


25.09.2023

Learned counsel for the appellant present.
Mr. Lutf Ullah, Assistant alongwith Mr. Asif Masood Ali
Shah, Deputy District Attorney for the respondents
present.

Para-wise comments on behalf of respondents
received through office. Copy of the same handed over to
learned counsel for the appellant, who requested for
adjournment on the ground that he has not gone through
the para-wise comments submitted by the respondents.
Adjourned. To come up for preliminary hearing on
23.10.2023 before the S.B at Camp Court Abbottabad.
Parcha Peshi given to the parties.


Member (J)
Camp Court Abbottabad

Naeem Amin

19th June, 2023

1. Learned counsel for the appellant present and has been heard.

2. Though the appeal has been resubmitted after fifty two (52) days as against fifteen (15) days given to the appellant yet in the interest of justice the office objection is removed subject to the objection regarding the limitation if any taken by the other side and the office is directed to assign appeal number to this appeal.

3. Let pre-admission notice be issued to the other side. To come up for written reply/comments as well as preliminary hearing on 25.09.2023 before the S.B at camp court Abbottabad. P.P given to the parties.



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

Adnan Shah, P.A

29.03.2023

Appellant present through counsel.

He made a request for adjournment in order to prepare the brief. Adjourned. To come up for arguments on office objection on 25.04.2023 before S.B at Camp Court, Abbottabad. Parcha Peshi given to the appellant.



(Rozina Rehman)

Member (J)

Camp Court, Abbottabad

25-4-23

Due to public holiday to come
up for the same on 19-6-23

Am
Reader

Respected Sir,

It is submitted that the present appeal was received on 12.12.2022 after thoroughly scrutinizing the same many deficiencies were found in it which was returned to the counsel for the appellant for completion and resubmission within 15 days which was to be resubmitted on 28-12-2022 but counsel for the appellant re-filed the same through registered post which was received on 20.02.2023 late by 52 days without removing the objection no.6, 7, 8 & 11.

The appeal is submitted to your Honour under rule-7(c) of Khyber Pakhtunkhwa Service Tribunal rules 1974 for appropriate order please.

REGISTRAR

20/2/2023

Worthy Chairman

The appeal submitted by Mr. Muhammad Arshad Khan Tanoli Advocate today i.e. on 12.12.2022 is incomplete on the following score which is returned to him for completion and resubmission within 15 days.

1. ✓ Check list is not attached with the appeal.
2. ✓ Appeal has not been flagged/marked with annexures marks.
3. ✓ Annexures of the appeal may be attested.
4. ✓ Affidavit may be got attested by the Oath Commissioner.
5. ✓ In the memo of appeal many places have been left blank which may be filled up.
6. ⑥ Copy of first appointment and termination order mentioned in para-1 of the memo of appeal (Annexure-A) are not attached with the appeal which may be placed on it.
7. ⑦ Copy of Order dated 05.04.1997 attached with the appeal is illegible which may be replaced by legible/better one.
8. ⑧ Address of appellant is hand written which is not acceptable the same may be written according to Khyber Pakhtunkhwa service tribunal rules 1974.
9. ✓ Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.
10. ✓ Wakalat nama in favour of appellant be placed on file.
11. ⑪ The documents that are to be provided must be legible.

No. 3588 /S.T,

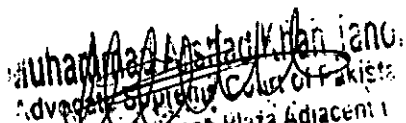
Dt. 13-12 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M. Arshad Khan Tanoli Adv.
High Court A.Abad.

Sf8

Downs and server
Appeal is re submitted
as desired


Muhammad Arshad Khan Tanoli
Advocate of Supreme Court of Pakistan
Office # 33 Jinnah Plaza Adjacent to
Distt: Bai Abbottabad

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWA

CHECK LIST

M. A. Khan Versus Govt of KPA & others
 Appellant Respondents

S NO	CONTENTS	YES	N
1.	This petition has been presented by: <u>M. A. Khan Advocate Supreme Court Peshawar</u>	✓	
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3.	Whether appeal is within time?	✓	
4.	Whether the enactment under which the appeal is filed mentioned?	✓	
5.	Whether the enactment under which the appeal is filed is correct?	✓	
6.	Whether affidavit is appended?	✓	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8.	Whether appeal/annexures are properly paged?	✓	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10.	Whether annexures are legible?		
11.	Whether annexures are attested?	✓	
12.	Whether copies of annexures are readable/clear?	✓	
13.	Whether copy of appeal is delivered to AG/DAG?	✓	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15.	Whether numbers of referred cases given are correct?	✓	
16.	Whether appeal contains cutting/overwriting?	✓	
17.	Whether list of books has been provided at the end of the appeal?	✓	
18.	Whether case relate to this court?	✓	
19.	Whether requisite number of spare copies attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?	✓	
21.	Whether addresses of parties given are complete?	✓	
22.	Whether index filed?	✓	
23.	Whether index is correct?	✓	
24.	Whether Security and Process Fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled

Name:- Zahid Nawaz

Signature:- [Signature]

Dated:- 17/02/23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No 2017 2022

Matiullah Pst GMPs Bhatt Batta gram.

....APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary and
Secondary Education, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL


INDEX

S.#	Description	Page No.	Annexure
1.	Service appeal along with affidavit	1 to 6	
2.	Copy of appointment order and termination order of the appellant	7-8	"A"
3.	Copy of appointment order dated 28.02.2018 of the appellant	9-11	"B"
4.	Copy of department appeal	12	"C"
5.	Wakalatnama	13	


....APPELLANT

Through

Dated: _____/2022


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
at Abbottabad

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. ~~2017~~ 2023

Matiullah PST GMPs Bhatt Bhattagram

....APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director, Elementary & Secondary Education (E&SE), Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male) Battagram.

...RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
ACT 1974 FOR DECLARATION TO THE EFFECT
THAT THE APPELLANT WAS APPOINTED ON
27-8-95 AND WAS TERMINATED FROM THE
SERVICE ON 5-4-97. THEREAFTER, THE
APPELLANT GOT APPOINTMENT AS PST ON
28.02.2018, AS PER KP SACKED EMPLOYEES
APPOINTMENT ACT 2012, BUT PREVIOUS

SERVICE W.E.F 27-8-95 TO 5-4-97 AND
2012 TO 28.02.2018 HAS NOT BEEN COUNTED
TOWARDS CALCULATION OF PENSION BY THE
DEPARTMENT.

PRAYER: ON ACCEPTANCE OF INSTANT
SERVICE APPEAL, THE RESPONDENTS'
DEPARTMENT MAY GRACIOUSLY BE DIRECTED
TO COUNT PREVIOUS SERVICE W.E.F 27-8-95
TO 5-4-97 AND 2012 TO 28.02.2018 OF THE
APPELLANT TOWARDS CALCULATION OF
PENSION AND COMMUTATION.

Respectfully Sheweth;-

The facts forming the background of the instant service
appeal are arrayed as under;

1. That the appellant got appointment in the
respondents' department on 27-8-95 and his
service was terminated on 5-4-97. Copy of
appointment order and termination order of the
appellant is annexed as Annexure "A".

2. That, the Khyber Pakhtunkhwa announced KP Sacked Employees appointment Act 2012, wherein, the employees appointed in the year 1993-94 and was terminated in the year 1997-98 were to be re-instated in service.
3. That, as per KP Sacked Employees appointment Act 2012, the appellant was appointment PST on the 28.02.2018, but his previous service w.e.f 27-8-95 to 5-6-97 and 2012 to 28.02.2018 has not been counted towards calculation of pension/commutation of the appellant. Copy of appointment order dated 28.02.2018 of the appellant is annexed as Annexure "B".
4. That, the appellant filed departmental appeal to respondents' department but of no avail. Copy of departmental appeal is annexed as Annexure "C". Hence, the instant service appeal is filed inter-alia on the following grounds.

GROUNDS:-

- a. That as per judgment of service tribunal as well as of the Apex Court protected period of service has been declared to be counted

towards calculation of pension/ commutation of the sacked employees. Therefore, the appellant is entitled to have the period w.e.f 27.8-95 to 5-4-97 and 2012 to 28.02.2018 counted towards calculation of pension and commutation.

- b. That, department was supposed to count the above mentioned period of the appellant towards calculation of pension etc on the analogy of similar and similarly placed employees.
- c. That the respondents' department is supposed to have one yard stick while dealing with the employees who are similarly placed. Besides, once a point of law is decided by the Superior Courts that must be made applicable to all the employees who are similarly placed and no discrimination may be made out.
- d. That the matter in issue relates to the terms and conditions of service, therefore, the Honourable Tribunal has jurisdiction to


entertain the lis under Article 212 of the
Constitution.

It is therefore, very humbly prayed, that on
acceptance of instant service appeal, the respondents'
department may graciously be directed to count previous
service w.e.f 27-8-95 to 5-4-97 and 2012 to
28.02.2018 of the appellant towards calculation of
pension and commutation.


..APPELLANT

Through;

Dated; _____/2022


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
at Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. _____ 2022

Matiullah PST GMPs Bhai Bhattagram

....APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary and
Secondary Education, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Matiullah PST GMPs Bhai Bhattagram.

do hereby solemnly affirm and declare that the contents of foregoing appeal
are true and correct to the best of my knowledge and belief and nothing has
been concealed therein from this Honourable Court.


DEPONENT

Annex A P 07

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) PRIMARY DISTRICT OF BATTAGRAM

OFFICE ORDER NO. 8

APPOINTMENT IN THESE DATE
VACANCIES

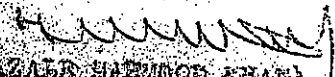
DATED BATTAGRAM THE 27/8

The following candidates are hereby appointed against the leave vacancy mentioned against each in the R/O No. 7 of B.S. 1433/78 plus usual allowances as admissible under the rules with effect from the date of their taking over charge in the interest of public services.

S.N.	Name of Candidate, P/F Name Residence	NAME OF SCHOOL WHERE APPOINTED	REMARKS
1.	Mattullah S/O Gul Mohammad Khan, Residence of Villana Piscool.	GPS, Gat Haroon	Against V/A
2.	Shahid Mohammad S/O Mohammad Mustafa R/O Kundar Battagram.	Mosque School Balmal.	Against Leave Vacancy.

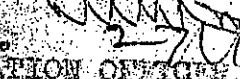
TERMS & CONDITIONS

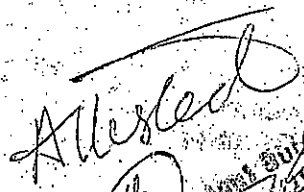
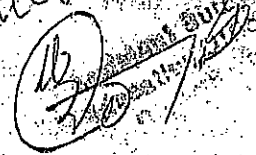
- Charge report should be submitted to all concerned.
- Their appointment is purely temporary basis liable to be terminated on the arrival of original incumbent.
- He should be produce his age & health certificate from the M.S. D/O Bahachra.
- The age of candidates should not less than 15 years or more than 33 years.
- They will be governed under the prescribed minor services rules Govt. of W.P.

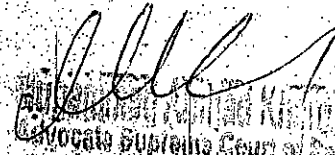

 (NAZAM MAHMOOD KHAN)
 DISTRICT EDUCATION OFFICER (M)
 SECONDARY BATTAGRAM.

Order No. 106 / 80 Dated Battagram the 27/8 1978.
Copy of the above is forwarded to the:-

1. B.S.O. Honorable Minister for Primary Education P.W.R.
2. Sub Divisional Education Officer (M) Battagram.
3. District Account Officer Battagram.
4. Candidates concerned.
5. HEAD MASTER H.S.O. School Balmal and other


 Gas Haroon,
 DISTRICT EDUCATION OFFICER
 (M) PRIMARY BATTAGRAM.


 Attested

 District Education Officer (M) Battagram


 Advocate Supreme Court of Pakistan
 Office # 13 Anam Plaza Adjacent to
 D. H. H. B. B. B.

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PRIMARY BATTAGRAM.

NOTIFICATION: APPOINTMENTS: DISTRICT MERIT.

Consequent upon their Selection by the Departmental Selection Committees & approved vide Director Primary Education N.W.F.P. Peshawar F.No-1/DPE/M&A, Dated, 13/10/1997, the District Education Officer (Male) Primary Battagram has been pleased to appoint the following P.T.C.s (trained) Male candidates at the schools noted against their names in B.P.S.NO.7 Rs-1480-S1-2695.p.m. plus usual allowances as admissible under the rules, purely on merit basis, with immediate effect subject to the existing terms & conditions:-

S #	MERIT NO.	Name of Candidate & father's name & address.	N/O E/C	D/O BIRTH	Name of School where Appointed.	Remarks.
1	1	Amanullah S/o Sher Muhammad Khan r/o Ajmira.	MAN	27/1/1976	GPS: Shrinabad.	Vice Mr. Insiadullah Term: as not set on merit.
2	2	Haq Nawaz Khan S/o Shireen Khan r/o Deedal	MAN	01/05/73	GPS: Kandari.	Vice Shamsul Wahhab Term: as not set on merit.
3	3	Muhammad Ayaz S/o Rozam Khan r/o Ajmira.	MAN	12/4/1973	GPS: Borey Chohan.	Vice Fazal Wahhab. Term: as not set on merit. ✓
4	4	Shah Ur Rehman S/o Muhsin. r/o Thakot.	JAM	7/1/1973	GPS: Shawlbarey.	Post: Already Occupied
5	5	Zaber Khan S/o Haqiq Khan r/o Battagram.	MAN	06/06/74	GPS: Tarnow.	Vice Qudrat Ali Shah Term: as not set on merit.
6	6	Gul Raiz Khan S/o Qaus Khan r/o Koshgram.	AIQU	11/10/70	GPS: Saproona.	Vice Alanzeb Term: as not set on merit.
7	7	Mir Afzal Khan S/O Muhammad Afzal r/o Pora.	MAN	15/02/77	GPS: Tarnowanidan.	Vice M. Shirin Term: as not set on merit.
8	8	Niaz Muhammad S/O-Saif Qahar r/o K/Banda.	JAM	20/04/75	GPS: Hanjpe.	Vice Tahirraiz Khan. Term: as not set on merit.
9	9	Hayat Muhammad Khan S/o Mujib Khan r/o Pashto.	AIQU	20/04/76	GPS: Pami Pashu.	Vice Amir Zada Term: as not set on merit.
10	10	Zulficar Ali S/o Muhammad Miskeen r/o Jesole.	MAN	08/01/75	GPS: Gat Haroon.	Vice M. Shafiq Term: as not set on merit.
11	11	Badshah Zareen S/o Mehraj Nabi r/o Jesole.	MAN	01/01/74	GPS: Gat Haroon.	Vice Mufillah. Term: as not set on merit. ✓
12	12	Shah Faisal S/o Shahi Rozam r/o Chanjil.	MAN	03/04/74	GPS: Malkot.	Vice Nasherwan. Term: as not set on merit.
13	13	Muhammad Sarwar S/O Gul Tara r/o Ajmira.	HRP	21/02/71	GMP Gorati Ashari.	Vice Anwar Zamin. Term: as not set on merit.
14	14	Banas Khan S/o Gul Muhd: Khan r/o Battamohri.	PSH	25/01/76	GPS: Kohani.	Vice Ihsanullah. Term: as not set on merit.
15	15	Shamsur Rehman S/o Ghulam Yousaf r/o Battagram.	JAM	18/02/73	GPS: Asharo Kiley.	Vice Gulam Term: as not set on merit.
16	16	Shazada S/o Abdul Mateen r/o Battamohri.	MAN	07/04/75	GPS: Kadlo Balz.	Post: Already Occupied.
17	17	Said Ayub Shah S/o Said Tahir Shah r/o Bilandkot.	MAN	01/04/73	GPS: Shagai.	Vice Abdullah. Term: as not set on merit.
18	18	S/Hamidullah S/O Saeedullah r/o Pashto.	AIQU	15/04/71	GPS: Nal Pashto	Post: Already Occupied.
19	19	Ishak S/o Maser Shah r/o Chanjil.	MAN	05/03/78	GPS: Chanjil	Vice Razi Muhammad. Term: as not set on merit.
20	20	Abdul Hamid S/o Qasim Khan r/o Chappargram.	MAN	02/02/73	GPS: Tanni	Vice Noor ul Islam. Term: as not set on merit.
21	21	Faizur Rahman S/O Ahmad Sherin r/o Kund.	MAN	15/09/78	GPS: Shamshair	Vice Alar Zeh. Term: as not set on merit.
22	22	Yousaf Khan S/O Said Khan r/o Tailoos	MAN	15/06/75	GPS: Rashang/B: yaro	Vice Fiazir Rehman. Term: as not set on merit.

(Handwritten signature)
Office of the District Education Officer (Male) Primary Battagram

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
BATTAGRAM



Email: emishattagram@gmail.com Ph# 0997-543539/ 543540

APPOINTMENT OF SACKED EMPLOYEES AGAINST PST POST

Annex-B

In compliance of the Judgment of Honorable Peshawar High Court Abbottabad Bench Dated:24-05-2016 in W.P No.516-A/2013 upheld by Honorable Supreme Court of Pakistan Vide Order dated:24-05-2017 passed in Civil petition No: 401-P/2016, other connected civil petitions and the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 & recommendation of the Departmental Selection Committee, appointment of the following sacked employees is hereby ordered against the vacant posts of Primary School Teachers (PSTs), in BPS-12 @ (Rs. 13320-960-42120) plus usual allowances as admissible under the rules & existing policy of the Provincial Government; in Teaching Cadre at Schools mentioned /noted against each on the terms and conditions given below with effect from the date of their taking over charge:

S.//	M. No	Name	Father Name	Date of Birth	Qualif:	CNIC	Village/ UC	Place of Posting
1	1	Abdul Ghafar	Firdus Khan	07/04/1969	FA	13201-7899868-9	Biari Allai	GPS Umaray Karg
2	2	Fazal Wahab	Abdul Wahab	24/03/1970	SSC	13202-8014480-7	Banian	GPS Deedal
3	3	Muhammad Afzal Khan	Jamroz Khan	10/04/1970	SSC	13202-0775644-9	Battagram	GPS Rakban
4	4	Abdul Ghani Shah	Syed Manaur Shah	01/9/1970	SSC	13202-0774792-5	Kuzabanda	GPS Banda Bala
5	6	Matiullah	GuL Muhammad Khan	27/02/1971	SSC	13202-7264505-3	Battamori	GMPS Dhait 1/3
6	8	Mohammad Momtaz	Faiz Ali Khan	20/4/1971	SSC	90403-0117926-5	Shamlai	GPS Doonga 1/1
7	9	Amir Muhammad	Muhammad Musa Khan	9/5/1971	FA	13201-1818870-1	Banna Allai	GMPS Gatkwa
8	10	Taj Zarin Haq	Khairoo	02/6/1971	FA/PTC	13201-1829757-9	Jambora	GPS Pitow Cheeran
9	11	Muhammad Sultan	Ghazi	13/06/1971	FA/PTC	13202-0747322-5	Rajdhari	GPS Rajdhari
10	12	Gul Zahir Shah	Cheragh Shah	6/8/1971	SSC	13202-9514369-5	Ajmera	GPS Gandori
11	13	Raza Muhammad	Awal Khan	03/12/1971	SSC	13202-0746180-5	Battagram	GPS Chinow
12	14	Muhammad Fayyaz	Aurang Zeb	02/01/1972	FA	13202-0783921-5	Peshora	GPS Peshora
13	15	Faizul Bari	Mohammad Naeem	09/01/1972	SSC	13202-0732901-3	Thakot	GPS Barsar
14	16	Ghulam Farooq	Ajoon Khan	12/01/1972	SSC	13202-8197762-9	Mano Mera	GPS Banda Chari Said
15	17	Niaz Mohammad	Muhammad Essa Khan	01/02/1972	SSC	13201-1812582-9	Banna Allai	GPS Asharban
16	18	Saifur Rehman	Hazar Bakht Khan	02/3/1972	SSC	13202-8878153-5	Arghashori	GPS KoyKandi
17	19	Momin Khan	Gul Namroze	10/5/1972	FA	13202-0732732-7	Amlook Banda	GPS Chatoo
18	20	Abdullah	Istifanosh Khan	19/06/1972	FA	13202-7155960-9	Thakot	GPS Maidan Kannai
19	21	Muhammad Umar	Rehmat	16/7/1972	SSC	13201-1820428-9	Rashang Allai	GPS Kishal Rashang
20	23	Amal Jan	Saiful Haq	20/12/1972	FA/PTC	13202-0772078-7	Kuzabanda	GPS Kaktai
21	24	Syed Farhad Shah	Muhammad Zahir Shah	3/3/1973	SSC	13202-0763560-7	Pirhari	GPS Ranjha

محمد طارق پرویز
Advocate Supreme Court of Pakistan

25	Javed Muhammad Iqbal	Aurang Zeb Khan	4/3/1973	FA	13202-0745491-9	Thakot	GPS Faqiroo	
23	26	Gul Farn	Shah Jehan	12/03/1973	MA	13202-0741274-5	Chappargram	GMPS Markhanai
24	27	Liaqat Ali	Ibrahim	12/03/1973	SSC	13202-8959656-7	Ajmera	GMPS Bansair
25	28	Rab Nawaz Khan	Afsar Muhammad Khan	15/4/1973	SSC	13202-0749397-7	Trand	GPS Kotgala
26	29	Syed Ali Shah	Ashad Mian	25/04/1973	SSC/PTC	13201-9941924-5	Jambera	GPS Kot Sar
27	30	Sabir Alam	Jan Alam	10/6/1973	FA/PTC	13201-7115223-7	Kund Allai	GPS Sar Banjar
28	32	Muhammad Younus	Ghulam Nabi	08/12/1973	SSC	13202-0784422-5	Ajmera	GPS Toopkani
29	33	Shah Rozam Khan	Hayat Khan	16/4/1974	SSC	13202-6874360-9	Ajmera	GPS Karghari
30	35	Abdul Haq	Azim Khan	28/8/1974	SSC	13202-0782417-1	Shingri Kakarshang	GPS Bilandpatay
31	38	Muhammad Saleem	Maraj Nabbi	4/01/1975	FA/PTC	13202-0777202-1	Battamori	GPS Joze
32	39	Jamilur Rahman	Sher Muhammad Khan	15/01/1975	FA	13202-1556740-5	Shamlai	GPS Shamlai
33	42	Zulfiqar Ali	Hidayatullah Khan	20/02/1975	FA/PTC	13202-0764712-7	Battagram	GPS Umaray Pokal
34	43	Fazlur Rahman	Abdul Hamid	02/3/1975	SSC	13202-0728803-7	Kakarshang	GPS Nehrai Ayub
35	44	Rustam	Sabir	4/3/1975	SSC	13202-0725558-1	Rajmera	GPS Saidano Sar
36	45	Badiu Zaman	Talih Muhammad Khan	5/3/1975	SSC	13202-0736662-1	Gidri Taleh Muhammad	GPS Nogram
37	46	Alam Zaib	Mashal Khan	08/03/1975	SSC	13202-0738239-7	Gijbori	GPS Malkot
38	47	Amir Muhammad	Jan Muhammad Khan	01/04/1975	SSC	13202-0754006-9	Tamai	GPS Soorgai
39	48	Syed Wahab Shah	Mehmood Said	05/05/1975	SSC	13202-4331045-5	Ghari Nawab Syed	GPS Jabba Asharban
40	49	Attaullah	Muhammad Saeed	6/6/1975	FA	13202-7799306-5	Bajmera	GPS Thaya Jadeed
41	50	Inamullah	Haji Bara Khan	12/6/1975	FA	13202-7230467-9	Jesol Bazargai	GPS Ughaz Pazang
42	51	Anwar Ullah	Muhammad Ullah	10/11/1975	SSC	13201-1833629-9	Blari Allai	GPS Sarkhailosar
43	52	Muhammad Javed	Mir Ahmad Khan	12/11/1975	SSC	13202-0724730-7	Gijbori	GPS Pashto
44	53	Wali Muhammad	Roshan Khan	15/11/1975	FA/PTC	4200-495828-9	Pora	GPS Deshwal
45	54	Muhammad Khalid Khan	Sultan Room Khan	01/01/1976	FA/PTC	13202-0748701-3	Battagram	GPS Uchar Gantar
46	55	Attiq Ur Rehman	Abdur Rehman	01/01/1976	SSC	132020-726166-3	Gijbori	GPS Peza Banjar

TERMS & CONDITIONS:

1. Their services will be considered as regular in terms of section 19 of the KP Civil servant act 1973 amended in 2013 issued vide Govt of KP Finance Department (Regulation wing) No SOS R-III/FD/12-1/2005 dated 27-02-2013. They will be governed by such rules and regulations as may be framed by the Govt from time to time for the category to which they belong.
2. This appointment order is subject to the Court decision in W.P.No: 1187-A of 2015, W.P.No: 1135-A of 2015 & W.P.No: 1056-A of 2015.
3. They will be on probation for a period of one year extendable to another year keeping in view their performance.


 Advocate Supreme Court of Pakistan
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- Their appointments have been made in pursuance of Khyber Pakhtunkhwa Sacked Employee (Appointment Act: 2012), hence under section 5 of the said Act: they shall not be entitled to any claim of seniority, promotion or other back benefits.
5. The period during which they remained dismissed, removed or terminated from service till the date of their appointment shall have been deemed automatically relaxed. Their appointment has been made in pursuance of Khyber Pakhtunkhwa Sacked Employee (Appointment) Act 2012, Hence under section 4 of the said Act the period during which they remained dismissed, removed or terminated from service till the date of their appointment shall have been deemed automatically relaxed.
 6. Their Services are liable to termination on one month prior notice from either side. In case of resignation without prior notice, their one month pay plus allowances shall be forfeited to Government treasury.
 7. The appointment is made subject to the condition that the candidate is permanent domicile holder of District Battagram.
 8. If their performance is found un-satisfactory, they will be proceeded under E&D Rules, 2011.
 9. DDO Concerned will submit copies of their documents to this office for verification after 30 days of the issuance of appointment order to be sent for verification to concerned Board/ Universities. Pay will not be released by the DDO Concerned until and unless notification to this effect is issued by this office that their certificates are verified, anyone found producing bogus, forged documents his appointment order shall stand automatically cancelled from the date of his appointment order & will be reported to law enforcing agencies.
 10. They shall obtain Medical fitness certificate from Medical Superintendent / Civil Surgeon DHQ Hospital Battagram within seven days from the date of taking over charge.
 11. The competent authority has the right to rectify the errors / omissions if any noted / observed at any stage.
 12. Before handing over charge, once again their documents may be checked by the DDO concerned.
 13. The prescribed qualification for appointment of PST as per appointment Policy in vogue during 1996-97 is SSC from a recognized Board with PTC Certificate / ADE from a recognized University / Institute. Candidates not in possession of requisite training shall acquire the same within 03 Three years from the date of issuance of this appointment order, failing which their appointment order shall stand cancel automatically, in the light of Judgment passed by the Peshawar High Court Abbottabad bench dated: 24-05-2016 upheld by the Supreme Court of Pakistan vide order dated: 24-05-2017.
 14. They shall join their post within 30 days of the issuance of this appointment order if no willingness or response is received / failed to assume the charge of his/ their post within stipulated period, their / his candidature will stand automatically cancelled and the next senior sacked employee shall be considered for appointment in the light of section 7(3) of Khyber Pakhtunkhwa SACKED Employees (Appointment) Act, 2012.
 15. Charge reports should be submitted to all concerned.
 16. No TA/DA is allowed.

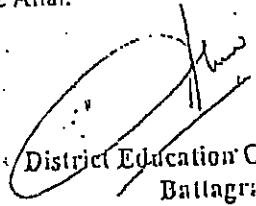
Jehan Muhammad
District Education Officer (M)
Battagram

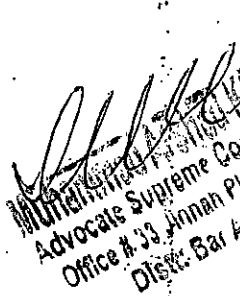
Endst No 1775-84 /EB-III/ PST Sacked

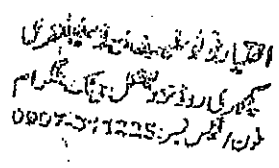
Dated 28/02/2018

Copy forwarded for information and necessary action to the:-

1. Additional Registrar Peshawar High Court Abbottabad Bench w/r to Judgment passed in W.P No.516-A / 2013 announced on 24.5.2016.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. PS to the Secretary to Govt. Khyber Pakhtunkhwa E&SE Department Peshawar.
4. Deputy Commissioner Battagram.
5. District Accounts Officers Battagram.
6. District Monitoring Officer IMU Battagram.
7. Sub Divisional Education Officers (Male) Battagram & Allai.
8. Teachers Concerned.
9. Master File.


District Education Officer (M)
Battagram


Advocate Supreme Court of Pakistan
Office # 33 Jinnah Plaza Adjacent to
Distt. Bar Abbottabad


0907-371225

۲ - ۳

بخدمت جناب ڈائریکٹر صاحب ایلمنٹری اینڈ سیکنڈری ایجوکیشن خیبر پختونخواہ پشاور

Annex - L

عنوان: درخواست برائے ادائیگی سابقہ بقا ماحات و سروس۔

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جناب عالی!

گزارش ہے کہ سائل 27-08-1995 (PST) پوسٹ پر بھرتی کیا گیا تھا۔ پھر 1997ء کو سیاسی بنیاد پر بلازمت سے برطرف کیا گیا۔ اور بعد ازاں وفاقی حکومت نے 1997ء کے برطرف ملازمین بحالی کیلئے ایک صدارتی آرڈیننس 11 of 2009 جاری کیا۔ جس کے تحت سائل کی بحالی 1997ء سے تھی۔ جبکہ صوبہ خیبر پختونخواہ حکومت نے 2012ء میں Sacked Employees 2012 Act جاری کیا لیکن سائل کے بارہا درخواستیں دینے کے باوجود DEO بگرام نے بحال نہیں کیا۔ بلکہ DEO صاحب بگرام نے 28 فروری 2018ء آرڈر نمبر 84-1775 کو نئے سرے سے تعینات کیا۔ جبکہ سائل نے 2012ء ایکٹ کے تحت بحال ہوا اور نہ صدارتی آرڈیننس کے تحت مراعات دیئے۔ استدعا ہے کہ سائل کو صدارتی آرڈیننس 2009ء کے تحت مراعات و سروس کے احکامات جاری فرمانے کا حکم صادر فرمایا جاوے۔

المرقوم: 29-30-2018.

العارض -
مطیع اللہ ولد گل محمد خان، (PST)
رابطہ نمبر: 0313-5909722

Muhammad Asad Khan Tanzeel
Advocate Supreme Court of Pakistan
Office # 33 Jinnah Plaza Adjacent to
Distt: Bar Abbottabad

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL CAMP COURT ABBOTTABAD

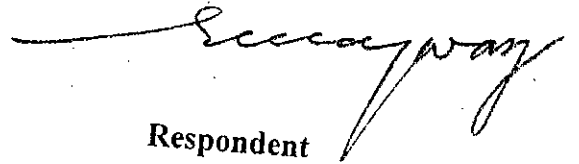
MatiullahAppellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary E&SE KPK
Peshawar and others.....Respondents

Index

S. No	Description /Documents	Annexure	Pages
1	Comments		
2	Affidavit		1 to 3
3	Copy of Sacked Employees Act 2012	A	4
4	Copy of Judgment	B	



Respondent

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL CAMP COURT ABBOTTABAD

SERVICE APPEAL No. _____ of 2023

MatiullahAppellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary E&SE KPK
Peshawar and others.....Respondents

**Joint Para-wise comments /Reply on behalf of
Respondents NO. 1 to 3**

Respectfully Sheweth:

Preliminary Objections

1. That the appellant has no cause of action/locus standi to file the present appeal.
2. That the appellant has concealed the material facts from this Hon'ble Tribunal.
3. That the appellant has not come to this Hon'ble Tribunal with clean hands.
4. That the appellant has filed the instant appeal on malafide grounds, just to put pressure on the respondent Department for illegal pension benefits.
5. That the appellant's appeal is against the prevailing rules and law.
6. That the appellant is estopped by his own conduct to file the instant appeal.
7. That the instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
8. As per Law/ Section 5 of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012, a sacked employee appointed under Section. 3. shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment; hence the instant appeal is liable to be dismissed without any further proceeding.
9. That the instant appeal is against the terms and conditions of the appellant's appointment and also Sacked Employees Appointment Act 2012, hence not

maintainable and liable to be dismissed without further proceedings.

ON FACTS

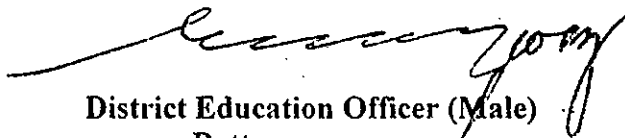
1. Para No. 1 of the appeal is correct. Pertaining to the appointment and further termination of the appellant; hence needs no comments.
2. In reply of Para No. 2, it is submitted that the appellant was appointed as a fresh appointee along with others in the light of Khyber Pakhtunkhwa Sacked employees Appointment Act 2012.
3. Para No. 5 of the appeal is incorrect and denied. As per Section 5 of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012, it is clearly mentioned that **“a sacked employee appointed under Section. 3. shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment”**. Hence the plea of the appellant is against the law/act and also the judgments of this Hon'able Court in this regard. (Copy of the Act and Judgment of Service Tribunal are attached as **“Annex. A & B”**).
4. The appellant has no cause of action.

ON GROUNDS:

- a. Ground “a” of the appeal is incorrect, hence denied. The appellant is appointed in the light of Sacked Employees Appointment Act 2012 and it is clearly mentioned in the Act that this appointment shall be a fresh appointment and the appointee shall not be entitle for any kind of back benefits, hence respondents are not bound to obey the demands of the appellant in contrary with the Act.
- b. Ground “b” of the appeal is incorrect. Detailed reply is given in the preceding paras.
- c. Ground “c” of the appeal is incorrect. Detailed reply is given in the preceding paras..
- d. Respondents seek permission of this Honour able Court to agitate other legal and factual ground at the time of arguments.

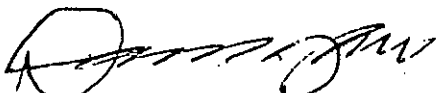
It is therefore humbly prayed that on acceptance of above Para-wise comments, the appeal of the appellant may graciously be dismissed with cost.

RESPONDENT NO. 3



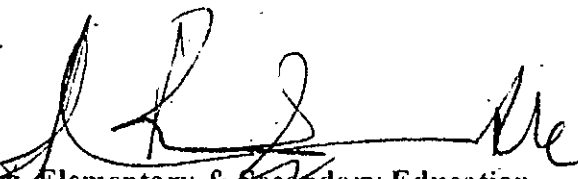
District Education Officer (Male)
Battagram

RESPONDENT NO. 2



Director Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

RESPONDENT NO. 1



Secretary Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL CAMP COURT ABBOTTABAD

SERVICE APPEAL No. of 2023

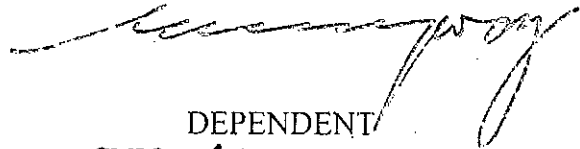
MatiullahAppellant

VERSUS

**Government of Khyber Pakhtunkhwa through Secretary E&SE KPK
Peshawar and others.....Respondents**

AFFIDAVIT

I Hafiz Muhammad Nawaz, District Education officer (Male) Battagram do hereby affirm and declare on oath that contents of accompanying **Joint Para-wise comments** on behalf of respondent NO. 1 to 3 are true and correct to the best of my knowledge and belief that nothing has been concealed from this Honorable Court.


DEPENDENT
CNIC: 6110118839853



(5)

Annex - A

**THE KHYBER PAKHTUNKHWA
SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.**

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

CONTENTS

PREAMBLE

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Appointment of sacked employees.
4. Age relaxation.
5. Sacked employees shall not be entitled to claim seniority and other back benefits.
6. Preference on the basis of age.
7. Procedure for appointment.
8. Removal of difficulties.
9. Act to override other laws.
10. Power to make rules.

**THE KHYBER PAKHTUNKHWA
SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.**

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

[first published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 20th September, 2012].

**AN
ACT**

to provide relief to those sacked employees in the Government service, who were dismissed, removed or terminated from service, by appointing them into the Government service.

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998 on various grounds;

WHEREAS the Federal Government has also given relief to the sacked employees by enactment;

AND WHEREAS the Government of the Khyber Pakhtunkhwa has also decided to appoint these sacked employees on regular basis in the public interest;

It is hereby enacted as follows:

1. Short title, extent and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.

(2) It shall apply to all those sacked employees, who were holding various civil posts during the period from 1st day of November, 1993 to 30th day of November, 1996 (both days inclusive).

(3) It shall come into force at once.

2. Definitions.— In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,-

(a) "civil post" means a post created by the Finance Department of Government for the members of civil service of the Province;

- (b) "Department" means the Department and the Attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, including the Divisional and District Offices working thereunder;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "Prescribed" means prescribed by rules;
- (c) "Province" means the Province of the Khyber Pakhtunkhwa;
- (f) "rules" means the rules made under this Act; and
- (g) "Sacked employee" means a person who was appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1st day of November 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998 on the ground of irregular appointments;

3. Appointment of sacked employees.— Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

Provided further that the appointment of sacked employees shall be subject to the medical fitness and verification of their character antecedents to the satisfaction of the concerned competent authority.

4. Age relaxation.— The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.

5. Sacked employees shall not be entitled to claim seniority and other back benefits.— A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

6. Preference on the basis of age.— On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.

7. Procedure for appointment.—(1) A sacked employee, may file an application, to the concerned Department within a period of six months from the date of commencement of this Act, for his appointment in the said Department:

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted in the prescribed manner, for appointment:

Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(4) The Concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. Removal of difficulties.— If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act as may appear to him to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.

9. Act to override other laws.—Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.

10. Power to make rules.— Government may make rules for carrying out the purposes of this Act.

(9)

Annex-B

Service Appeal No. 691/2019 titled "Muhammad Miskeen-vs-Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No 577/2019 titled "Afreen Khan-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No. 578/2019 titled "Ghulam Yousof-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" and Service Appeal No. 579/2019 titled "Abdul Aziz-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" decided on 21.07.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

**KHYBER PAKHTUNKIWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH UD DIN ... MEMBER (JUDICIAL)

Service Appeal No.691/2019

Mohammad Miskeen S/O Abdul Latif Khan, presently Serving SPST
GPS, Thaya District Battagram.

.....(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.
2. Director (Estab) Elementary & Secondary Education, Khyber Pakhtunkhwa.
3. District Education Officer (Elementary & Secondary Education) Male Primary Battagram.
4. District Account Officer, Battagram.

.....(Respondents)

Present:

Abdul Aziz Khan Tanoli,
Advocate.....For appellant.

Mr. Kabiruallah Khattak,
Additional Advocate General,

Mr. Noor Zaman Khattak,
District Attorney.....For respondents

Date of Institution.....03.05.2019

Dates of Hearing.....21.07.2022

Date of Decision.....21.07.2022

Service Appeal No.577/2019

Afreen Khan S/O Tor Khan R/O presently serving as Junior Clerk
GGHS, Gul Muhammad Abad, District Battagram.

.....(Appellant)

Service Appeal No. 691/2019 titled "Muhammad Misteem-vs-Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No. 577/2019 titled "Afreen Khali-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No. 578/2019 titled "Ghulam Yousaf-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" and Service Appeal No. 579/2019 titled "Abdul Aziz-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" decided on 21.07.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member Judicial Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad

Versus

- 5. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.
 - 6. Director (Estab) Elementary & Secondary Education, Khyber Pakhtunkhwa.
 - 7. District Education Officer (Elementary & Secondary Education) Male Primary Battagram.
 - 8. District Account Officer, Battagram.
-(Respondents)

Present:

Abdul Aziz Khan Tanoli,
Advocate.....For appellant.

Mr. Kabiruallah Khattak,
Additional Advocate General,

Mr. Noor Zaman Khattak,
District Attorney.....For respondents

Date of Institution.....03.05.2019
 Dates of Hearing.....21.07.2022
 Date of Decision.....21.07.2022

Service Appeal No.578/2019

Ghulam Yousaf S/O Molvi Khan Wali R/O Presently Serving SPST GPS, Dood Pati, District Battagram.
.....(Appellant)

Versus

- 9. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.
- 10. Director (Estab) Elementary & Secondary Education, Khyber Pakhtunkhwa.
- 11. District Education Officer (Elementary & Secondary Education) Male Primary Battagram.
- 12. District Account Officer, Battagram.

Service Appeal No. 691/2019 titled "Muhammad Miskeen-vs-Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No. 577/2019 titled "Afron Khan-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No. 578/2019 titled "Ghulam Yousaf-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" and Service Appeal No. 579/2019 titled "Abdul Aziz-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" decided on 21.07.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Uddin, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

.....(Respondents)

Present:

Abdul Aziz Khan Tanoli,
Advocate.....For appellant.

Mr. Kabiruallah Khattak,
Additional Advocate General,

Mr. Noor Zaman Khattak,
District Attorney.....For respondents

Date of Institution.....03.05.2019
Dates of Hearing.....21.07.2022
Date of Decision.....21.07.2022

Service Appeal No.579/2019


Abdul Aziz S/O Haji Abdullah R/o presently serving PST GPS,
Gulibagh, District Battagram.
.....(Appellant)

Versus

- 13. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.
- 14. Director (Estab) Elementary & Secondary Education, Khyber Pakhtunkhwa.
- 15. District Education Officer (Elementary & Secondary Education) Male Primary Battagram.
- 16. District Account Officer, Battagram.

.....(Respondents)

Present:

 Abdul Aziz Khan Tanoli,
Advocate.....For appellant.

Mr. Kabiruallah Khattak,
Additional Advocate General,

Mr. Noor Zaman Khattak,



Service Appeal No. 691/2019 titled "Alhammad Miskeen-vs-Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No. 577/2019 titled "Afreen Khan-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No. 578/2019 titled "Ghulam Yousaf-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" and Service Appeal No. 579/2019 titled "Abdul Aziz-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" decided on 21.07.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

District Attorney.....For respondents

Date of Institution.....03.05.2019

Dates of Hearing.....21.07.2022

Date of Decision.....21.07.2022

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST APPELLANT IS WORKING IN THE RESPONDENTS DEPARTMENT AND HIS SERVICES WERE TERMINATED ON 28.07.1997 THEREAFTER UNDER THE KHYBER PAKHTUNKHWA ACT XVII 2012 AND IN THE LIGHT OF JUDGMENT PESHAWAR HIGH COURT ABBOTTABAD BENCH DATED 17.01.2013 THE APPELLANT WAS APPOINTED AS PST IN BPS-12, VIDE ORDER DATED 15.02.2013, THE APPELLANT IS ENTITLED FOR BACK BENEFITS FROM THE DATE OF TERMINATION I.E 28.07.1997 TO THE DATE OF ORDER DATED 15.02.2013 BUT THE RESPONDENTS DID NOT GRANTED ALL CONSEQUENTIAL BACK BENEFITS FROM THE DATE OF TERMINATION TO THE ORDER DATED 15.02.2013 WHICH IS AGAINST THE PROVISIONS OF SAID ACT, AS WELL AS DISCRIMINATION AS OTHER DEPARTMENTS ALLOWED THE BACK BENEFITS TO THE OTHER EMPLOYEES AS WELL. THE CONDUCT OF THE RESPONDENTS TOWARDS THE APPELLANT IS ILLEGAL, MALAFIDE, UNLAWFUL, WITHOUT LAWFUL AUTHORITY, WITHOUT JURISDICTION, ARBITRARY, PERVERSE, HARSH, VOID AB-INITIO AND AGAINST THE PRINCIPLE OF NATURAL JUSTICE INEFFECTIVE UPON RIGHT OF THE APPELLANT.

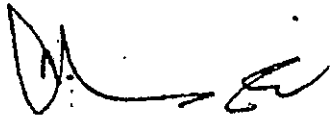
CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: This judgment shall dispose of the instant service appeal as well as connected service appeals No.577/2019 titled "Afreen Khan -vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", appeal No. 578/2019 titled "Ghulam Yousaf-vs- Government of Khyber

Service Appeal No. 691/2019 titled "Muhammad Miskeen-vs-Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No. 577/2019 titled "Afreen Khan-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others". Service appeal No. 578/2019 titled "Ghulam Yousaf-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" and Service Appeal No. 579/2019 titled "Abdul Aziz-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" decided on 21.07.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad

Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" and appeal No. 579/2019 "titled Abdul Aziz-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" as similar questions are involved in all these appeals.

2. The facts surrounding the appeals are that the appellants of this appeal and of the connected appeals were appointed as PST (BS-07) and Junior Clerk by the respondent-department; that they were terminated/dismissed vide impugned order; that again they were was appointed as PST (BS-12) and Junior Clerk (BS-07) vide order dated 15.02.2013 on the basis of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 as well as judgment of the Hon'ble Peshawar High Court, Abbottabad Bench dated 17.01.2013, but without back benefits; that some conditions were mentioned in the appointment orders of the appellants by the respondent-department that the appellant will not claim back benefits but later on the said terms and conditions were withdrawn by the respondent-department; that the appellants were terminated without any reason, therefore, they were entitled for back benefits for the period they remained out of service; that the appellant filed departmental appeals which were not responded within the statutory period of ninety days, compelling them to file these appeals.


21.7.22

ATTESTED


Service Appeal No. 694/2019 titled "Muhammad Miskeen-vs-Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No. 577/2019 titled "Afreen Khan-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No. 578/2019 titled "Ghulam Yousaf-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" and Service Appeal No. 579/2019 titled "Abdul Aziz-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" decided on 21.07.2022 by Division Bench comprising Kulim Arshad Khan, Chairman, and Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

3. On receipt of the appeals and their admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellants.

4. We have heard learned counsel for the appellants and District Attorney as well as learned Additional Advocate General for the respondents.

5. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned AAG controverted the same by supporting the impugned order.

6. It is not disputed that initially the appellants were appointed as PSTs and Junior Clerk. Later on when it came to the notice of the respondents that their appointments were made in violation of rules, they were terminated vide the impugned orders. In the meanwhile the Provincial Government promulgated the Khyber Pakhtunkhwa Sacked Employees Appointment Act 2012. When grievances of the appellants were not redressed at the departmental level he resorted to litigation by filing writ petition in the Hon'ble Peshawar High Court, Abbottabad Bench. Finally in pursuance of the directions of the Hon'ble Peshawar high Court, Abbottabad Bench they were appointed as PSTs and Junior Clerk with immediate effect vide order dated 15.02.2013. The

Service Appeal No. 691/2019 titled "Muhammad Miskoen-vs-Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No 577/2019 titled "Afsheen Khan-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others", Service appeal No. 578/2019 titled "Ghulam Yousof-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" and Service Appeal No 579/2019 titled "Abdul Aziz-vs- Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" decided on 21.07.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad

appellants are asking for reappointment from the date of their termination from service. But Section-5 of the aforementioned Act, lays down that the sacked employee should not be entitled to claim seniority and other back benefits. The relevant provision is reproduced below for ready reference:-

"A sacked employee appointed under Section-3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment"

7. When the learned counsel for the appellants was confronted with the above provision of law, he did not defend the situation and rightly so because he does not defend which is indefensible.

08. As a resultant consequence, this and the connected appeal being groundless are dismissed. Costs shall follow the event. Copy of this judgment be placed in the connected files. Consign.

9. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 21st day of July, 2022.*



[Signature]
KALIM ARSHAD KHAN
Chairman
Camp court Abbottabad

[Signature]
SALAH UD DIN
Member (Judicial)
Camp court Abbottabad

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