

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	23.12.2015	<p style="text-align: center;">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p style="text-align: center;">Appeal No. 693/2012</p> <p style="text-align: center;">Mst. Dil Afroz Versus The Government of KPK through Chief Secretary, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHS SHAH, MEMBER:-</u> Counsel for the appellant (Mr. Muhammad Asif Yousafzai, Advocate) and Government Pleader (Mr. Ziaullah) with Khursheed Khan, SO for the respondents present.</p> <p>2. The appellant was promoted as Headmistress BPS-17 on 19.09.2009 and her seniority in the said post was antedated w.e.f 17.10.2002 on her request. Through the instant appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, she has prayed for the arrears of the promotion benefits for the said period w.e.f. 17.10.2002 to 19.09.2009.</p> <p>3. Arguments heard and record perused.</p> <p>4. The record shows that for the claim of the said arrears, the appellant moved a representation dated 02.7.2011 which was declined by the departmental authority vide their order dated 08.4.2012. Being comprehensive and relevant for reference we would like to reproduce relevant</p>

portion of the said order as follows:-

“Mst Dilafroz was appointed as SV teacher in 1982 and later on she was appointed as SET on 25.01.1984. The teacher concerned proceeded abroad on deputation basis w.e.f. 01.05.1989 to 30.04.1994 and Ex-Pakistan leave w.e.f. 01.05.1994 to 19.12.1998. During this period some junior teachers were promoted as Headmistress in BPS-17 and her name was dropped from the seniority list of BPS-17 as she remained in abroad. On her return from abroad she lodged an appeal in the Khyber Pakhtunkhwa Service Tribunal Peshawar for her promotion. The Khyber Pakhtunkhwa Service Tribunal accepted her appeal and directed the department to consider her name for promotion to BPS-17. The department implemented the decision of the Khyber Pakhtunkhwa Service Tribunal Peshawar and she was promoted to B-17 as H/M with immediate effect vide notification No. SO(PE)2-6/E&SE/DPC/Meeting/09, dated 19.9.2009, but she was given Seniority in BPS-17 in the light of para-7 of E&AD circular letter No. SOR-I(S&GAD)1-29/75, dated 13.04.1987.

5. It revealed that her antedation w.e.f. 2002 was for the purpose of giving her seniority and in order to place her at par with her juniors. So far arrears of a particular post are concerned, so the same are dependent on assumption of charge and rendering duty of that particular post. The Tribunal is of the considered opinion that the appellant is not entitled for the claim of arrears. There is no merit in the appeal which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

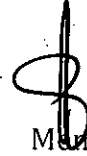
ANNOUNCED
23.12.2015.


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

23.01.2015

Counsel for the appellant and Mr. Khurshid Khan, S.O for respondents No. 1 and 2 with Addl: A.G for the respondents present. The Bench is incomplete. To come up for arguments on 14.07.2015.



Member.

14.07.2015

Counsel for the appellant and Mr. Ziaullah GP with Khursheed Ali Khan, SO for the respondents present. Since court time is over, therefore, case to come up for arguments on 23-12-2015.



Member



Member

12.6.2013

No one is present on behalf of the appellant. Mr. Khurshid Khan, SO for the respondents with Mr. Usman Ghani, Sr. GP present. Rejoinder has not been received. Another chance is given for rejoinder on 1.10.2013

Chairman

01.10.2013

Mr. Taimur Ali, Advocate on behalf of counsel for the appellant, M/S Khurshid Khan, SO for respondents No. 1 & 2 and Mosam Khan, AD for respondent No. 3 with AAG for the respondents present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned AAG for arguments on 13.3.2014.

Chairman

13.3.2014

Counsel for the appellant, M/S Khurshid Khan, SO for respondents No. 1 and 2 and Sajjad Rashid, AD for respondent No. 3 with Mr. Muhammad Jan, GP for the respondents present. Arguments could not be heard due to incomplete bench. To come up for arguments on 11.8.2014.

CHAIRMAN

11.08.2014

Qazi Zahoor Ahmad, husband of the appellant, on behalf of the appellant with counsel for the appellant and Mr. Khurshid Khan, SO for respondents No. 1 and 2 with AAG for the respondents present. Arguments could not be heard due to incomplete bench. To come up for arguments on 23.1.2015.

Chairman


5-11-12

The Honorable bench is on leave
Therefore, case is adjourned to 21-1-13
for reply.


Member

21.01.2013

No one is present on behalf of the appellant. M/S Khurshid Khan, S.O for respondents No.1 & 2 and Mosam Khan, A.D for respondent No.3 with Mr.Shakirullah, G.P for the respondents present. Written reply has not been received. To come up for written reply/comments on 8.4.2013


Member


Member

8.4.2013

Counsel for the appellant with Qazi Zahoor Ahmad, husband of the appellant and Mr. Khurshid Khan, SO for the respondents with Mr. Noorullah, SGP present. Written reply on behalf of respondents No. 1 to 3 received, while representative of the respondents stated that the office of DEO, A/Abad has got no concern with the case. Copy of the written reply/comments is handed over to the learned counsel for the appellant for rejoinder on 12.6.2013.


Chairman

Appeal No. 693/2012.

3. 6.8.2012

Counsel for the appellant present and heard. Contended that the appellant was appointed as SET Teacher in the year 1984. She went abroad on deputation and returned to Pakistan on 20.11.1999. She was adjusted 11.7.2006. The appellant was promoted as Head Master BPS-17 on 19.9.2009 with immediate, however, she was given seniority benefits w.e.f. 17.10.2002 but without any arrears. The appellant preferred a departmental appeal but the same was replied vide letter received by her on 30.4.2012. Hence, the instant appeal. Counsel for the appellant further contended that the appellant has not been treated according to law/rules. The appellant was not promoted in time by the respondents. According to the judgment of the Hon'ble Supreme Court of Pakistan, the appellant is fully entitled to the grant of arrears of promotion. Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 5.11.2012 for submission of written reply.

Appellant deposited security
process fee & stamp Bank
receipt is attached with file

Member

4. 6.8.2012

This case be put before the Final Bench ¹ for further proceedings.

Chairman

FORM "A"

FORM OF ORDER SHEET

Court of.....

Case No. 693/2012.....of.....

Serial No. of Order or Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3
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1-

25/06/2012

The appeal of Mst. Dil Afroz resubmitted today by Mr.M.Asif Yousafzai Advocate, may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.

[Signature]
REGISTRAR
25/6/12

2-

27-6-2012

This case is entrusted to Primary Bench for preliminary hearing to be put up there on 6-8-2012.

[Signature]
CHAIRMAN

The appeal of Mst. Dil Afroz H/Mistress GGHS Bagnotar Abbottabad received today i.e. on 28/05/2012 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days:-

- 1- Annexures-F and G are not attached with the appeal which may be placed on it.
- 2- Annexure-E of the appeal is illegible which may be replaced by legible one.
- 3- Annexures of the appeal may be attested.

NO. 625 /S.T,

Dt. 29/5 /2012.

Handwritten signature
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M. ASIF YOUSAFZAI ADV. PESH.

*Sir, Re-submitted after
compliance
[Signature]*

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 693 /2012.

Mst: Dil Afroz.

VS

Education Deptt:

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APPELLANT

DIL AFROZ

THROUGH:


M.ASIF YOUSAFZAI

ADVOCATE.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 693 /2012.

Mst: Dil Afroz, H/Mistress,

GGHS Bagnetar Abbottabad.....Appellant.

579
28/5/12

VERSUS

- 1- The Govt: of KPK Through The Chief secretary KPK Peshawar.
- 2- The Secretary Education (E&SE) KPK Peshawar.
- 3- The Director Education (E&SE) KPK Peshawar.
- 4- The EDO (E&SE), Distt: Abbottabad.....Respondents.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED. 10.4.2012 FURTHER ENDORSED ON 26.4.2012, RECEIVED BY APPELLANT ON 30.4.2012 WHEREBY THE ARREARS OF PROMOTION BENEFITS W.E.FROM 17.10.2002 HAVE BEEN DENIED FOR NO GOOD GROUNDS.

28/5/12

PRAYER: That on acceptance of this appeal the impugned order dated. 10.4.2012 may be set aside and the respondent Deptt: may be directed to grant the arrears of promotion benefits of BPS-17 to appellant w.e.from 17.10.2002. Any other remedy which this august Tribunal deems proper that may also be awarded I favour of appellant.

25/6/12

R.SHEWETH.

- 1- That the appellant was initially appointed as SV teacher in the respondent Deptt: in the year 1982 and as the appellant was B.Ed trained, therefore, she was appointed as SET teacher in the year 1984 and in the year 1985 the appellant was approved as regular SET teacher by the Departmental Selection Committee. All entries are recorded in the service book the copy of which is attached as Annexure – A.
- 2- That in the year 1989 the appellant went abroad on deputation and returned for duty to Pakistan vide order dated. 20.11.199. The appellant was adjusted at GGMS Kariplian Hripur on return to Pakistan but as there was no vacant post was available over there, therefore, the appellant's adjustment remained disputed. Copy of the order is attached as Annexure – B.
- 3- That at last the appellant filed an appeal bearing NO.546/05 in this august Tribunal for adjustment and payment of salaries which was disposed of on 19.5.2006. Thus the appellant was then adjusted on 11.7.06. Copies of orders are attached as Annexure – C & D.
- 5- That during the absence/deputation of appellant more than 31 junior officials were promoted as H/M BPS-17, therefore soon after adjustment, the appellant also first filed representation for promotion and then appeal bearing NO.964/06 in this august Tribunal. The said appeal was finally decided in favour of appellant on 15.12.2007. Copy of judgment is attached as Annexure – E.
- 6- That then the appellant was promoted as H/M BPS-17 on 19.9.09 but with immediate effect however the appellant was given seniority benefits w.e.from 17.10.2002 without any arrears. Thus against that order the appellant filed an appeal to the respondent Deptt: on which lengthy correspondence was made. Copies of order and appeal are attached as Annexure – F & G.
- 7- That finally a letter dated. 8.4.2012 was sent to the respondent No.2 where in the claim of appellant was denied. The said letter was further endorsed to the respondent No.3 on 10.4.2012 who further endorsed to appellant on 26.4.2012 and the appellant finally received the said letter on 30.4.2012 at Abbottabad. Hence the present appeal on the following grounds amongst the other. Copies of letter are attached as Annexure – H & I.

GROUNDS:

- A- That not granting the arrears of promotion benefits and the impugned denial of the respondent is against the law rules and norms of justice.
- B- That the appellant has not been treated according to law and rules and kept deprived from the benefits of arrears through an illegal and unlawful manner.
- C- That the whole fault lies on the part of the respondents who not promoted the appellant in time nor informed the appellant in time for exercising option, therefore, the appellant cannot be punished for the faults of the respondent Deptt:
- D- That according to the judgment of the Supreme Court of Pakistan, the appellant is fully entitled to the arrears of the promotion because the respondent Deptt: did not allow the appellant to be promoted and officiated in time. (1984-SCMR-)
- E- That the appellant has been made to suffer for the fault of others and also illegally deprived from the benefits of arrears of promotion benefits of BPS-17.
- F- That the 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

Dil Afroz
DIL AFROZ

THROUGH:

M. Asif Yousafzai
M.ASIF YOUSAFZAI

ADVOCATE.

A (4)

(For use in Police Department only).

Heirs,

- 1.
- 2.
- 3.

Verification Roll No. dated received back:

Left thumb-impression.

Qualifications	Date	Qualifications	Date
----------------	------	----------------	------

- | | | | |
|---|--|-------------------------|--|
| 1. Passed Matriculation Exam (Home Economics Group) from the BISE Peshawar in 1st Div. under R/NO: 16882 in 1972. | | | |
| 2. Passed the Intermediate Exam (Annual 1978) from the BISE Peshawar under Roll No: 10563 and obtained "D" grade. | | B. L. or B.A. | |
| 3. Passed the B.A. Exams (Suppl: 1980) from the University of Peshawar in 2nd Div. under Roll No: 2964. | | Pleadership examination | |
| 4. Passed the B.Ed. Exam (Final Term 1981-82) in 1st Div. (720/1200 Marks) under Roll No: 681. | | Training School Final | |
| " Plan-drawing | | from examination | |
| " Finger print | | General University. | |
| | | Other qualifications— | |

Drill instructing *Hukht Beg*
 Sub Divisional Edu. Officer (Female)
 Haripur Sub Division Haripur

Court duties

Reserve duties

ATTESTED

N.B.—A line to be drawn under the qualification possessed.

ATTESTED

(5)

The entries in this page should be renewed or re-attested at least every five years and the signature in lines 9 and 10 should be dated.

Name Mst. Dil Afroz
Race Awan
Residence village: KAHAL (Teh: Hari pur)
Distt: Abbottabad

Father's name and residence .. Qazi Mohammad Aslam,
vill: KAHAL (Teh: Hari pur) Distt: Abbottabad

Date of birth by Christian era as nearly as can be ascertained .. Second February, NH & Fifty Four
(2-2-1954)

Exact height by measurement .. 5-4

Personal marks for identification .. Marks of small pox on the forehead

Left hand thumb and Finger impression of (non-gazetted) officer ..

Little Finger. Ring Finger

Middle Finger Fore Finger

Thumb

Signature of Government servant .. Dilafroz

Signature and designation of the Head of the Office, or other Attesting Officer. .. Mukhtiar Begum
Sub. Assistant Head of Office (Female)
Civilian Hospital

ATTESTED

De-attest
Principal
Govt. Girls H.P.
No. 1 Hari pur (A) 27/4/58

ATTESTED

Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state— (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
SV at G.G.M.S. KAHAL	off.		370/-	-	-	6 ⁵ / ₈₂	Dilafog
" "	"		386/-	-	-	1.12.82	Dilafog
(B-8 - Ps: 590 - 26 - 1110)							
SV G.G.M.S. KAHAL	off.	Pay due in N.P.S. on 30 ³ / ₈₃			386/-		
		B.A. — — — — — Ps: 741/-					
		10% — — — — — Ps: 56/-					
		Stage in B-8 — — — — — Ps: 616/-				1 ² / ₈₃	✓
SV G.G.M.S. KAHAL	off./sub.		642/-	✓	-	1 ¹² / ₈₃	Dilafog ✓
		BPS-15 (Rs=900-55-2000)					
SET: G.G.H.S. Kot Naj Bulah	off./sub.		900/-	✓	-	25 ¹ / ₈₄	Dilafog ✓
do	do		955/-	✓ P.M	-	1 ¹² / ₈₄	
SET G.G.H.S. Kot Naj Bulah	do		955/-	✓ P.M	-	22 ¹⁰ / ₈₅	Dilafog ✓
do	do		1010/-	✓ P.M	-	1.12.85	
do	do		1065/-	✓ P.M	-	1.12.86	Dilafog ✓
SET G.G.H.S. No. I Hanjpur	do	Special Provision B-15: B. 1105-71-			2585/-		
			8.1378/-			1/7/87	
			72.14491			11.12.87	

not cutting
 allow
 Dilafog
 11/12/87

Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination of appointment	11 Reason of termination (such as promotion transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure or reward or praise of the Government servant
				Nature and duration of leave taken	Allocation of periods of leave on average pay upto four months for which leave salary is debit to another Government Government to which debit		
Hukht... Begum S.D.E.O(F) H/30/11/82	30/11/82		Hukht... Begum S.D.E.O(F) H/30/11/82		Appointed as SV @ Rs 370/- PM (Fixed) vide Director of Edu. (S) Haz. Division, A/Abad, Endost No. 8539-46/VAE dt 16-5-1982 from the date of taking over duty.	Hukht... Begum S.D.E.O(F) H/30/11/82	
Hukht... Begum S.D.E.O(F) H/30/11/82	30/11/82	Leave	Hamidullah S.D.E.O(F) H/30/11/82				
Hamidullah S.D.E.O(F) H/30/11/83	30/11/83	Imcr.	Hamidullah S.D.E.O(F) H/30/11/83		Services verified from 30/11/82 to 30/11/83 under record.		
Hamidullah S.D.E.O(F) H/24/1/84	24/1/84	Transfer to SET	Hamidullah S.D.E.O(F) H/24/1/84		Maturity leave granted leave from 1.3.83 to 30/5/83 (9) days on full pay vide office No: 7135 Dated A. Abad the 2/10/83	Hukht... Begum S.D.E.O(F) H/24/1/84	
Gulzar Begum Headmistress G.G.H.S. Kotnajibullah	30/11/84	Imcr.	Gulzar Begum Headmistress G.G.H.S. Kotnajibullah		Drawn difference of Pay & HRA, vide FM No 273 dt 12/2/83 due to introduction of G.P.N 1983		
Gulzar Begum Headmistress G.G.H.S. Kotnajibullah	23/1/85	Transfer to G.G.H.S. Kotnajibullah	Gulzar Begum Headmistress G.G.H.S. Kotnajibullah		Services verified with effect from 1/12/82 to 24/1/84 from the acq. roll and other office record.		
Zohida Headmistress G.G.H.S. Haripur	30/11/85	Imcr.	Zohida Headmistress G.G.H.S. Haripur				
S. Farid Headmistress G.G.H.S. Haripur	30/11/86	Imcr.	S. Farid Headmistress G.G.H.S. Haripur		Appointed as SET @ Rs 900/- PM (Fixed) vide Div. Director of Education (Schools) Hazara Division, Abbottabad dt 19-1-1984 office order No: 3 dated 19-1-1984 issued endost: NO: 1148-58/APPH/Adj: SET(F) dated 19-1-84.		
S. Farid Headmistress Govt. High School No. 1 Abbottabad	30/11/87	Imcr.	S. Farid Headmistress Govt. High School No. 1 Abbottabad				
S. Farid Headmistress Govt. High School No. 1 Haripur Dist. Abbottabad	30/11/88	Imcr.	S. Farid Headmistress Govt. High School No. 1 Haripur Dist. Abbottabad				

ATTESTED

ATTESTED

Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating state— (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional pay for officiating	Other emoluments falling under the term "Pay"	Date of appointment	Signature of Government servant
SET G.G.A.S. No. 2 Haripur Temp.		(3-15 1165 71-2585)	1520/-			1/12/88	[Signature]
	Office of the Accountant General N.W.F.P., Peshawar.	Pay fitted in the Revised Basic Pay Scales 1987 of Rs. 620-99-1200 (& B-1) at Rs. 649/- P.M. w. e. d. 1-7-1987 With Next Increment on 1-12-1987					[Signature] Accounts Officer N.W.F.P.
	Office of the Accountant General N.W.F.P., Peshawar.	Pay fitted in the Revised Basic Pay Scales 1987 of Rs. 1165-71-2585 (& B-15) at Rs. 1378/- P.M. w. e. d. 1-7-1987 With Next Increment on 1-12-1987					[Signature] Accounts Officer N.W.F.P.

7

9	10	11	12	13	14	15	
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Leave		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure or reward or praise of the Government servant
				Nature and duration of leave taken	Allocation of periods of leave on average pay upto four months for which leave salary is debitable to another Government		
				Period	Government to which available		
	Govt. Girls High School No. 1, Haripur	5/1887	Principal G.G.H.S. No. 1 Haripur				
							Approved by the Departmental Selection Committee in BPS-15 (Rs. 900-55-2000) vide Add: Director of Education (School) NWFP Peshawar Ends f. No: 2881-3133/A-49/DSC/W-II. dated: 24-4-85 w.f: 25-1-84.
							Service verified from 24 ¹⁰ / ₈₅ to 30 ¹¹ / ₈₅ from the records maintained in this Office.
							Service verified w.e.f. 11/2/86 to 30/1/87 from the Key Roll of this record of this School.
							Granted of Maternity Leave w.e.f. 12-9-87 to 10-12-87 (90 days) on full pay and 11-12-87 (1 day) & 14/12/87 to 23/12/87 (10 days) on M.C. on full pay vide sanctioned D.O. (1) Abbottabad vide serials No. 2028-28/A-E II AF dated 8/7/1988.

TESTED

ATTESTED

Govt. Girls High School No. 1, Haripur

B-8

GOVERNMENT OF N.W.F.P.
EDUCATION DEPARTMENT.

Dated Peshawar, the 20th Novr, 1999.

NOTIFICATION.

NO. SO(S) 2-4/87/II. The Provincial Government are pleased to repatriate Mr. Zahoor Ahmad and Mst. Dil Afroz, Teachers to Pakistan Education Centre, Doha Qatar to their parent (Education Department) with immediate effect.

2. On their repatriation, the Provincial Govt: are further pleased to order of their posting/adjustment against the stations noted against their respective names as under:-

- | | |
|---------------------------|--|
| i) Mr. Zahoor Ahmad | Headmaster GMS Kakotri against the vacant post. |
| ii) <u>Mst. Dil Afroz</u> | <u>SET GMS Kriprian Haripur against the vacant post.</u> |

SECRETARY TO GOVT: OF NWFP
EDUCATION DEPARTMENT.

Enclst: No. 5 date even.

Copy forwarded to the:-

1. Director Secondary Education NWFP Peshawar.
2. Principal, Pakistan Education Centre, Doha-Qatar.
3. District Accounts Officer Haripur.
4. Officers concerned.

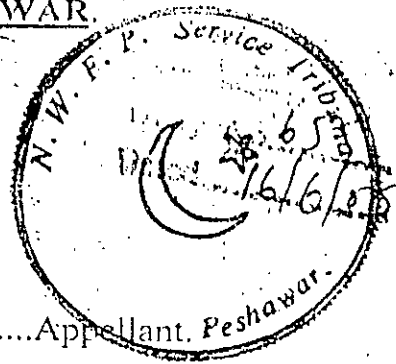
(MUHAMMAD ILYAS)
Section Officer (Schools)

ATTESTED
[Signature]

[Signature]
ATTESTED

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO. 546 /2005.



Mst: Dil Afroz, SET,
G.G.M.S, Kariplian, Haripur.....Appellant. Peshawar.

Filed to-day

VERSUS

Registrar

- 1- The Secretary Education, (S&L), NWFP, Peshawar.
- 2- The Director Education, (S&L), NWFP, Peshawar.
- 3- The E.D.O, (S&L), Haripur.
- 4- The Distt: Accounts Officer, Haripur.
- 5- The Secretary Finance, NWFP, Peshawar..... Respondents.

APPEAL UNDER SECTION -4 OF NWFP SERVICE TRIBUNAL ACT 1974 FOR ADJUSTMENT AND PAYMENT OF SALARIES.

9.

19.5.2006

Counsel for the appellant, Yaqoob-Elahi, Supdt: and Waris Shah, S/Auditor with AGP for respondent department present. Preliminary arguments heard & record perused.

This appeal u/s 4 of the NWFP Service Tribunals Act, 1974 is for adjustment as well as payment of salaries to the appellant.

It appears that the appellant in the Edu: Department while serving as SET was sent on deputation abroad w.e.f 1.5.91 to 30.4.94. Again she was granted Ex-Pakistan leave w.e.f 1.5.94 to 19.12.96 without pay which was extended upto 19.12.98 w.e.f 20.12.96. She was

ATTESTED

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NWFP EXAMINER
Peshawar Service Tribunal

Serial No. of Order or Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary. 3
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repatriated by the Provincial Government vide Notification dated 20.11.99 and was posted at GGMS Kriplian Haripur against the vacant post. It is alleged that the appellant reported her arrival for duty on 21.11.99, but she has not been paid her salaries and after exhausting her departmental remedy, she has approached the Tribunal for the redressal of her grievances.

The plea of the respondent department is that the appellant was adjusted at GGMS Kariplian on proper post of SET vide order dated 20.11.99. She reported at GGMS, Kariplian on the next date i.e 21.11.99 and after a single day arrival she is wilfully and unauthorizedly absent from duty w.e.f 22.11.99 to-date. It has also been averred that she remained absent without leave for the period from 20.12.98 to 20.11.99.

The Tribunal holds that since departmental proceedings have not been initiated against the appellant for her alleged absence and is still the employee of the Education Department as stated by departmental representative namely Yaqoob-Elahi. The department should, therefore, adjust the appellant against any vacant post and she should be paid the salaries for the period in-question, provided she has served, otherwise not. The intervening

ATTESTED

[Signature]

ATTESTED
EXAMINER
 NWFP Service Tribunal
 Peshawar

[Signature]

11

Serial No. of Order or Proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
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period be treated as leave of the kind due in accordance with law/rules. The instant appeal stands disposed of in limine in the above terms. No order as to costs. File be consigned to the record.

ANNOUNCED
19.5.2006

19/5/06
(ABDUL SATTAR KHAN)
CHAIRMAN
NWFP SERVICE TRIBUNAL
PESHAWAR.

Verified to be true copy.
[Signature]
Executive,
NWFP Service Tribunal,
Peshawar.

Date of Presentation of Applicant..... *22.5.06*
Number of Words..... *1200*
Copying Fee..... *2.00*
Urgent..... *2.00*
Total..... *4.00*
Name of Copyist..... *[Signature]*
Date of Completion of Copy..... *22.5.06*
Date of Delivery of Copy..... *22.5.06*

ANNOUNCED
[Signature]

adjustment
Took over on 12.07.2006

12

OFFICE OF THE EXECUTIVE DISTRICT OFFICER S&L HARIPUR.

ADJUSTMENT.

Consequent upon the decision/order of Honourable Services Tribunal NWFP passed out in writ petition No.546/2005 on 22-5-2006 Mst: Difafoz ex SET is allowed to join duty at Govt: Girls Middle School Gandian with effect from the date of taking over charge against vacant post.

- NOTE.
1. No TA/DA is allowed to any one.
 2. Charge report should be sent to all concerned.
 3. The intervening period of Mst: Dil Afroz SET will be decided separately.
 4. The Officer concerned should take over charge with in 15 days of the issue of this order.

sd
EXECUTIVE DISTRICT OFFICER
S&L HARIPUR.

Enclat: No. 1470/6 dated Haripur the 11-7 /2006.

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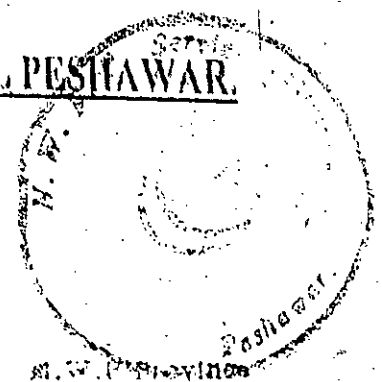
1. Registrar Service Tribunal NWFP w/r to his judgement of W.Petition No.mentioned above.
2. District Co-ordination Officer Haripur w/r to his approval contained in Para No.13 of Note Sheet in Personal File of appellant.
3. Director Schools & Literacy Deptt: NWFP Peshawar.
4. District Accounts Officer Haripur.
5. Headmistress, GGMS Gandian District Haripur.
6. Officer concerned.

ahsan
District Officer (F)
S&L Haripur.

sd
ATTESTED

E (13)

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.



APPEAL NO. 964 / 2006.

N.W.F.P. Service Tribunal
Peshawar
Date: 1/10/06
Order: 25/11/06

Mst. Ritaloo, SET,
GCMS, Gandian, Haripur..... Appellant.

VERSUS

- 1- The Secretary Education (S&L), NWFP, Peshawar.
- 2- The Director of Education (S&L), NWFP, Peshawar.
- 3- The E.D.O (S&L), Haripur..... Respondents.

Dependent of respondent
No. 3 Service Off. with co. doc
CW 4/7/06
Filed to-day

APPEAL UNDER SECTION -1 OF THE NWFP SERVICE TRIBUNAL ACT 1974 FOR DIRECTING THE RESPONDENTS TO CONSIDER THE APPELLANT FOR PROMOTION TO BPS-17 FROM HER DUE DATE.

PRAYER: That on acceptance of this appeal the respondent Deptt: may very graciously be directed to consider the appellant for promotion to BPS-17 being senior most and eligible from her due date under the rules. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

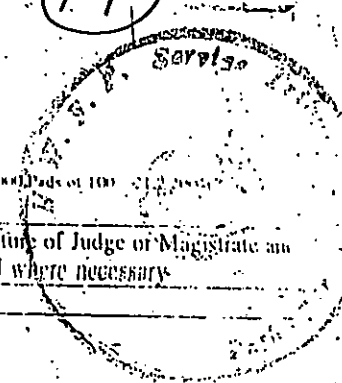
R.SHEWETH.

- 1- That the appellant was initially appointed as SV teacher in the year 1982. As the appellant was B.Ed trained therefore she was appointed as SET in the year 1984. Then on 24.4.85 the appellant was approved as SET by the Departmental Selection Committee. All entries are recorded in the service book the copy of which is attached as Annexure - A.

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14



Serial No. of Order or Proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
12.	15.12.2007	<p>Counsel for the appellant and AGP present. Heard & record perused.</p> <p>This appeal v/s 4 of the NWFP Service Tribunals Act, 1974 is regarding direction to the respondents to consider the appellant for promotion to BS-17 from her due date.</p> <p>It appears that the appellant while serving as SET in the Education-Department proceeded abroad on deputation in the year 1989 and remained there till 20.11.99. On her arrival, she filed an appeal No. 545/05 before the Tribunal for adjustment and payment of salaries. The Tribunal vide its order dated 19.5.06 directed that the appellant be adjusted against any vacant post and she should be paid salaries for the period in-quest provided she has served; otherwise not. In compliance with the order of the Tribunal the EDO(S&L) Haripur vide order dated 11.7.06 allowed the appellant to join duty at Govt. Girls Middle School, Gandian. It is alleged that in the year 2002, female SETs were promoted from BS-16 to BS-17, but the appellant has not been considered. After exhausting her departmental remedy, the appellant has approached the Tribunal for the redress of her grievances.</p>

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 NWFP
 Sargodha Division

15

Serial No. of Order or Proceeding 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3
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The gravamen of the appellant claim is that since no departmental proceedings were initiated against her during the absence period as alleged by the respondent department and she has now been adjusted, therefore, she is eligible to be considered for promotion to B5-17 and that she will not lose ^{her} seniority as claimed by the respondent department.

On the other hand, the plea of the respondent department is that the period of deputation of the appellant is more than five years i.e. from 1989 to 20.8.04 so her name will be removed/ deleted from the existing seniority list and she will not claim promotion/seniority over any junior who may have been promoted. She will be placed at the back of the seniority list on arrival of her duty i.e. 22.8.04, therefore, she lost her seniority position under the rules.

The Tribunal holds that the claim of the appellant is bonafide. She will not lose her seniority as claimed by the respondent department. Since her junior were promoted in 2002 and she was not considered for promotion, the respondent department is, therefore, directed to consider the appellant for promotion, subject to eligibility and

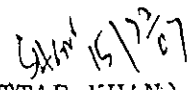
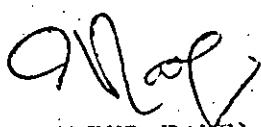
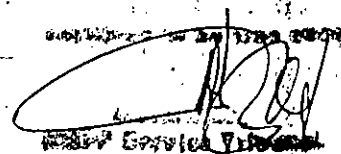
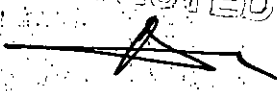
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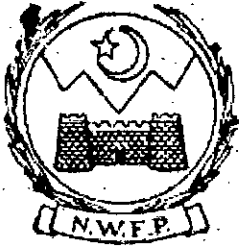
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 SECRETARY
 TRIBUNAL

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Serial No. of Order or Proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
		<p>according to law after observing all the codal formalities. The instant appeal stands disposed of in the above terms. No order as to costs. File be consigned to the record.</p> <p><u>ANNOUNCED</u> 15.12.2007</p> <p style="text-align: right;">  (ABDUL SATTAR KHAN) CHAIRMAN NWFP SERVICE TRIBUNAL PESHAWAR. </p> <p style="text-align: center;">  (DR. ABDUR RAUF) MEMBER </p> <p style="text-align: right;">  NWFP Service Tribunal Peshawar </p>
		<p> <i>Date of presentation of</i> 1600 19-12-07 <i>Number of words</i> <i>Pages</i> 10 <i>Urgent</i> 2 <i>Total</i> 12 <i>Name of</i> <i>Date of</i> 19-12-07 <i>Date of delivery of</i> 19-12-07 </p>
		<p>ATTESTED</p> 



F
17

**GOVERNMENT OF NWFP
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Dated Peshawar the 19-9-2009.

NOTIFICATION

NO.SO(PE)2-6/E&SE/DPC MEETING/09:

Consequent upon recommendations of the Departmental Promotion Committee, the competent authority is pleased to promote the following 64 Female SETs and 6 Male SETs from BS-16 to BS-17 (Headmistress/Headmaster) according to their seniority on regular basis with immediate effect:-

FEMALE

S.No.	Name of officer	Proposed Place for posting	Remarks
1	Dilafroz SET BA B.Ed GGMS Malkan A.Abad	H/M BPS-17, GGHS, Bagnotar Abbottabad	Against Vacant Post
2	Nasira Parveen SET, GGMS Esa Khel Peshawar	HM (BPS-17) GGHS Warsak Colony Peshawar	do
3	Zahida Perveen BA BEd SET GGHS Yakatoot Peshawar	HM (BPS-17) GGHS Sarband Peshawar	Vice Mst Bibi Zainab SS (Economics)
4	Mumtaz Begum BA B.Ed SET GGMS Markaz Korona Takht Bhai Mardan	HM (BPS-17) GGHS Pirsadi Mardan	Against Vacant Post
5	Afsar Jan SET GGCHSS Peshawar	HM (BPS-17) GGHS Mian Gujar Peshawar	Vice Mst Farhat Naveed SS (Urdu)
6	Hamida Bano, SET GGMS Qazi Abad Mardan	HM (BPS-17) GGHS Gumbat Mardan.	Against Vacant Post
7	Yasmin Begum BA B.Ed SET GGHS Sherpao Charsadda	Instructor RITE (F) Charsadda	do
8	Noor Jehan BA B.Ed SET GGCMHS Bannu City	HM (BPS-17) GGHS Bahadar Mughal Khel Bannu.	do
9	Surriya Bano BA BEd SET GGHS Mahra DI Khan	HM (BPS-17) GGHS Daraband Khurd D.I.Khan	do
10	Rafia Begum BA B.Ed SET GGHS No.3 Bannu	HM (BPS-17) GGHS No.2 Bannu	do
11	Safia Bibi BA B.Ed SET GGHS Manduzai Bannu	HM (BPS-17) GGHS Kotka Daulat Khan Bannu	do
12	Naseem Begum BA B.Ed SET GGMS Ashor Abad Nowshera	HM (BPS-17) GGHS Dheri Kati Khel Nowshera.	do
13	Johar Ashraf BA B.Ed SET GGHS Rustam Mardan	HM (BPS-17) GGHS Mian Khan Mardan.	do
14	Sajida Malik BA B.Ed SET GGMS Sandaysir Mansehra	HM (BPS-17) GGHS Parhana Mansehra.	do
15	Rubina Saleem BA B.Ed SET GGHS Shahalia Mansehra.	HM (BPS-17) GGHS Bahali, Mansehra	do
16	Shahida Hussain BA B.Ed SET GGHS Nowshera Kalan	HM (BPS-17) GGHS Jalbai Swabi	do

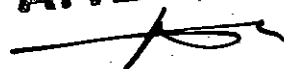
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7	Imtiaaz Begum BA B.Ed SET GGMS Matta Palangzai Charsadda	HM (BPS-17) GGHS, Bashir Khan Qila Charsadda	do
8	Kousar Nazli BSc B.Ed SET GGHS Sheikh Abad Peshawar.	HM (BPS-17)GGHS Sufaid Sang Peshawar	Against Vacant Post
9	Tahira Rehman BA B.Ed SET GGHS Nowshera Cantt	HM (BPS-17) GGHSS Shaidu Nowshera	do
10	Nasim Ara BA B.Ed SET GGCMS Swabi	HM (BPS-17) GGHS Miani Swabi.	do
11	Naheed Fida BA B.Ed SET GGHS Pind Kamal Haripur	HM (BPS-17) GGHS Kairian Haripur	do
12	Haseena Shaheen BA Bed SET GGHS No.2 KTS Haripur	HM (BPP-17) GGHS Noordi. Haripur	do
13	Nasreen Akhtar BA BED SET GGHSS Kot Najibullah Haripur.	HM (BPS-17) GGHS. Dingi Haripur.	do
14	Shahida Nasreen BA Bed SET GGHS Toru Mardan	HM (BPS-17) GGHS Shergarh Mardan	do
15	Masoom Jan MA B.Ed SET GGHS Takht Bhai Mardan	HM (BPS-17) GGHS Ikram Pur Mardan	do
16	Farhat Akhtar BSc B.Ed SET GGHS Chamkani Peshawar.	HM (BPS-17) GGHS Kotli Kalan Nowshera	do
17	Farzana Shaheen BSc B.Ed SET GGHSS Jogiwara Peshawar.	HM (BPS-17) GGHS Chargulai Mardan.	do
18	Zahida Begum, MA B.Ed AAEO (F) Khy Agy	Services placed at the disposal of DE (FATA)	
19	Shafqat Rana BA B.Ed SET GGHS No.2 Kohat.	HM (BPS-17) GGHS Ahmad Abad Karak	do
20	Mumtaz Bibi BA B.Ed, GGMS Saleh Khan Mandan Bannu	HM (BPS-17) GGHS Akhundan Mama Khel Bannu.	do
21	Shahida Naseem BA B.Ed SET GGMS No.2 Bannu	HM (BPS-17) GGHS Salima Sikandar Khel Bannu.	do
22	Saeeda Sultana BSc B.Ed GGCMS No.1 DIK	HM (BPS-17) GGHS. Wanda Hissam D.I.Khan.	do
23	Zahida Nasreen BA B.Ed SET GGHS Badrashi Nowshera.	HM (BPS-17) GGHS Nizampur Nowshera.	do
24	Nasreen Noor BA B.Ed SET GGHS Dargai Malakand	HM (BPS-17) GGHS.Wartiar, Malakand	do
25	Mamoonna BA B.Ed SET GGHS Bagra Bunir	HM (BPS-17) GGHS Bagra, Bunir	do
26	Naseem Akhtar BA B.Ed SET GGHS Mirpur A.Abad	HM (BPS-17) GGHS Bandi Matrach A.Abad	do
27	Jauhar Taj BA B.Ed ADO(F) Charsadda	HM (BPS-17) GGHS Mandani Charsadda	do
28	Gohar Jana BA B.Ed GGHS Paniala D.I.Khan	HM (BPS-17) GGHS, Bund Kurai, D.I.Khan	do
29	Rukhsana Begum BA B.Ed SET GGHS Sero Kila Bannu	HM (BPS-17) GGHS Ismail Khel Bannu.	do
30	Aisha Malik BA B.Ed SETGGHS Serai Saleh Haripur.	HM (BPS-17) GGHS Nagri Tutial A-Abad	do
31	Rubina Abbasi BA B.Ed SET GGHMS Dallo Khel Bannu/Planning Officer G-8-1	HM (BPS-17) GGHS Pezu Lakki Marwat subject to the condition that her promotion will be actualized on assumption of charge in parent cadre/department after repatriation.	do

A

42	Attia Firdos BA B.Ed SET GGMS Mir Ahmad Khel Kohat	HM (BPS-17) GGHS Keri Sheikhan Kohat	do
43	Nasreen Akhtar BA B.Ed SET GGCHSS TIP Colony Haripur	HM (BPS-17) GGHS Shamdara Mansehra	Against Vacant Post
44	Naeema Begum BA B.Ed SET GGHSS Balakot Mansehra	HM (BPS-17)GGHS Balakot Mansehra	do
45	Bibi Amna BA B.Ed SET GGCMS Mansehra	HM (BPS-17)GGHS Battal Mansehra	do
46	Azra Khatoon BA B.Ed SET GGMS Kaith Sarash Mansehra	HM (BPS-17) GGHS Tarangri Bala Mansehra	do
47	Sajida Bibi MSc B.Ed SET GHS Samandar Katta A.Abad	HM (BPS-17)GGHS Baran Ghali Abbottabad	do
48	Musarat Shaheen BA B.Ed SET GGHS Sarai Naimat Khan	HM (BPS-17) GGHS Sailkot A.Abad	do
49	Parveen Aziz BA B.Ed SET GGHS Data Mansehra	HM (BPS-17) GGHS Jareed Mansehra	do
50	Nighat Yasmeen BA B.Ed SET GGHS KTS No.2 Haripur	HM (BPS-17) GGHS Jabri Haripur	do
51	Bibi Fatima BA B.Ed SET GGHS Shakardara Kohat	HM (BPS-17) GGHS Bori Saghri Kohat	do
52	Farzana Bilquis BA B.Ed SET, GGMS, Kangra Haripur	HM (BPS-17) GGHS Hattar, Haripur	do
53	Sabnam Ara BA B.Ed SET GGHS No.2 A.ABad	HM (BPS-17) GGHS Bakot A.Abad	do
54	Shahida Nameer BA B.Ed GGCMS Kandi Kalo Khel Peshawar	HM (BPS-17) GGHS,Zaida Swabi	do
55	Iqbal Begum BA B.Ed SET GGHS Shahbaz Khel Bannu Now Transferred to DIK	HM (BPS-17) GGHS Kich D.I.Khan	do
56	Gulnaz SET BA B.Ed ADO (F) Banda Daud Shah Karak	HM (BPS-17) GGHS Jandri Karak	do
57	Kanwal Yasmeen BA B.Ed SET GGHS No.4 DIK	HM (BPS-17) GGHS Hatala D.I.Khan	do
58	Bushra Bibi (Bashiran Bibi)BA B.Ed SET GGMS Quttab Colony Tank	HM (BPS-17) GGHS No.2 Tank.	do
59	Shahana Yasmin BA B.Ed I/C DDO(F) DIK	DDO (F) BPS-17 D.I.Khan	Already occupied by her.
60	Sajida Nasreen BA B.Ed ADO (F) Kulachi DIK	HM (BPS-17) GGHS Bilot Sharif DI Khan	Against Vacant Post
61	Rashida Bano MA B.Ed ADO (F) Peshawar	HM (BPS-17) GGHS City Railway Station Peshawar	Vice Mst Farisa Akhtar SS (Chemistry)
62	Wahida Ali BA B.Ed GGHS N o.1 Hoti Mardan	HM (BPS-17) GGHS Rustam Khel Mardan	Against Vacant Post
63	Aysha Parveen BA B.Ed SET GGHS Kass Korona Mardan	HM (BPS-17) GGHS Katti Garhi Mardan	do
64	Mahmooda Shaheen BA B.Ed SET GGHS Akora Khattak NSR	HM (BPS-17) GGHS Beika Swabi	do

ATTESTED



Consequential posting /transfer of the following female Subject Specialists is also made with immediate effect:

S.No.	Name of officer	Proposed Place for posting	Remarks
1	Bibi Zainab SS (Economics) working as HM GGHS Sarband Peshawar	SS (Economics) GGHS Bilitang Kohat	Against Vacant Post
2	Mst Farhat Naveed SS (Urdu) working as HM GGHS Mian Gujar Peshawar	SS (Urdu)GGHS Mathra Peshawar	do
3	Mst Fareesa Akhtar SS(Chemistry) working as HM GGHS City Railway Station	SS (Chemistry)GGHS Dag Ismail Khel Nowshera	do

(MALE)

S.No.	Name of officer	Proposed Place for posting	Remarks
1	Muhammad Nishad BS-16 ADO O/O the EDO (E&SE) Dir Lower	HM (B-17) GHS Kadd Dir Lower	Against Vacant Post
2	Mian Farid Ullah SET BS-16 GMS, Amrai Bala Swabi	HM (B-17) GHS, Gajai Swabi	do
3	Mr. Abdul Ghaffar BS-16, SET, GHSS DHakki Charsadda	HM (B-17)GHSS Dhakki Charsadda	do
4	S. Ajaz Hussain SET BS-16 GHS Palosi Orakzai Agency	Services placed at the disposal of Director of Education FATA	
5	Mr. Inayat Ullah SET BS-16 GHS Mani Khela Charsadda	HM B-17 GHS Zuhrab Gul Killi Charsadda.	do
6	Mr. Ahmad Shah SET BS-16 GHS, Gul Abad Tangi Charsadda	HM (B-17) GHS, Barbar Opozai, Peshawar.	do

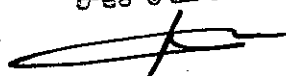
**SECRETARY TO GOVT OF NWFP
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Endst; of even no. & date:

Copy is forwarded to:-

- 1) Secretary to Govt of NWFP, Establishment Department, Peshawar.
- 2) Special Secretary (Regulation), Establishment Department, Govt of NWFP Peshawar.
- 3) Secretary to Govt. of NWFP, Finance Department, Peshawar.
- 4) Director (E&SE) NWFP Peshawar.
- 5) Executive District Officer (E & SE) concerned.
- 6) The Accountant General NWFP.
- 7) District Accounts Officer concerned.
- 8) Deputy Database Administrator (EMIS) Elementary & Secondary Education Peshawar.
- 9) PS to Secretary Elementary & Secondary Edu: Department
- 10) Officers concerned
- 11) Master file

ATTESTED




**(ARIF JAMIL)
SECTION OFFICER (PRIMARY)**

9
21

To:
The Secretary
E&S Edu Deptt: KPK
Peshawar.

Through: Proper Channel

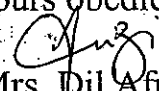
Subject: Claim of Arrear w.e.f Seniority

Sir,

I have the honour to request for favourable consideration the factor stated below:-

1. The date of taking over charge as SET regular (Trained graduate) is 24-03-1984.
2. I was promoted as headmistress on 20-09-2009 through DPC in compliance of honourable Service Tribunal, KPK Peshawar.
3. I have been awarded seniority at S.No.171. w.e.f 17-10-2002 in the tentative seniority list of SS&HM corrected upto 31-03-2011. It is all in pursuance of judgment announeed on 15-12-2007 by the "Service Tribunal, KPK Peshawar".
4. Therefore, I humbly request to kindly issue Notification enabling the undersigned to draw arrears from the due date ie 17-10-2002 according to seniority fixed.

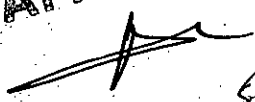
Thanks

Yours obediently

(Mrs. Dil Afroz)

H/M GGHS Bagnotar,
Abbottabad.

Dated: 2nd July, 2011

ATTESTED



Submitted to Director E & SE Pesh.

Vide EDO Pesh # 8303 dt 28-7-11

H
22

DIRECTORATE OF ELEMENTARY &
SECONDARY EDUCATION KHYBER
PAKHTUNKHWA PESHAWAR

NO. _____ /A-12/Dilafroz H/M

DATED PESHAWAR THE: 8 / 4 / 2012.

To

The Secretary
Elementary & Secondary Education
Department Government of Khyber Pakhtunkhwa

Subject: - CLAIM OF ARREAR W.E.F SENIORITY

Dear Sir,

I am directed to refer to the subject cited above and to enclose herewith the application of Mst. Dilafroz Headmistress GGHS Bagnetar Abbottabad received through Executive District Officer (E&SE) A/Abad regarding drawl of arrears from the date of allowing Seniority of H/M i.e. 17/10/2002 and to submit a brief history of the case is as under:-

1. Mst. Dilaforz was appointed as SV teacher in 1982 and later on she was appointed as SET on 25/01/1984. The teacher concerned proceeded abroad on deputation basis w.e.f 01/05/1989 to 30/04/1994 and Ex-Pakistan Leave w.e.f 01/05/1994 to 19/12/1998. During this period some junior teachers were promoted as Headmistress in BPS-17 and her name was dropped from the seniority list of BPS-17 as she remained in aboard. On her return from abroad she lodged an appeal in the Khyber Pakhtunkhwa Service Tribunal Peshawar for her promotion. The Khyber Pakhtunkhwa Service Tribunal accepted her appeal and directed the department to consider her name for promotion to BPS-17 (copy of the Judgment of the Service Tribunal dated 15/12/2007 is attached). The department implemented the decision of the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar and she was promoted to B-17 as H/M with immediate effect vide notification No.SO (PE) 2-6/ E&SE/DPC/Meeting/09 dated 19/09/2009, but she was given Seniority in BPS-17 in the light of para-7 of E&AD circular letter No.SOR-1 (S&GAD) 1-29/75 dated

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13/04/1987, but without arrear (copy of minutes attached). She has submitted an application for drawl of arrears from the date of allowing Seniority of H/M i.e 17/10/2002, but she is not entitled for arrear, as she was promoted as H/M (B-17) with immediate effect on 19/09/2009, therefore she is not entitled for arrear^{from} the date of allowing seniority.

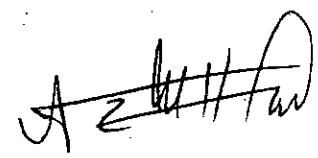
17

Deputy Directress (Estab:)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst: No. 1012-14

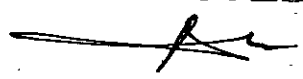
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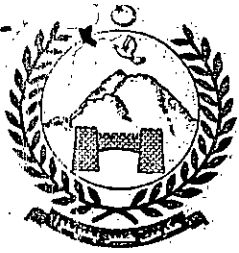
1. Executive District Officer (E&SE) Abbottabad w/r to his No.8303 dated 28/01/2012.
2. Mst. Dil Afroz Headmistress GGHS Bagnotar District Abbottabad.
3. P.A to Director E&SE Khyber Pakhtunkhwa Peshawar local Office.



Deputy Directress (Estab:)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

ATTESTED





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I (24)

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SE DEPARTMENT**

No.SO(S/F)E&SE/4-24/2012/Dilafroz HM Dated Peshawar the, April 10, 2012.

To

The Director,
Elementary & Secondary Education,
Peshawar.

SUBJECT:- CLAIM OF ARREARS W.E.F SENIORITY.

I am directed to refer to your letter No.1011/A-12/Dilafroz HM dated 8-4-2012 on the subject noted above and to state that this Department's notification No.SO(PE)2-6/E&SE/DPC/Meeting/09 dated 19-9-2009 is very much clear and requires no further clarification.

*Yasir Khan
2/4/2012*

*DDEFs
11/4/2012*

(Amir Hassan Khan)
SECTION OFFICER (S/F)

OFFICE OF THE DIRECTOR ELEMENTARY & SECONDARY EDUCATION: KHYBER PAKHTUNKHWA PESHAWAR

Andst:No. 3583-86 /A-12/1 promotion Dated 20/4 /2012.

Copy to the:-

1. Executive District officer (E&SE) Abbottabad for information & necessary action please.
2. Section officer (Female) Govt: of Khyber Pakhtunkhwa E&SE Dep TT:
3. Mst: Dil Afroz HM GHS Bagnotar Abbottabad.
4. MA to Director (E&SE) Khyber Pakhtunkhwa Pesh:

*Received
Dil Afroz
20-4-12*

26/4/2012
Deputy Director (Establishment)
Directorate of Elementary & Secy: Edu:
Khyber Pakhtunkhwa Peshawar.

ATTESTED

25

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Dil Afroz (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Educational Deptt (Respondent)
(Defendant)

I/we Dil Afroz (Appellant)

Do hereby appoint and constitute **M.Asif Yousafzai, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

Dil Afroz
(CLIENT)

ACCEPTED

M. Asif Yousafzai
M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 693/ 2012

Mst. Dil Afroz Headmistress District Abbottabad.....**Appellant.**

VERSUS

Secretary Elementary & Secondary Education Department & others.....**Respondents**

Para wise comments/ Reply for & on behalf of Respondents.

Respectfully Sheweth:

Preliminary Objections:

1. The appellant has no cause of action/ locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon 'able Tribunal, hence liable to be dismissed.
4. The appellant has not come to this Hon 'able court with clean hands.
5. The appellant has filed the instant appeal just to pressurize the Respondents.
6. The present appeal is liable to be dismissed for non joinder/ misjoinder of necessary parties.
7. That appellant has filed the instant appeal on malafide motives.
8. The instant appeal is against the prevailing law and rules.
9. The appellant is estopped by her own conduct to file the instant appeal.
10. That the instant appeal is not maintainable in the present form and also in the present circumstances of the issue.
11. The present appeal is barred by the principle of res-judicata.

ON FACTS.

1. This para pertains to service record of the appellant, hence no comments.
2. No comments.
3. It would not be out of context to mention here that in the said judgment dated 19-05-2006, this Honourable Tribunal in para five clearly mentioned that the Department should therefore, adjust the appellant against any vacant post and she should be paid the salaries for the period in question, provided she has served, otherwise not. While in present appeal, the appellant claimed the arrears for the period, during which she has not served, as Headmistress annexure-C of the appeal.
4. It is pertinent to mention here that this Honourable Tribunal in judgment dated 15-12-2007 in Service Appeal No. 964/2006, directed to consider the appellant for promotion subject to eligibility and according to law after observing all codal formalities. And no arrears as other remedy was directed by this Honourable Tribunal. The appellant did not file appeal in the Apex

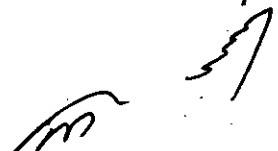
Court against the said judgment. Now the appellant is not competent to agitate the same issue once again before this Honourable Tribunal (Annexure-E of the appeal).

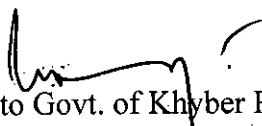
5. Incorrect. The appellant was considered for promotion in compliance to the directions of this Honourable Tribunal dated 15-12-2007 and promoted to the post of Headmistress BS-17 with immediate effect according to law and rules. It is pertinent to mention that promotion is always granted/ allowed with immediate effect (Annexure-A).
6. Incorrect. The appellant has no cause of action. No order was passed against the appellant on 10-04-2012. Moreover, the prayer of the appellant is not in accordance with the prevailing laws, rules on the subject, against norms of natural justice, against the procedure, without any legal proof, with any cogent reason/ justification, without performing duties as Headmistress hence the present appeal is liable to be dismissed inter alia on the following grounds:-

ON GROUNDS:-

- A. Incorrect and not admitted. The appellant's claim for arrears is against the law, rules and norms of justice. The appellant has not served against the Headmistress post, for which the appellant is claiming arrears. While according to law and rules on the subject, the promotion is always allowed with immediate effect (Annexure-A).
- B. Incorrect. The appellant has been treated according to law and rules and not entitled for arrears as claimed in the present appeal.
- C. Incorrect and not admitted. The statement of the appellant in this para is without any legal support, hence denied.
- D. Incorrect. The appellant was on abroad deputation. Moreover, under the principle of rest-judicata, the appellant can not agigate the same matter which has already been settled by this Tribunal on 15-12-2007 in pursuance of her Service Appeal No. 964/06.
- E. Incorrect and not admitted. The appellant is not entitled for any promotion arrears, without performing any additional duties of Headmistress during the period as mentioned in the present appeal.
- F. That the respondents seek the permission of this Honourable Tribunal to adduce more grounds and proof at the time of hearing.

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


Director,
Elementary & Secondary
Education Khyber Pakhtunkhwa.


Secretary to Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department.
(For and on behalf of Respondent # 1 & 2)

within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

→ VI. Date of Promotion:
Promotion will always be notified with immediate effect.

VII. Notional Promotion:
In respect of civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired.

VIII. Promotion of Civil Servants who are awarded minor penalties.

- (a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.
- (b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX. Promotion in case of pending investigations by NAB:

If there are any NAB investigations being conducted against an officer, the fact of such investigations needs to be placed before the relevant promotion fora which may take a considered decision on merits of the case.

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 20 ST

Dated 5 / 1 / 2016


To

The Secretary E&SE,
Peshawar.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 23.12.2015 passed by this Tribunal on subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.