsel

Dated; 28-05-2014.



Mohammad Anwar Awan
Advocate Supreme Court

AFFIDAVIT

Kashif Rehman do hereby solemnly affirm and declare on OATH that the contents
of the same are true and correct to the best of my knowledge and belief and that
nothing has been concealed from this honorable court.

Oath Commissioner
R.G. & A.
Attested

No

Deponent.



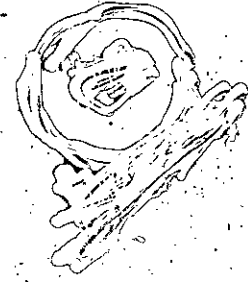
~~A-5~~

**MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING
HELD ON 21-10-2006 AT 10.00 AM.**

A meeting of the Departmental Promotion Committee of the School & Literacy Department was held on 21-10-2006 at 10.00 AM under the Chairmanship of Secretary School & Literacy Department. The following attended the meeting:-

1. Mr. Shafiqullah Khan
Secretary Schools & Literacy Deptt.
NWFP, Peshawar.
2. Mr. Ahmad Khan
Additional Secretary
Schools & Literacy Department.
3. Mr. Muhammad Tariq Khan
Dy. Secretary Schools & Literacy
Department.
4. Mr. Muhammad Salim Khan
Section Officer (SR-II)
Finance Department.
5. Mr. Arif Jamil
Section Officer (Regulation-I)
Establishment Department.
6. Mr. Manzar Jan
Deputy Director
Directorate of School & Literacy
Peshawar.
7. Mr. Muhammad Ayub Khan
Section Officer (Primary).

In Chair



M. Anwar-adv
M. Anwar-adv
Advocate

The following items were discussed:-

Item No. I. Grant of move over from BPS-16 to BPS-17 to Mr. Khalid Mian SET GHS Baidara Manshra.

The committee considered grant of move over from BPS-16 to BPS-17 to Mr. Khalid Mian SET and deferred the case for want of ACR, regular appointment order and reason for delay.

Item No. II.(a) Promotion of PET/C F/DM and TT etc to the post of DPEs (M) B-16 (Regular).

According to the working papers submitted by School & Literacy Department NWFP, there are 211 sanctioned posts of DPEs/ADOs (Sports) B-16 Male, out of which 84 posts fall to the share of direct recruitment and 127 posts to the share of promotion. The details of promotion viz-a-viz direct recruitment are given below:-

1.	Total No. of posts	=	211
2.	Share of direct recruitment 40%	=	84
3.	Share of promotion 60%	=	127
4.	Total No. of existing promotees	=	112
5.	i. Total quota for promotion	=	12
	ii. Total posts vacant by retirement	=	03
	Grant Total:	=	15

Attention Amir Draftman

i) The observation raised by Establishment Department regarding (male) promoted through DPC and recruited through Public Service Commission are provided as (Annexure-A).

ii) Two posts of Mr. Aslam Khan and Mr. Israr Khan given in the break-up of working paper (who have forgone the promotion order dated 6-6-05) were not accepted by the committee and Dy. Director S&L NWFP Peshawar was directed to take disciplinary action against both teachers, for not complying the orders of Govt.

The committee considered the cases of the following in service teachers (Male) for promotion as DPEs/ADO (Sports) & recommended as under:-

S.No.	Name of teacher	Designation	Qualification	Remarks
1.	Muhammad Akram Khan	PET	BA/SDPE	Deferred from promotion as DPE/ADO(Sports) for want of complete ACRs
2.	Mr. Faizullah Khan	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
3.	Mr. Races Khan	PET	BA/SDPE	Deferred from promotion as DPE/ADO(Sports) for want of ACRs 2005.
4.	Mr. Nambullah Khan	PET	BA/SDPE	Deferred from promotion as DPE/ADO(Sports) for want of ACRs 2005.
5.	Mr. Kamran Ali	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
6.	Mr. Sabir Ali	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
7.	Mr. Mushtaq Zada	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
8.	Mr. Jamshaid Khan	PET	BA/SDPE	Deferred from promotion as DPE/ADO(Sports) for want of complete ACRs
9.	Mr. Kashif Rahman	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
10.	Mr. Aminullah	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
11.	Mr. Hazrat Ali	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
12.	Muhammad Iqbal	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
13.	Mr. Zamrud Shah	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
14.	Mr. Anjum Hussain	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
15.	Mr. Newsheer Zaman	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.

Attested
Amir Ahsan

6

B-(7)

To.

The Secretary to Government of
Khyber Pakhtunkhwa, EASE Department,
Peshawar.

Through: - The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Subject:- APPEAL FOR PROMOTION FROM P.E.T. TO D.P.E. (B-17)

Respected Sir.

It is submitted with immense respect that the Govt. of Khyber Pakhtunkhwa made a policy for promotion of PETs in 2006 in which all the PETs employees were granted the post of BPS-16 on the basis of SDPE qualification. Later on they were promoted into BPS 17 under the Endst: No 1341 dated _____. According to the seniority list I was at S.NO 132 on the basis of SDEP but due to some unknown reasons I was dropped and a junior one was promoted on my place. I have given many applications from time to time but in vain.

I very humbly request to your goodself kindly consider my case/appeal for promotion to BPS 17 being appellant authority. My documents and the required seniority and promotion lists are attached herewith for ready reference, please.

Thanking you in anticipation.

Your Obediently.

Kashif Rehman
Kashif Rehman (PET)
GMS AAuqem Shah D.I.Khan

OFFICE OF THE EXECUTIVE DISTRICT OFFICER EASE DISTRICT D.I.KHAN.

Endst: No. 12017 /Appeal PET

Dated DIK the 8 / 9 / 2012.

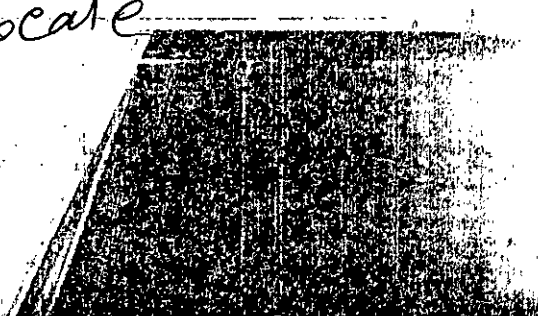
Strongly recommended and forwarded to the Director E&SE Khyber Pakhtunkhwa, Peshawar for onward transmission to the quarter concerned as the appeal is based on facts.

Executive District Officer
Executive District Officer
E&SE District DIKhan,
Elementary & Secondary
Education D.I.Khan.

Attention

Col. Usman

Attested
Innow ada
N. Anwar
Advocate



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA
PESHAWAR.

F. No 15 /Promotion DPE/AD (Phy)
No _____
Dated Peshawar the 10/7 /2013

(8)

To

The Secretary to Government of Khyber Pakhtunkhwa
E&SE Department, Peshawar.

Subject: - APPEAL FOR PROMOTION TO DPE POST (B-16)
Memo.

I am directed to refer to the subject cited above and to enclose please find herewith an appeal in respect of Mr. Kashif ur Rehman PET (B-15) District DIKhan requesting for promotion to the post of DPE (B-16). The gist/brief of the appeal/case is as under:-

1. The applicant namely Mr. Kashif ur Rehman has been working as PET in (B-15) having qualification BA/SDPE and was due for promotion from PET (B-15) post of DPE (B-16) post along with his counterparts in the year 2006.
2. The promotion case of Mr. Kashif ur Rehman PET was placed before the DPC in its meeting held on 21-10-2006 under the Chairmanship of the then Secretary E&SE Department.
3. His promotion case for DPE (B-16) post was considered by the DPC but deferred for want of complete ACR.
4. On 13-11-2007 the Government of Khyber Pakhtunkhwa up graded all the posts of DPE from B-16 to B-17 on acquiring Master Degree in the relevant subject and DPE B-16 was declared as "Dying Cadre"
5. His other counterparts have been promoted in B-17 except the appellant Mr. Kashif ur Rehman PET and two others PETs namely M/S Nambullah PET and Jamshaid PET.
6. Mr. Jamshaid Khan PET filed an appeal in the Khyber Pakhtunkhwa Service Tribunal which is under trial.
7. It is worth mentioning in this respect that the DPC regarding up-gradation/promotion of PET from B-16 to (B-17) held on 21-10-2006 was the last DPC. Thereafter, the DPE (B-16) was declared as "Dying Cadre"

Hence appeal of Mr. Kashif ur Rehman PET (B-15) for grant of up-gradation/promotion from B-15 to B-16 is submitted for consideration. He deserves the said up-gradation/promotion and has acquired the prescribed qualification/ACRs required for up-gradation/promotion of PET (B-15) to the post of DPE (B-16)

Deputy Directress (Estab)
E&SE Khyber Pakhtunkhwa, Peshawar

Endst No 1781-83

Copy of the above is forwarded information and n/action to the:-

1. District Education Officer (Male) DIKhan
2. Mr. Kashif ur Rehman PET GHS Attoch DIKhan.
3. PA to Director (E&SE) Khyber Pakhtunkhwa Peshawar.

Attested
Anwar Adn

Deputy Directress (Estab)
E&SE Khyber Pakhtunkhwa, Peshawar



**DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA,
PESHAWAR**

e-9

NOTIFICATION

Consequent upon the recommendation of Departmental Promotion Committee (DPC) in its meeting held on 10.02.2014, the following in-service PETs are hereby promoted to the post of DPE B-16 (Regular) with immediate effect.

S.No	Name & Designation	Place of posting	Remarks
1.	Mr. Kashif Rehman PET GMS Athog D.I Khan	DPE B-16 (Regular) at GHSS Laar D.I Khan	A.V.P
2.	Mr. Jamshaid Khan PET GHS Mallana D.I Khan	DPE B-16 (Regular) at GHSS Dhalla D.I Khan	A.V.P

- Note: - i. Charge report should be submit to all concerned.
ii. The DPEs concerned will took over charge to their new assignment within 15 days.

DIRECTOR

ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA

Endst No. 107-33 / F.No. 15/Appeals of PET/DPE (M) • Dated: 7/3/2014.
Copy forwarded to the:-

1. P.S to Secretary E&SE Department Khyber Pakhtunkhwa.
2. Section Officer (Primary) E&SE Department Khyber Pakhtunkhwa.
3. District Education Officer (Male) D.I Khan.
4. District Accounts Officer D.I Khan.
5. Principals concerned.
6. Officers concerned.
7. PA to Director E&SE local Directorate, Peshawar.

Ahmud***

*Attested
Anwar
adi*

7/3/2014
Deputy Director Estab (M)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

D. 11

The Secretary,
Elementary & Secondary Education
Khyber Pakhtun Khaw
Peshawar.

Through: Proper Channel.

Subject: DEPAETMENTAL APPEAL AGAINST ILLEGAL, AGAINST LAW AND RULES
PROMOTION DATED 07-03-2014.

Respected Sir,

The appellatant humbly submits as under:

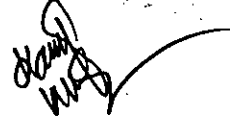
1. That the appellatant being eligible and having required qualification was appointed by the Divisional Director Education, Elementary & Secondary Education D.I.Khan after due course/ process of recruitment on 14.04.1994.
2. That, after furnishing Medical Fitness Certificate and taking over the charge of said post, the appellatant started performing her official duties regularly with due diligence, care devotion and to the satisfaction of superiors and leave no stone unturned in performance of his/her official duties.
3. That the appellatant is working as PET in (B-15) having qualification of BA/SDPE and my promotion was due in 2006 along with his other colleagues from PET (B-15) to DPE (B-16). That the case of promotion of appellatant was put before DPC but was deferred due to non completion of ACR of appellatant by the department and other colleagues as well as junior to the appellatant were promoted.
4. The appellatant contacted several time to the department for completion of his ACR and his promotion and higher authorities always assure that appellatants was promoted from 2006 after completion of his record.

Attested
M. Anwar
Advocate

- 5. That on 13-11-2007 the Government of Khyber Pukhtunkhwa up graded all the posts of DPE from B-16 to B-17 and all the colleagues and appellant juniors are now working in B-17.
- 6. That during the period mention above the appellant contacted several time to his high-ups who always recommended his case and lastly appellant was promoted as DPE B-16 but with immediate effect and he was not granted seniority from 2006.
- 7. That feeling aggrieved from the illegal promotion orders of Director of immediate effect by ignoring the facts and rules, the appellant filed this representation.
- 8. That the preparation of ACR is the duty of the department and appellant has no fault in this respect but no action would be taken against the concerned staff for non preparation of ACR at the time of DPC.
- 9. That appellant was serving in the department since 1994 and his colleagues were posted as DPE since 2006 but appellant was once again ignored through impugned order and he was promoted to B-16 with immediate effect.

In wake of above submissions, it is respectfully prayed that on acceptance of instant appeal, the orders may please be set aside/modified and appellant may graciously be promoted in B-16 since 2006 with all back/ future benefits.

Your Honorable Appellant



Kashif Rehman DPE-B16 GHSS Laar

Dated 20-03-2014.

Attested
Anwar adw



-13-

**DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA,
PESHAWAR**

No. 1201 /F.No. 15 Vol-II/AD (PE&S) Appeals PET/DPE (M).
Dated Peshawar the: 18/4/2014.

To

The District Accounts Officer,
D.I Khan

Subject: - **NOTIFICATION**

I am directed to refer to your letter No. 324-25 dated 24.03.2014 on the subject noted above and to clarify that: -

- i. The post of DPE were in B-16 with qualification (BA/B.Sc.) with Senior Diploma in Physical Education and were upgraded to B-17 vide Notification dated 13.11.2007 (copy attached) on acquiring Master Degree (Health & Physical Education).
- ii. But some DPEs are still working in B-16 due to not acquiring Master Degree (Health & Physical Education) and working against the post of DPE B-17 till acquiring the Master Degree in the relevant subject.
- iii. Mr. Kashif Rehman PET & Mr. Jamshaid Khan PET were due for promotion to the post of DPE B-16 in 2006.
- iv. Their cases were placed before the Departmental Promotion Committee (DPC) in its meeting held on 21.10.2006 but differed for the want of ACRs (copy attached) and their counter parts were promoted to the post of DPE in (B-16 Regular).
- v. After completion of their documents/ACRs their case for promotion were again placed before the Departmental Promotion committee (DPC), the Committee promoted the concerned PETs to post of DPE B-16 (Regular) on the analogy of their counterparts who were promoted from PET to the post of DPE B-16 in 2006.
- vi. However the previous Promotion Notification No. 1327-33 dated 07.03.2014 in r/o Mr. Kashif Rehman SPET and Mr. Jamshaid SPET has been revised according to the aforesaid policy. Copy of revised Promotion Notification in r/o the said SPETs is (attached).

The decision/policy issued by the Govt of Khyber Pakhtunkhwa in the appointment/promotion cases of PETs/DPEs is enclosed for ready reference as desired.

Attested
Anwar ad

[Signature]
Deputy Director Estab (Male)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar
18/4/2014

Endst No. _____

Copy forwarded to the: -

1. PA to Director E&SE Khyber Pakhtunkhwa local office.

[Signature]
Deputy Director Estab (Male)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

VAKALATNAMA

-14-

IN THE COURT OF *KPK Service Tribunal camp* D.I.KHAN

Kashif Rehman **VERSUS** *KPK*

JIT/OFFICE..... *Appeal*

I/WE..... *Appeals*

The above named..... *Kashif Rehman* hereby appoint

MUHAMMAD ANWAR AWAN ADVOCATE, HIGH COURT D.I.Khan, in the above mentioned case to
do or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this court/tribunal in which the same may be tried or heard or any other proceedings out of our connected therewith.
2. To sign and verify and file or withdraw all proceedings, petitions, appeals, affidavits, and applications for compromise or withdrawal, or for the submission to arbitration of the said case or any other documents, may be deemed necessary or advisable by them by the conduct, prosecution or defense of the said case at all its stages.
3. To receive payments of and issue receipts for all moneys that may be or become due and payable to us during the course on conclusion of the proceedings.
To do all other acts and things, which may deemed necessary or advisable during the court of Proceedings.

AND hereby agree:

- a) To ratify whatever advocates may do the proceedings.
- b) Not to hold the advocates responsible if the said case be proceed ex-parte or dismissed in default in consequence of their absence form the court when it is called for hearing.
- c) That the advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remain UN-paid.
- d) That advocates may be permitted to argue any other point at the time of arguments.

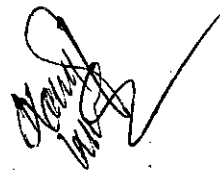
In witness whereof I/we have signed this vakalatnama here under the contents of which have been read / explained to me/us fully understood by me/us this.

Date... *28/5/14*

Accepted by:

Anwar adu

MUHAMMAD ANWAR AWAN
ADVOCATE
HIGH COURT
Distt: Courts, D.I.Khan.
Ph.# (off) 0966-730828



Signature of executant (s)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.
Service Appeal NO.894/14

Kashif Rehman

VS

Govt; of KPK and others

APPEAL

Re- Joinder on behalf of Appellant.

Respectfully Sheweth,

Reply on Preliminary Objection.

1. That the objection no 1 is incorrect.
2. That the objection no 2 is incorrect .Appeal is within time.
3. That objection no 3 is incorrect.
4. That Para no 4 is incorrect.
5. That Para no 5 is incorrect.
6. That Para no 6 is incorrect.
7. That Para no 7 is incorrect.
8. That Para no 8 is incorrect.
9. That Para no 9 is incorrect.
10. That Para no 10 is incorrect.
11. That Para no 11 is incorrect.
12. That Para no 12 is incorrect.
13. That Para no 13 is incorrect.
14. That Para no 14 is incorrect.

Para Wise Reply;

- 1- That Para no 1 of reply is incorrect and Para of appeal is correct.
- 2- That Para no 2 of reply not admitted and para of appeal is correct.
- 3- That Para no 3 is incorrect and para no 3 of appeal is correct. The promotion of appellant was deferred without any fault in his part , such civil servant can be given promotion from ante date when his juniors were promoted. The preparation ACR is duty of department and appellant has no fault in this respect while no action would be taken against the concerned officer.
- 4- That Para no 4 is incorrect and para of appeal is correct. *The fact is also important that post of DPE was up-graded in B-17 on 13-11-2007. Copies attached.*

- 5- That Para no 5 is incorrect and para of appeal is correct.
- 6- That Para no 6 is incorrect and para of appeal is correct.
- 7- That Para no 7 is incorrect and para of appeal is correct.
- 8- That Para no 8 is incorrect and para of appeal is correct.

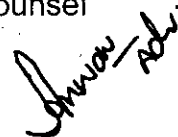
Reply on Grounds;

- 1- That Para no 1 is incorrect.
- 2- That Para no 2 is incorrect.
- 3- That Para no 3 is incorrect.
- 4- That para no 4 is incorrect.

It is there fore requested that appeal may kindly be accepted.

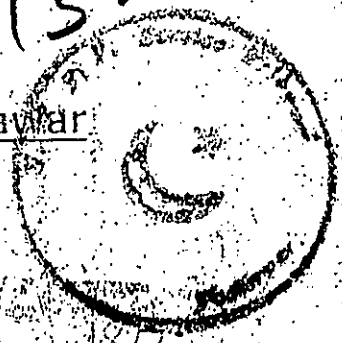
YOUR HUMBLE APPELLANT

Through Counsel



**Muhammad Anwar Awan
Advocate, D.I.Khan**

F-13



Before the N.W.F.P. Service Tribunal, Peshawar

Service Appeal No. 1661 / 2009

Date: 29-9-09

Ghulam Nabi D.P.E., Government Higher

Secondary School Gujar Guddi Mardan.

.....(Appellant)

VERSUS

The Secretary, Elementary & Secondary Education Deptt., Govt. of

N.W.F.P., Peshawar.(Respondents)

Appeal under Section 4 of the N.W.F.P. Service Tribunal Act, 1974 to the effect that Notification No.SO(PE)2-6/E&SE/DPC/Lib/DPEs (Bs-16 to BS-17) 09 dated 19/05/2009 to the extent of allowing upgradation from B-16 to B-17 to the DPEs including Appellant with immediate effect i.e. 19/05/2009 instead of 13/11/2007 is illegal, void and against the principles of natural justice.

Received 29/9/09

ATTESTED
N.W.F.P. Service Tribunal
Peshawar

- 1. That the appellant is posted as D.P.E. (BPS-16) in the Education Department, Government of N.W.F.P. and holds Master Degree in the same subject.

M. ANWAR AMAN
Secretary

4.3.2010

Counsel for the appellant, and Mr. Zahid Karim, AGP alongwith Khurshid Khan, S.O for respondent present. Written reply/ comments filed on behalf of the respondent. Rejoinder has already been filed. Arguments heard and record perused.

Vide detailed order of today, placed on the file of Appeal No. 1667/2009, titled "Ghulam Nabi-vs-Secretary, E&S Education Deptt: Govt. of NWFP, Peshawar", this appeal is also accepted to the extent that upgradation of the post of DPEs be made effective from 13.11.2007 in accordance with the Notification of the even date as well as in accordance with the subsequent Notifications, if any, applicable to the case of the appellant. No order as to costs.

ANNOUNCED

4.3.2010

MEMBER

CHAIRMAN

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Area of jurisdiction	
Number of writs	4-3-10
Service fee	6-10
Cost	6-10
Date of receipt	13-1-10
Date of completion of work	13-1-10
Date of holding of case	13-1-10

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S.No. of Order or proceedings	Date of Order or proceeding	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.																																										
1	2	3																																										
	04.03.2010	<p style="text-align: center;"><u>Appeal No. 1667/2009</u> (Ghulam Nabi vs Secretary E&S Education Deptt)</p> <p>Appellant with counsel and Mr. Zahid Karim, AGP alongwith Khurshid Khan, S.O for respondent present. Arguments heard and record perused.</p> <p>Since this appeal and the below listed appeals pertain to the same question of upgradation from B-16 to B-17 to the Directors Physical Education (D.P.Es) with effect from 13.11.2007, instead of 19.5.2009 vide impugned Notification dated 19.5.2009, this single order is also directed to dispose of the following appeals:-</p> <table border="1" data-bbox="614 919 1077 1764"> <thead> <tr> <th>S.No.</th> <th>Appeal No.</th> <th>Name of appellant</th> </tr> </thead> <tbody> <tr><td>1.</td><td>1668/2009</td><td>Sarwar Shah</td></tr> <tr><td>2.</td><td>1669/2009</td><td>Muhammad Naeem</td></tr> <tr><td>3.</td><td>1670/2009</td><td>Sardar Khan</td></tr> <tr><td>4.</td><td>1671/2009</td><td>Sabir Ali</td></tr> <tr><td>5.</td><td>1672/2009</td><td>Muhammad Israr</td></tr> <tr><td>6.</td><td>1673/2009</td><td>Sher Kamal</td></tr> <tr><td>7.</td><td>1674/2009</td><td>Salar Khan</td></tr> <tr><td>8.</td><td>1675/2009</td><td>Muhammad Nawaz</td></tr> <tr><td>9.</td><td>1676/2009</td><td>Mst. Azra Naz</td></tr> <tr><td>10.</td><td>1677/2009</td><td>Mst. Danish Begum</td></tr> <tr><td>11.</td><td>1678/2009</td><td>Mst. Sheraz Taj</td></tr> <tr><td>12.</td><td>1679/2009</td><td>Muhammad Ali</td></tr> <tr><td>13.</td><td>1680/2009</td><td>Chamni Khan</td></tr> </tbody> </table> <p>The appellants, who are serving in the Education Department as Directors Physical Education (DPEs) in BPS-16 and are holding Master Degrees; and have, therefore, on</p>	S.No.	Appeal No.	Name of appellant	1.	1668/2009	Sarwar Shah	2.	1669/2009	Muhammad Naeem	3.	1670/2009	Sardar Khan	4.	1671/2009	Sabir Ali	5.	1672/2009	Muhammad Israr	6.	1673/2009	Sher Kamal	7.	1674/2009	Salar Khan	8.	1675/2009	Muhammad Nawaz	9.	1676/2009	Mst. Azra Naz	10.	1677/2009	Mst. Danish Begum	11.	1678/2009	Mst. Sheraz Taj	12.	1679/2009	Muhammad Ali	13.	1680/2009	Chamni Khan
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13.	1680/2009	Chamni Khan																																										

ATTESTED

M. ANWAR AWAN
Advocate

15-

the basis of higher qualification, claimed eligibility to the grant of upgradation from BPS-16 to BPS-17 on the basis of Notification of the Provincial Government dated 13.11.2007; but they have been allowed upgradation w.e.f 19.5.2009 vide Notification of the even date; hence this appeal, inter-alia, on the grounds that the impugned order is in violation of the original Notification; and that the appellants fulfilled all the requisite terms and conditions for the grant of the benefit prayed for from 13.11.2007.

The respondents resisted the appeal; but admitted in their written reply/comments that the posts of DPEs and Librarians were upgraded from B-16 to B-17 vide Notification dated 13.11.2007. The respondents, however, contested the plea of the appellants with regard to upgradation from the date of Notification on the ground that extending the benefit to the appellants required framing of rules and recommendation of their upgradation by the Departmental Promotion Committee. As such, the appellants were allowed the benefit after fulfillment of all the codal formalities w.e.f 19.5.2009.

Notwithstanding the plea of the respondents with regard to fulfillment of the codal formalities, the Notification with regard to upgradation of the post of DPE dated 13/11/2007 is clear to the effect that the upgradation will be effective from that date i.e. 13.11.2007. On the basis of this legal position, this Tribunal dealt with the issue and decided in-principle, in the case of Senior English Teachers (Appeal

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Amir

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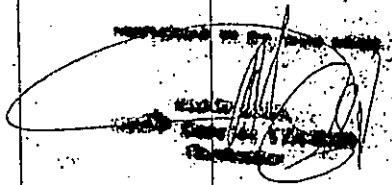
the respective posts and appointment of the appellants to the posts shall be declared effective from the date from which it was intended to be effective in the original Notification of the Authority. The Tribunal, however, held, vide its above referred decision dated 3.7.2009, that as the upgradation and posting shall be one time only and shall be personal to the appellants and their similarly placed colleagues, as per the contents of the Notification quoted above.

In the light of the above explained legal position and decision of this Tribunal, referred to above, this appeal and all the afore-mentioned connected appeals are accepted to the extent that upgradation of the posts of DPEs be made effective from 13.11.2007 in accordance with the Notification of the even date as well as in accordance with the subsequent Notifications, if any, applicable to the case of the appellants. No order as to costs.

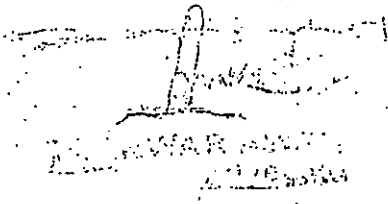
ANNOUNCED
04.03.2010

MEMBER

CHAIRMAN



4-3-10
 Date of completion of copy 16-3-10
 Date of receipt of copy 10-3-10
 Date of completion of copy 13-3-10
 Date of receipt of copy 13-3-10



G-18-



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Dated Peshawar the 29-04-2014.

NOTIFICATION.

NO.SO(PE)9-107DPE/Ghulam Nabi. In pursuance of the judgement of Khyber Pakhtunkhwa Service Tribunal Peshawar dated 4-3-2010 in appeal No. 1667/2009 (Ghulam Nabi) 1668/2009 (Sarwar Shah), 1669/2009 (Muhammad Naeem), 1670/2009 (Sardar Khan), 1671/2009 (Sabir Ali), 1672/2009 (Muhammad Israr), 1673/2009 (Sher Kamal), 1674/2009 (Salar Khan), 1675/2009 (Muhammad Nawaz), 1676/2009 (Azra Naz), 1677/2009 (Danish Begum), 1678/2009 (Sheraz Taj), 1679/2009 (Muhammad Ali) and 1680/2009 (Chamni Khan), the competent authority is pleased to promote the following Directors Physical Education (DPEs) BS-16 To BS-17 on regular basis w/e/ 13-11-2007 instead of 19-5-2009 as notified vide this department No. SO(PE)/2-6/E&SE/DPC/DPEs dated 19-5-2009:-

S. No.	Name & Designation	Date of acquiring Master Degree in Physical Education
1	Ghulam Nabi DPE	20-11-1995
2	Sarwar Shah DPE	30-5-2005
3	Muhammad Naeem DPE	24-8-1993
4	Sardar Khan DPE	7-1-1993
5	Sabir Ali DPE	21-12-2002
6	Muhammad Israr DPE	30-5-2005
7	Sher Kamal DPE	30-5-2005
8	Salar Khan DPE	23-10-1994
9	Muhammad Nawaz DPE	19-9-2006
10	Azra Naz DPE	30-5-2005
11	Danish Begum DPE	23-11-2007
12	Sheraz Taj DPE	1-12-2007
13	Muhammad Ali DPE	30-5-2005
14	Chamni Khan DPE	30-5-2005

[Handwritten Signature]
PRINCIPAL
GHASSIYAN KALAN
D.I.Khan

2. The competent authority has further been pleased to promote the following DPEs who acquired prescribed qualification on or before 13-11-2007 but they did not challenge this department notification of even No. dated 19-5-2009:-

[Handwritten Signature]
M. ANWAR
D.I. KHALSA

19

S. No.	Name & Designation	Date of acquiring Master Degree in Physical Education
1	Mr. Bahadur Sher DPE	5-3-1983
2	Mr. Asmatullah DPE	21-10-1986
3	Mr. Talat Mahmood DPE	1-9-1991
4	Mr. Hazrat Ali DPE	31-12-1989
5	Mr. Shamsul Islam DPE	30-5-1988
6	Mr. Tajamul Zaman DPE	31-12-1989
7	Mr. Anwar Zad Khan DPE	31-12-1989
8	Mr. Khalid Tanveer DPE	30-5-1988
9	Mr. Misal Khan DPE	30-5-1988
10	Mr. Hussain Wali DPE	30-5-1988
11	Mr. Islam Rosh DPE	30-5-2005
12	Mr. Gul Aslam DPE	16-6-1985
13	Mr. Said Nawaz DPE	21-10-1986
14	Mr. Abdul Sarwar DPE	3-11-1990
15	Mr. Samiullah DPE	9-4-1996
16	Mr. Fazle Baqi DPE	20-5-1996
17	Mr. Illikhar Ahmad DPE	2-8-1994
18	Mr. Ali Badshah DPE	4-8-1985
19	Mr. Azizullah DPE	30-5-1988
20	Mr. Mohibillah Khan DPE	26-12-1988
21	Mr. Said Bakhl Shah DPE	6-5-2006
22	Mr. Hamidullah DPE	26-12-1988
23	Mr. Shah Mahrnood DPE	3-11-1990
24	Mr. Ihtashamud Din DPE	30-5-2005
25	Mr. Abdullah Shah DPE	4-11-1991
26	Mr. Rukh Niaz DPE	31-12-1989
27	Mr. Gul Badshah DPE	30-4-1995

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28	Mr. Saifdar Jan DPE	3-11-1990
29	Mr. Lal Mar Jan DPE	23-8-1992
30	Mr. Ahmad Nawaz DPE	24-8-1993
31	Mr. S. Ibadur Rahman DPE	7-1-1993
32	Mr. Kiramatullah DPE	12-4-1994
33	Mr. Mushtaq Khan DPE	15-3-1992
34	Mr. Mujeebur Rahman DPE	20-11-1995
35	Mr. Abdul Qadir Khan DPE	24-8-1993
36	Mr. Anjad Khan DPE	30-5-2005
37	Mr. Nikhatullah Khan DPE	16-12-2006
38	Mr. Farid Zaman DPE	24-8-1993
39	Mr. Ikramullah DPE	23-10-1994
40	Mr. Muhammad Usman DPE	6-7-1995
41	Mr. Waris Khan DPE	24-8-1993
42	Mr. Ashraf Ali DPE	12-8-1997
43	Mr. Fateh Sher DPE	17-7-1996
44	Mr. Muhammad Sharif DPE	20-11-1995
45	Mr. Saif Khan DPE	23-10-1994
46	Mr. Muhammad Gul DPE	20-11-1995
47	Mr. Nasir Khan DPE	30-4-1995
48	Mr. Muhammad Haroon DPE	18-11-1996
49	Mr. Muhammad Iqbal Khan DPE	7-10-1998
50	Mr. Farmanullah DPE	11-12-1996
51	Mr. Hamza Ali Khan DPE	3-11-1990
52	Mr. Abdul Mateen Khan DPE	25-11-1995
53	Mr. Allaulah Khan DPE	15-3-1992
54	Mr. Sadiqur Rahman DPE	19-6-1995
55	Mr. Wali Dad Khan DPE	2-8-1994
56	Mr. Shahid ur Rahman DPE	19-6-1995

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G.I.S.S. HANUWAN KELAN
D.J. Khan

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-21-

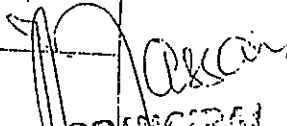
57	Mr. Hakim Said DPE	17-7-1996
58	Mr. Qaiser Khan DPE	17-7-1997
59	Mr. Hukam Zad DPE	17-7-1999
60	Mr. Muhammad Alam DPE	23-6-2007
61	Mr. Muhammad Shahidullah DPE	20-6-1995
62	Mr. Muhammad Khalil DPE	12-11-1997
63	Mr. Noor Muhammad Shah DPE	29-5-1998
64	Mr. Murad Ali DPE	17-7-1999
65	Mr. Muhammad Ghani DPE	24-8-1993
66	Mr. Hazrat Ali DPE	02-09-1999
67	Mr. Arshad Hussain DPE	2-8-1994
68	Mr. Nowsher Zaman DPE	23-2-1999
69	Mr. Muhammad Kaleem DPE	05-2-2008
70	Mr. Kaleemullah Khan DPE	6-5-2006
71	Mr. Wajid Ali DPE	30-5-2005
72	Mr. Fariq Gul DPE	16-6-1999
73	Mr. Muhammad Ayaz DPE	17-6-1998
74	Mr. Taimur Riaz DPE	12-12-2001
75	Mr. Naik Zada DPE	6-5-2006
76	Mr. Yousaf Khan DPE	18-11-1996
77	Mr. Muhammad Ashfaq	27-8-2007
78	Mr. Mahboob Ali DPE	6-5-2006
79	Mr. Shaukatur Rahman DPE	17-6-1998
80	Mr. Dil Faraz Khan DPE	6-5-2006
81	Mr. Muhammad Kaleem DPE	12-12-2001
82	Mr. Alamzar Khan DPE	30-5-2005

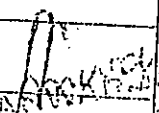
G.H.S.S. D.I.S.O.

22

Female

1.	Mst. Naghma Akbar DPE	6-6-1984
2.	Mst. Mussarat Parveen DPE	6-6-1984
3.	Mst. Dilshad Begum DPE	3-11-1990
4.	Mst. Shaheen Anwar DPE	15-3-1992
5.	Mst. Rehana Parveen DPE	3-11-1990
6.	Mst. Shahida Begum DPE	20-11-1995
7.	Mst. Shabnam Jadoon DPE	1-12-1994
8.	Mst. Tamseela Naz DPE	15-3-1992
9.	Mst. Noreen Anwar DPE	24-8-1993
10.	Mst. Shehnaz Begum DPE	24-8-1993
11.	Mst. Rafia Khattak DPE	17-6-1998
12.	Mst. Hamida Begum DPE	24-8-1993
13.	Mst. Nabeela Tabbasum DPE	15-9-1998
14.	Mst. Saeeda Begum DPE	30-5-2005
15.	Mst. Shabnum Raza Malik DPE	1-6-2004
16.	Mst. Nigar Akhtar DPE	9-9-2005
17.	Mst. Rehana Khaloon DPE	31-12-1989
18.	Mst. Naheed Gohar DPE	21-12-2002
19.	Mst. Asma Qureshi DPE	6-5-2006
20.	Mst. Munaza Jabeen DPE	6-5-2006
21.	Mst. Azeeba Naheed DPE	6-5-2006
22.	Mst. Sajida Sofi DPE	19-9-2006
23.	Mst. Rahila Gul DPE	30-5-2005
24.	Mst. Shahana DPE	6-5-2006
25.	Mst. Manam Mustafa DPE	1-8-2002
26.	Mst. Saima Andaleep DPE	30-5-2005
27.	Mst. Imtiaz Tabbasum DPE	6-5-2006
28.		


 PRINCIPAL
 G.H.S.S. MAHMOODABAD KILLAN
 J.L.P.K.A.


 TEACHER

23

29.	Mst. Nighat Seema DPE	1-6-2004
30.	Mst. Afsheen Mumtaz DPE	6-5-2006
31.	Mst. Rehana Yasmin DPE	6-5-2006
32.	Mst. Hassan Basri DPE	6-5-2006

PRINCIPAL
G.H.S. ISMAILKOT
11/1/2011

SECRETARY

Endst. No. SO(PE)9-10/DPE/Ghulam Nabl.

Dated Pesh: the, 29-04-2011

Copy forwarded to:-

1. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. Special Secretary (Regulation), Establishment Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department w/r to his letter No. SO(FR)/FD/10-22/9-10/ DATED 12-7-2012.
4. The Accountant General, Khyber Pakhtunkhwa.
5. Secretary to Chief Minister Khyber Pakhtunkhwa.
6. PS to Chief Secretary Khyber Pakhtunkhwa.
7. All Directors in Elementary & Secondary Education Department.
8. Director Education FATA Warsak Road Peshawar.
9. All Commissioners/Deputy Commissioners in Khyber Pakhtunkhwa.
10. All District Education Officers (M/F) Elementary & Secondary Education in Khyber Pakhtunkhwa.
11. All District Accounts Officers, Khyber Pakhtunkhwa.
12. All Agency Education Officers/ Agency Accounts Officers in FATA.
13. Director Information Khyber Pakhtunkhwa Peshawar with the request to give wide publicity through media.
14. Secretary Public Service Commission Khyber Pakhtunkhwa, Peshawar.
15. PS to Minister E&SE Department.
16. PS to Secretary / Special Secretary / Additional Secretary E&SE Department Gov. of Khyber Pakhtunkhwa.
17. PA to Deputy Secretary (Admn.) Khyber Pakhtunkhwa.
18. Officers concerned.

(ZAMIN KHAN MOMANI)
SECTION OFFICER (PRIMARY)

M. ANWER AWAN
Advocate

even No. dated 19-5-2009:

... they did not challenge this department notification of

BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 894 / 2014

Kashif Rehman DPE (BPS-16) GHSS Lar District D I KhanAppellant.

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & others.Respondents

JOINT PARAWISE COMMENTS ON & FOR BEHALF OF RESPONDENTS 1, 2 & 4.

Respectfully Sheweth:-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

1. That the Appellant has got no cause of action / locus standi.
2. That the instant Service Appeal is badly time barred.
3. That the Appellant has concealed material facts from this Honorable Tribunal, hence liable to be dismissed on this score.
4. That the Appellant has filed the instant appeal on mala fide motives.
5. That the Appellant has not come to this Honorable Tribunal with clean hands.
6. That the Appellant is not entitled for the relief he has sought from this Honorable Tribunal.
7. That the instant Service Appeal is against the prevailing law & rules.
8. That the instant Appeal is based on mala fide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
9. That this Honorable Tribunal has got no jurisdiction to adjudicate upon the present service appeal.
10. That the appeal is not maintainable in its present form & circumstances of the case.
11. That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
12. That the Notifications dated 07-03-2014 is legally competent & is liable to be maintained in favour of the Respondents.
13. That the instant Appeal is barred by law.
14. That the Appellant is neither an aggrieved person, nor any Departmental Appeal against the impugned Notification has been filed by the said Appellant.

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ON FACTS

- 1 That Para-1 pertains to the service record of the Appellant. Hence needs no comments.
- 2 That Para-2 is also needs no comments being pertains to the service record of the Appellant.
- 3 That Para-3 is correct to the extent that the appellant has been deferred for promotion against the DPE (B-16) post by the Respondent No: 4 for the want of ACRs of 2005 vide Notification dated 21-10-2006 in the light of the minutes of the Departmental Promotion Committee held under the Chairmanship of the Respondent No: 4 on the grounds that incomplete cases are not recommended / put up before the concerned DPC meeting, hence the Appellant has been deferred by the Respondent Department. (copy of the minutes is attached as Annexure-A).
- 4 That Para-4 is incorrect & misleading on the grounds that the case of the appellant for the grant of promotion from BPS-15 to 16 has been processed & submitted by the Respondent No: 3 to the Respondent-1. The Respondent No: 2 has then submitted his case on 10-7-2013 with the remarks vide Para-7 that the cadre of the appellant has been declared as "Dying cadre" in the light of the last DPC meeting held on 21-10-2006. But in spite of that the appellant has been promoted to the post of DPE in BPS-16 in the light of the DPC meeting held on 10-2-2014. And on the basis of the said DPC, the Respondents No: 1 has been pleased to promote / upgrade the Appellant in BPS-16 vide Notification dated 07-3-2014 with immediate effect. (Copies of the Notification is Annexure-B).
- 5 That Para-5 is correct. Hence needs no further Comments.
- 6 That Para-6 is incorrect & denied. The appellant has been deferred for the grant of promotion / up gradation in BPS-16 against the DPE post in the light of the DPC meeting held on 21-10-2006 under the Chairmanship of the Respondent No: 4 for the want of ACRs pertaining to the year 2005. Hence the appellant has been upgraded vide Notification dated 07-03-2014 by the Respondent No: 1 in accordance with law, rules & upgradation policy according to his seniority position in the said cadre. Hence the act of the Respondent is within legal parameter in the instant case.
- 7 That Para-7 is correct that the Appellant has filed Departmental Appeal before the Respondent No: 4 through the Respondent No: 1 which was submitted before the competent authority for necessary action vide office memo: F. No: 45/Promotion /DPE/ AD(Phy:) dated 10-07-2013 which has resulted in the issuance of the impugned Notification dated 07-3-2014 of the Respondent No: 1 in favour of the Appellant vide which he has been upgraded to BPS-16 against the DPE post in the light of the DPC meeting held on 10-2-2014 with immediate effect, hence is liable to be maintained.
- 8 That Para-8 is legal. However, the Respondents further submit on the following grounds inter alia :-

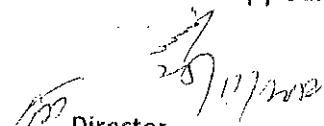
GROUND.

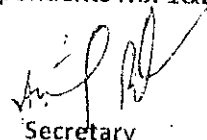
- 1 Incorrect & denied, the Notification dated 07-3-2014 is legally competent & is liable to be maintained in favour of the Respondents in the interest of justice.
- 2 Incorrect & denied. The appellant has been failed to submit the required service record to the Respondent for placing particulars before the DPC. Hence he has been deferred vide Notification dated 27-10-2006 by the Respondent No: 4 for promotion against DPE post.

- 3 Incorrect & denied. The appellant has been treated per law & upgradation policy by the Respondents vide Notification dated 07-3-2014 by promoting him in BPS-16 with immediate effect.
- 4 Incorrect & denied. The statement of the appellant is baseless and without any merit & is liable to be struck down in favour of the Respondents. However, the Respondent seeks leave of this Honorable Tribunal to submit additional case law & record at the time of arguments.

Prayer


In view of the above made submissions, it is humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant appeal with cost in favour of the respondent Department.


 Director
 E&SE Department Khyber
 Pakhtunkhwa, Peshawar.
 (Respondents No: 1&2):


 Secretary
 E&SE Department Khyber
 Pakhtunkhwa, Peshawar.
 (Respondent No: 4)

AFFIDAVIT

I, Khaista Rehman Asstt: Director (Lit: II) E&SE Department Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Parawise Comments in the titled Service appeal are true & correct to the best of my knowledge & belief & that nothing has been concealed from the ambit of this Honorable Tribunal.


 Deponent