

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No: 123/2023


Sardar Hussain SST (BPS-16) GHS Zeran District KurramAppellant

VERSUS

Government of, Khyber Pakhtunkhwa through the Secretary E&SE Department &
others.....Respondents

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Assistant Director (Lit: II)
E&SE Khyber Pakhtunkhwa,
Peshawar

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
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VERSUS

Government of, Khyber Pakhtunkhwa through the Secretary E&SE Department & others.....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No: 1-3.

Respectfully Sheweth,

Khyber Pakhtunkhwa
Service Tribunal

PRELIMINARY OBJECTIONS.

Diary No. 8194

Dated: 09/10/23

- 1 That the Appellant has got no cause of action/locus standi to file instant appeal.
- 2 That the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973.
- 3 That the appellant has concealed material facts from the ambit of this Honorable Tribunal.
- 4 That the appellant has not come to this Honorable Tribunal with clean hands.
- 5 That the appeal in hand is based on mala fide intentions for gaining illegal service benefits from the Department w.e.f 24-07-2014, a period wherein, the appellant was not at the strength of Khyber Pakhtunkhwa & was serving under the Ex-FATA Directorate of Education.
- 6 That the appeal in hand is barred by law and limitation.
- 7 That the appeal in hand is bad for mis-joinder and non-joinder of the necessary parties.
- 8 That the appellant was an employee of EX FATA till 2009 under the authority of the Federal Government & has been merged in Khyber Pakhtunkhwa through the 18th amendment in the constitution of 1973.
- 9 That the benefits of order dated 31-10-2014 of District Hangu can not be extended to the appellant under the Rules & policy in vogue.
- 10 That the order of promotion of the appellant dated 11-10-2017 is legal & liable to be maintained in favor of the Department.
- 11 That aggrieved from the Notification dated 11-10-2017, the appellant has filed a time bared Departmental appeal dated 15-01-2018 to the Respondent No. 2 which was seen & filed on the grounds of limitation as well as violative of the Law & Rules.
- 12 That the appellant is not entitled for anti dation of promotion to the post of SST w.e.f 24-07-2014 under the relevant provision of APT Rules 1989.

ON FACTS.

- 1 That Para-1 pertains to the residential & academic record of the appellant.
- 2 That Para-2 pertains to the appointment against the CT (M) post of the appellant vide order dated 19-09-1998 & his further promotion as SST with his adjustment at GHS Zeran District Kurram is subject to the proper proof & record on the part of the appellant.
- 3 That Para-3 is correct to the extent of Notification bearing No. SO(PE)/4-5/SSRC/Meeting/2013/TC dated 24-07-2014, whereby, the criteria for promotion in the upper scales for the Teaching Cadre working in the Khyber Pakhtunkhwa was framed & Notified excluding the Teaching Staff of Ex-FATA/NMDs which was directly falls within the administrative authority of the Federal Government & was merged into Khyber Pakhtunkhwa through the 18th amendment in the constitution of 1973 passed by the National Assembly & approved by the president of Pakistan.

Therefore, the appellant does not fall within the ambit of aforesaid promotion service rules dated 24-07-2014 as the cases have been proceed by the Director Ex-FATA in the year 2017 after the approval of the Federal Government as evident from the letter No. 12492 dated 30-08-2021 of the Deputy Director FATA. *(Copy of the Notification dated 24-07-2014 is Annex-A).*

- 4 That Para-4 is correct to the extent of the letter dated 07-08-2014 of the then Deputy Director Khyber Pakhtunkhwa whereby, all the DEOs (M/F) throughout Khyber Pakhtunkhwa excluding the Ex-FATA have been directed to process the cases of Teaching Cadre in view of the service rules as cited above. *(Copy of the letter is Annexure-B).*
- 5 That Para-5 is incorrect as the Respondent No.2 is mainly responsible for processing the Promotion & upgradation cases of Teachers working in the Khyber Pakhtunkhwa (Settled Areas) during the period w.e.f. 2014 to 2017 & not for Ex-FATA/NMDs Directorate has still a separate administrative setup for the said purpose.
- 6 That Para-6 is incorrect as the DEO (M) Hangu is not competent to grant promotion against the SST in BPS-16 post rather he is a recommending authority in the said cadre in the Department, however, he may adjust an already promoted SST post in his District under the rules & policy
- 7 That Pra-7 is correct to the extent of letter dated 09-03-2015 which was applicable upon the employees of Khyber Pakhtunkhwa & not on FATA till 2017 of being two different Directorates of Education working under the domain of provincial Govt; (settled areas) & Federal Government FATA.
- 8 That Para-8 is also incorrect as the act of the Respondents No. 3 with regard to the Notification dated 24-07-2014 & 11-10-2017 is within legal sphere & liable to be maintained in favor of the Department *attached as Annex-C.*
- 9 That Para-9 is incorrect as the act of the Respondent No.3 with regard to the Seniority & promotion of the appellant & all other Teachers working Ex-FATA/NMDs is within legal parameter with further submission that the service rules dated 13-11-2012 has been done away/substituted with the service rules dated 24-07-2014 by the Department, hence, the appellant can not take shelter under the Service Rules dated 13-11-2012 over-ridden by the current service Rules dated 24-07-2014 in the Department.

- 10 That Para-10 is incorrect & denied in view of the fore made facts of the case submitted by the Respondents in the instant reply.
- 11 That Para-11 is also incorrect as the service rules dated 24-07-2014 was not extended to the Ex-FATA/NMDs during the period of 2014 to 2017, whereby, the appellant was promoted to the post of SST in BPS-16 vide order dated 11-10-2017 by the Department under the Rules & policy in vogue.
- 12 That Para-12 is correct to the extent of filing of Departmental appeal dated 15-01-2018 against the Notification dated 11-10-2017 by the appellant to the Respondent No. 2 which was seen & filed on the grounds of being time barred as evident from the period w.e.f 11-10-2017 to 15-01-2018 by the competent authority *attached as Annex-D*.
- 13 That Para-13 is incorrect as replied to this Para has been given above.
- 14 That Para-14 is also incorrect & is subject to the proof & record on the part of the appellant in view of the above made submissions by the Respondents in the present reply before this Honorable Tribunal.
- 15 That Para-15 is correct to the extent of the judgment dated 14-07-2021 of this Honorable Tribunal rendered in Service Appeal No. 1266/2018 Afzal Shah SST VS Govt; already available on judicial file which is not applicable upon the case of the appellant of being different in both question of law & facts of the case from the titled appeal *attached as Annex-E*.
- 16 That para-16 is incorrect as the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973 has got no cause of action to approached this Honorable Tribunal in the titled appeal against the Respondents, therefore, the case in hand is liable to dismissed on the following grounds inter alia: -


ON GROUNDS.


- I. Incorrect & not admitted, the appellant has been treated as per law & rules by the Respondent Department in the titled appeal.
- II. Incorrect & not admitted. The stand of the appellant is against the facts & legal proposition made by the Respondents in the fore going paras of the present reply, hence, liable to be rejected.
- III. Incorrect & not admitted, the appellant is not entitled for anti dation of promotion to the post of SST w.e.f 24-07-2014 under the relevant provision of APT Rules 1989 in the Respondent Department.
- IV. Incorrect & not admitted. The act of the Department is legal with no discrimination to words the appellant in the titled case.
- V. Incorrect & not admitted. The Notification dated 24-07-2014 is not applicable upon the case of the appellant under the rules, criteria policy in vogue.
- VI. Incorrect & not admitted. As reply to this ground has been given above.
- VII. Incorrect & not admitted, the appellant is not entitled for anti dation of promotion to the post of SST w.e.f 24-07-2014 under the relevant provision of APT Rules 1989 in the Respondent Department.

VIII. Incorrect & not admitted. The stand of the appellant is illegal as he is not entitled for promotion as SST w.e.f. 24-07-2014 under the rules.

IX. Incorrect & not admitted. However, the Respondents also seek leave to this Learned Bench to submit additional grounds record & case law at the time on date of hearing.

Therefore, in view of the above made submissions, the appeal in hand may kindly be rejected in favor of the Department in the interest of justice.


SECRETARY
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 1)


DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 2-3)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
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Government of, Khyber Pakhtunkhwa through the Secretary E&SE Department &
others.....Respondents

AFFIDAVIT

I, Dr. Hayat Khan Assistant Director (Litigation-II) E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief. It is further stated on oath that in this appeal the answering Respondents have neither been placed Ex-Parte nor their defense has been struck off/cost.


Deponent

ATTESTED


GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT



Peshawar, dated the 24th July, 2014.

NOTIFICATION

No.SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No.SO(G)S&LD/1-28/2003/Vol-II dated, 09-04-2004, Notification No.SO(G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and Notification No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

- (i) Serial No. 1 shall be renumbered as 1B and before Serial No. 1B, as so renumbered, the following new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1.	Subject Specialist (BPS-17)	i. At least second class Master's Degree or four years BS Degree in the relevant subject; and ii. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualification from a recognized University.	23 to 35 years	(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16), with at least five years service as such and having qualification mentioned in column No. 3. Note: If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial

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				recruitment; and (b) fifty percent by initial recruitment.
1A	Director Physical Education (BPS-17)	At least second class Master's Degree in Physical Education from a recognized University.	22-35 years	(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Physical Education Teachers (BPS-16), with at least five years service as Senior Physical Education Teacher and Physical Education Teacher and having qualification mentioned in column No. 3: Provided that if no suitable person is available from amongst Senior Physical Education Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst the Physical Education Teachers, with at least five years service as such and having qualification mentioned in column No. 3; Note:- If no suitable candidate is available in the relevant cadres of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment; and (b) fifty percent by initial recruitment"; and

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(ii) against Serial No. 1B, as so renumbered, for the existing entries, the following Shall be substituted, in respective columns, namely:

1	2	3	4	5
"1B.	Secondary School Teacher (BPS-16)	<p>I. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology), Or (b) (Physics, Maths "A" or "B" or Statistics) Or (c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p>and</p> <p>II. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A. Education or equivalent qualifications from a recognized University.</p>	21 to 35 years.	<p>1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner:</p> <p>(a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters(BPS-16), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3:</p>

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				<p><i>Provided that if no suitable candidate is available from amongst Senior Drawing Masters for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3;</i></p> <p>(c) <i>four per cent from amongst the Senior Arabic Teachers(BPS-16), with at least five years service as Senior Arabic Teachers and Arabic Teachers, and having qualification mentioned in column No.3:</i></p> <p><i>Provided that if no suitable candidate is available from amongst Senior Arabic Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Arabic Teachers with at least five years service as such and having qualification mentioned in column No. 3;</i></p> <p>(d) <i>four per cent from amongst the Senior Theology Teachers(BPS-16), with at least five years service as Senior Theology Teachers and Theology Teachers and having qualification mentioned in column No.3:</i></p>
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				<p>Provided that if no suitable candidate is available from amongst Senior Theology Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(e) three per cent from amongst the Senior Qaris (BPS-16), with at least five years service as Senior Qari and Qari and having qualification mentioned in column No.3;</p> <p>Provided that if no suitable candidate is available from amongst the Senior Qaris then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Qaris with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(f) twenty per cent from amongst the Primary School Head Teachers (BPS-16), with at least seven years service as Primary School Head Teachers and Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3;</p> <p>Provided that if no suitable candidate is available from amongst</p>
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				<p>Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least seven years service as Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No.3:</p> <p>Provided further that if no suitable candidate is available from amongst Senior Primary School Teachers for promotion then the post shall be filled from amongst Primary School Teachers with at least seven years service as such and having qualification mentioned in column No. 3; and</p> <p>(ii) twenty Five percent by initial recruitment.</p> <p>Note:</p> <p>I. If no suitable candidate is available in the relevant cadre of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment.</p> <p>II. Posts of General SST and SSTs-1 Science and SST-2 Science shall be filled by promotion or initial recruitment, each on need basis separately."</p>
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Accepted

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SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Endst : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
22. Master file

(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)

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ATTN: B-P
SVP PA

Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar.
No. 495W/F.No. SST Promotion to SS Posts
Dated Peshawar the 7/8 2014

To
The Director of Education (FATA),
FATA Secretariat Warsak Road, Peshawar.

Subject: - DEPARTMENTAL PROMOTION FROM SCTS/CT/SDM/DM/ SAT/ AT/STT/TT & S, QARIES/QARIES TO THE POST OF SSTs (BS-16) REGULAR.

Memo:
In continuation of this Directorate letter No. 4874 dated 06-08-2014 on the subject cited above and to request you to fill the vacant posts of SST (General/Science) in Government Higher Secondary/High & Middle Schools (M&F) FATA by promotion of in-service teachers under the existing rules already conveyed to you under the above cited letter number and date under intimation to all concerned.

[Signature]
Deputy Director (Estb)
Elementary & Secy: Education
Khyber Pakhtunkhwa

Endst: No. _____
Copy of the above is forwarded for information to:-

- 1. PS to Minister for E&SE Khyber Pakhtunkhwa.
- 2. PS to Secretary to Govt. of Khyber Pakhtunkhwa, E&SE Department.
- 3. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.

Deputy Director (Estb)
Elementary & Secy: Education
Khyber Pakhtunkhwa

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25 Annex "G"

Kurram SST (M)

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FATA SECRETARIAT
DIRECTORATE OF EDUCATION
KHYBER PAKHTUNKHWA, WARSAK ROAD PESHAWAR, PAKISTAN
PHONE: 091-9210166 FAX 091-9210216

No. _____ Date ____/____/2017

Notification

In pursuance of the Government of Khyber Pakhtunkhwa Elementary and Secondary Education Notification No.SO(PE)/4-5/SSRC/Meeting/2013/Teaching Cadre dated 24th July, 2014 and recommendations of the Departmental Promotion Committee, the following SCTs/CTs, SDMs/DMs, SATs/ATs, STTs/TTs, Senior Qaris/Qaris, PSHTs/SPSTs/PSTs of Kurram Agency, are hereby promoted to the post of SST (Bio-Chem), SST (Phy-Maths), SST (General) noted against each in RPS-16 (Rs. 18910-2520-64510) plus usual allowances, as admissible under the rules on regular basis under the existing policy, on the terms and condition given below, with immediate effect in the interest of public service.

A. SST (Bio/Chem)

1. PROMOTION OF SCT/CT TO SST (Bio/Chem) BPS-16.

Total No. of SST vacant post of SSTs (Bio/Chem)	24
25% share initial recruitment	6
75% share for Promotion.	18
40% Share of promotion of Senior CT/CT	9
Posts available for promotion	9
Promoted through this order	8

S.N o.	Sl.No.	Name of Official	Place of posting	D/O Birth	Date of Appoint; regular CT	Qualification	Remarks
1	56	Muhammad	GHS Kunj Ali Zai	25/7/1966	25/12/1993	Bsc/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.
2	58	S. Hussam Akbar Shah	GHS Kirman	5/8/1966	25/12/1993	BSc/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.
3	96	Muhammad Qasim Urd Din	GHS Angori	2/3/1975	18/9/1998	M.Sc/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.
4	108	Gohar Ali	GHS Shingak	29/10/1968	21/9/1998	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.
5	131	Ashiq Hussain	GMS Parachinar	23/3/1968	1/3/2001	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.
6	189	Muhammad Khan	GHS Pownr	2/3/1972	16/9/2004	MSc (Hon)/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.
7	199	Wahid Hussain	GMS Karakhela	3/1/1979	6/12/2005	BSc/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.
8	223	Muhammad Hanif	GMS Kemal Buzai	12/6/1982	13/10/2009	MSc/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.

2. PROMOTION OF PSHT/SPST/PST TO SST (Bio/Chem) BPS-16.

Total No. of SST vacant post of SSTs (Bio/Chem)	24
25% share initial recruitment	6
75% share for Promotion.	18
24% Share of promotion of PSHT/SPST/PST	5
Posts available for promotion	5
Promoted through this order	3

S.N o.	Sl.No.	Name of Official	Place of posting	D/O Birth	Date of Appoint; regular PST	qualification	Remarks
1	76	S.Anwar Hussain	GPS Yaqoobi No-2	3/10/1966	31/10/1994	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.

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2	356	Qaim Hussain	GPS Akakhe	26/4/1981	13/10/2009	BSc/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.
3	366	Sajid Hussain	GMS Yardah	17/3/1984	13/10/2009	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.

3. PROMOTION OF S.TT/TT TO SST (Bio/Chem) BPS-16.

Total No. of SST vacant post of SSTs (Bio/Chem)	24
25% share initial recruitment	6
75% share for Promotion.	18
4 % Share of promotion of S.TT/TT	01
Posts available for promotion	01
Promoted through this order	01

S.No	S.L No	Name of Official	Place of Posting	Date of Birth	Date of Appoint: as Regular DM	Qualification	Remarks
1	164	S.Ahmad Shah	GHS Qubadshakhet	10/4/1979	1/9/2003	BSc/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.

4. PROMOTION OF S.Qari/Qari TO SST (Bio/Chem) BPS-16.

Total No. of vacant Posts of SST (Bio/Chem)	24
25% share initial recruitment	6
75% share for Promotion.	18
4 % Share of promotion of S.Qari/Qari	01
Posts available for promotion	01
Promoted through this order	01

S.No	S.L No	Name of Official	Place of Posting	Date of Birth	Date of Appoint: as Regular Qari	Qualification	Remarks
1	12	Atta-ud Din	GHS Sadda	10/12/1981	1/9/2004	MSc.M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Bio/Chem (BPS-16) post.

B. SST (Phy-Maths)

1. PROMOTION OF SCT/CT TO SST (Mph/Maths) BPS-16.

Total No. of SST vacant post of SST (Phy-Maths)	24
25% share initial recruitment	6
75% share for Promotion.	18
40 % Share of promotion of Senior CT/CTs	10
Posts available for promotion	10
Promoted through this order	10

S.No	S.L No	Name of Officials	Place of posting	D/O Birth	Date of Appoint: regular CT	Qualification	Remarks
1	60	Sardar Hussain	GHS Zeran	19/3/1968	25/12/1993	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.
2	61	Inayat Hussain	GHS Parachinar	2/4/1968	25/12/1993	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.
3	63	Majeed Hussain	GHS Luqmanke	17/4/1969	25/12/1993	BSc/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.
4	64	S.Sajjad Hussain	GHS Parachinar	26/4/1969	25/12/1993	BSc/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.
5	75	Muhammad Sadiq Khan	GHS Makhizai	18/2/1970	5/10/1995	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.

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6	106	Amjad Hussain	GISIS Parachinar	4/10/1967	21/9/1998	MSc/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.
7	107	S.Mubarak Shah	GHS Mastikot	16/4/1968	21/9/1998	BSc/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.
8	112	Ashiq Hussain	GHS Kirmun	9/2/1966	1/10/1998	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.
9	113	Kamal Hussain	GHS Mirjamal	4/4/1965	3/11/1998	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.
10	125	Muhib Ali	GHS Mastikot	5/4/1966	11/11/2000	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.

2. PROMOTION OF PSHT/SPST/PST TO SST (Phy-Maths) BPS-16

Total No. of SST vacant post of SSTs (Phy-Maths)	24
25% share initial recruitment	06
75% share for Promotion.	18
20 % Share of promotion of PSHT/SPST/PST.	05
Posts available for promotion	05
Promoted through this order	03

S.N o	Sl:No.	Name of Official	Place of posting	D/O Birth	Date of Appoint; regular PST	Qualification	Remarks
1	98	Amanullah Jan	GPS Shani Sehra	5/5/1970	9/1/1995	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.
2	148	S.Shahid Iqbal Shah	GPS Dand Qad Mir	10/11/1964	27/2/1998	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.
3	305	Javid Hussain	GMS Parachina	1/4/1977	1/9/2005	BSc/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.

ITEM NO.3. PROMOTION OF STT/TT TO SST (Phy-Maths) BPS-16 ON REGULAR BASIS.

The case of promotion of STT/TT to the post of SST (Phy-Maths) BPS-16 was considered and the DPC recommended as under:-

Total No. of SST vacant post of SSTs (Phy-Maths)	24
25% share initial recruitment	06
75% share for Promotion.	18
04 % Share of promotion of Senior TT/TT	01
Posts available for promotion	01
Promoted through this order	01

S.N o	Sl:No.	Name of Official	Place of posting	D/O Birth	Date of Appoint; regular TT	Qualification	Remarks
1	163	Muzahir Ali	GHS Pekar	4/4/1975	1/9/2003	BSc/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST Phy/Math (BPS-16) post.

C. SST (General)

1. PROMOTION OF Sr; CT/CT TO SST (General) BPS-16.

Total No. of SST General (M) Posts vacant Posts	48
25% share initial recruitment	12
75% share for Promotion.	36
40 % Share of promotion of Sr; CT/CT	16
Posts available for promotion	16
Promoted through this order	16

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S. No	S.I. No	Name of Official	Place of Posting	Date of Birth	Date of Appoint: as Regular CF	Qualification	Remarks
1	7	S.Hussain Afzal	GSNHSS Shalozan	15/7/1962	18/6/1987	BA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
2	8	Amir Habibullah Khan	GMHS Sadda	20/4/1964	8/7/1987	BA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
3	9	Mehboob Ali	GHS Bork	20/4/1958	29/11/1987	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
4	14	Israr Hussain	GSNHSS Shalozan	12/4/1963	29/11/1987	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
5	20	Dildar Hussain	GISHS Parachinar	6/9/1965	17/10/1989	BA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
6	25	Khadim Hussain	GHS Kunj Ali Zai	7/5/1960	14/11/1990	BA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
7	29	Jehan Muhammad	GHS Chapri	20/2/1953	14/11/1990	MA/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
8	30	S.Muhammad Ali Shah	GHS Kirman	3/3/1963	14/11/1990	MA/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
9	35	Zinat Hussain	GISHS Parachinar	6/4/1962	22/10/1991	BA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
10	40	S.Ahmad Raza	GISHS Parachinar	5/2/1965	5/3/1992	MA/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
11	41	Mansab Ali	GHS Kirman	1/3/1966	5/4/1992	MA/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
12	42	S.Iqbal Hussain	GISHS Parachinar	1/2/1966	27/5/1992	MA/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
13	43	AbdulGhayur Khan	GHS Bilyamin	1/11/1957	22/11/1992	BA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
14	44	S.Imdad Hussain	GHS Qubadshakhel	8/3/1971	2/3/1993	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
15	46	Janan Hussain	Alizai	11/11/1957	7/3/1993	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
16	48	S.Kamal Hussain	GHS Mali Kali	25/8/1969	27/4/1993	BA/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.

PROMOTION OF PSHT/SPST/PST TO SST (General) BPS-16.

Total No. of SST General (M) Posts vacant Posts	48
25% share initial recruitment	12
75% share for Promotion.	36
20 % Share of promotion of PSHT/SPST/PST	8
Posts available for promotion	8
Promoted through this order	8

S.No	S.I. No.	Name of Official	Place of posting	D/O Birth	Date of Appoint: regular PST	Qualification	Remarks
1	15	Muht Yaqoob Khan	GPS Khapyang	6/5/1963	25/1/1986	MA/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.

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2	16	Khan Muhammad	GPS Tangai	25/12/1962	20/8/1986	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
3	25	Irshad Hussain	GPS Alamkhel	6/4/1967	17/9/1987	MA/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
4	33	Muhammad Rehman	GPS Sakhi Ahmad Shah	27/1/197	17/1/1990	BA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
5	42	Abid Hussain Khan Kali	GPS Abdullah	20/2/1966	24/9/1991	BA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
6	46	Rashid Ali	GPS College Colony	15/3/1968	22/10/1991	BA/M.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
7	49	Gul Hussain	GPS Noorki	22/4/1965	4/3/1992	BA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.
8	52	Muhammad Ibrahim	GPS No-1 Parachina	29/1/1971	4/3/1992	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.

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3. PROMOTION OF SDM/DM TO SST (General) BPS-

Total No. of SST General (M) Posts vacant Posts	24
25% share initial recruitment	6
75% share for Promotion.	18
4 % Share of promotion of SDM/DM	1
Posts available for promotion	1
Promoted through this order	1

S. No	S.I. No	Name of Official	Place of Posting	Date of Birth	Date of Appott: as Regular DM	Qualifi-cation	Remarks
1	1	Aleem Khan	GHS Kirman	24/12/1957	19/10/1978	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.

4. PROMOTION OF SAT/AT TO SST (General) BPS-16 ON REGULAR BASIS

The case of promotion of SAT/AT to the post of SST (General) BPS-16 was considered and the DPC recommended as under:-

Total No. of vacant Posts of SST (General)	24
25% share initial recruitment	6
75% share for Promotion.	18
4 % Share of promotion of SAT/AT	1
Posts available for promotion	1
Promoted through this order	1

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S. No	S.I. No	Name of Official	Place of Posting	Date of Birth	Date of Appott: as Regular AT	Qualifi-cation	Remarks
1	23	S.Nabi Hussain	Kunj Ali Zal	1/1/1969	1/9/2000	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.

5. PROMOTION OF STT/TT TO SST (General) BPS-16.

Total No. of vacant Posts of SST (General)	24
25% share initial recruitment	6
75% share for Promotion.	18
4 % Share of promotion of STT/TT	1
Posts available for promotion	1
Promoted through this order	1

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S.No	S.L No	Name of Official	Place of Posting	Date of Birth	Date of Appoint as Regular TT	Qualification	Remarks
1	51	Arbab Hussain	GISHS Parachinar	1/4/1970	26/11/1989	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.

5. PROMOTION OF S.Qari/Qari TO SST (General) BPS-16.

Total No. of vacant Posts of SST (General)	24
25% share initial recruitment	6
75% share for Promotion.	18
4 % Share of promotion of S.Qari/Qari	1
Posts available for promotion	1
Promoted through this order	1

S.No	S.L No	Name of Official	Place of Posting	Date of Birth	Date of Appoint as Regular TT	Qualification	Remarks
1	10	Aziz Ahmad	GHS Ghuzghari	10/7/1978	1/9/2004	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.

Terms and conditions:-

- 1 They would be on probation for a period of one year extendable for a further period of one year.
- 2 They will be governed by such rules and regulations as and when issued from time to time by the Provincial Govt.
- 3 Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they shall be proceeded under the rules framed from time to time.
- 4 Charge report should be submitted to all concerned.
- 5 No TADA is allowed for joining his duty.
- 6 They will give an under taking to be recorded in their service book to the effect that if any over payment is made to him/her in the light of this order will be recovered and if he/she is wrongly promoted, he/She will be reverted.
- 7 Before handing over charge once again their document may be checked if they have not the prescribed qualifications as per rules, they may not be handed over charge of the post.
- 8 The prescribed qualifications/ documents may be verified from the concerned Universities/ Institutions by the AEO concerned.

(Hashim Khan)
Director Education FATA

Endst: No. 16101-50

Dated Peshawar the 11/10/2017.

Copy forwarded for information and necessary action to the:-

1. Accountant General (PR) Sub Office, Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. Agency Education Officer Kurram Agency.
4. Agency Accounts Officer Kurram Agency.
5. PS to ACS FATA.
6. PS to the Secretary SSD, FATA Secretariat, Peshawar.
7. PS to the Secretary Finance Department FATA Secretariat Peshawar.
8. PA to Director Education, FATA.
9. Promotees Concerned.
10. M/File.

11/10/17
Addl. Director (Estb)
Directorate of Education, FATA

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**THE DIRECTOR EDUCATION FATA
FATA SECRETARIAT DIRECTORATE OF
EDUCATION KHYBER PAKHTUNKHWA, WARSAK
ROAD PESHAWAR.**

REMINDER FOR CONSIDERATION OF DEPARTMENTAL APPEAL AGAINST UNJUST ORDER DATED 11.10.2017 FOR DISCRIMINATION, VIOLATION OF FUNDAMENTAL RIGHT AND NON OBSERVANCE OF PROMOTION/SENIORITY OF THE APPELLANT FROM THE DATE OF NOTIFICATION NO.SO(PE)/4-5/SSRC/MEETING/2013/TEACHING CADRE DATED 24TH JULY, 2014 FOR PROMOTION OF SCT/CT TO SST (Phy-Maths) BPS-16.

.....
RESPECTED SIR!

Appellant submits as under:

That in continuation of the departmental appeal dated 25.10.2017 on the subject cited above and to request you that the promotion order of the Applicant may kindly be ordered from the date of Notification i.e 24th July,2014 because your August office has not observed the applicant promotion from his due date i.e 24th July,2014 according to Notification and has order the same through letter Endst. No.16101-50 dated 11.10.2017, So Applicant has not been treated in accordance with law, and applicant rights secured and guaranteed under the law and constitution have been violated. Furthermore this order of your office has affected the Seniority/promotion of the Applicant because the Seniority of the SST teachers in Khyber Pakhtunkhwa and FATA are the same and not considering the applicant from the due date adversely affect the applicant right for seniority in Subject Specialist in Higher Secondary School as well as Headmasters in High Schools which is clear violation of fundamental rights of Applicant.

It is therefore requested that applicant promotion order may kindly be reviewed in the light of the departmental appeal dated:25.10.2017 in the best interest of justice.

Attested

DATED:15-01-2018

APPLICANT

Sardar Hussain

SARDAR HUSSAIN S/O MUHAMMAD SARWAR R/O
G.H.S. ZERAN P.O & TEHSIL PARACHINAR UPPER
DISTRICT KURRAM.

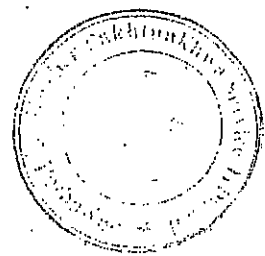
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No, 1266/2018

Date of Institution ... 09.10.2018
Date of Decision ... 14.07.2021



Afzal Shah SST (BIO/CHEM. BPS-16) Government High School Sandu Khel
Mohmand Agency Government of Khyber Pakhtunkhwa Education Department.
... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary and
Secondary Education Secretariat building Peshawar and eight others.
... (Respondents)

MR. HIDAYAT ULLAH KHATTAK &
MR. ABDUR REHMAN MOHMAND
Advocates ... For Appellants

MR. MUHAMMAD RIAZ AHMED PAINDAKHEIL
Assistant Advocate General ... For Respondents

MR. SALAH-UD-DIN ... MEMBER (JUDICIAL)
MR. ATIQ-UR-REHMAN WAZIR ... MEMBER (EXECUTIVE)

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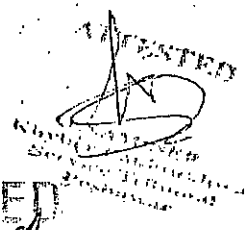
JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- This judgment shall dispose of
the instant Service Appeal as well as the following connected Service Appeals as
common question of law and facts are involved therein.

- 1) Service Appeal bearing No.1267/2018 titled "Abi Hayat Versus Government of
Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education
Secretariat building Peshawar and others",

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- 2) Service Appeal bearing No. 1268/2018 titled "Shams Ur -Rahman Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 3) Service Appeal bearing No. 1269/2018 titled "Karim Khan Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 4) Service Appeal bearing No. 1270/2018 titled "Abdul Hakim Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 5) Service Appeal bearing No. 1271/2018 titled "Stana Gul Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 6) Service Appeal bearing No. 1272/2018 titled "Mohammad Idress Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 7) Service Appeal bearing No. 1273/2018 titled " Mansoor Ahmad Khan Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 8) Service Appeal bearing No. 1274/2018 titled " Khial Zada Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 9) Service Appeal bearing No. 1275/2018 titled "Nizam-ud-Din Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 10) Service Appeal bearing No. 1276/2018 titled "Sher Mohammad Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".

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- 11) Service Appeal bearing No. 1277/2018 titled "Rahmat Said Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 12) Service Appeal bearing No. 1278/2018 titled "Javid Akhter Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 13) Service Appeal bearing No. 1279/2018 titled "Munawar Khan Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 14) Service Appeal bearing No. 1280/2018 titled "Said Alam Shah Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 15) Service Appeal bearing No. 1281/2018 titled "Lateef Ullah Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 16) Service Appeal bearing No. 1282/2018 titled "Mst. Khalida Safi Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 17) Service Appeal bearing No. 1283/2018 titled "Zar Gul Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 18) Service Appeal bearing No. 1284/2018 titled "Imtiaz Gul Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 19) Khaista Sher Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".

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- 20) Service Appeal bearing No. 327/2019 titled "Abdul Hamid Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 21) Service Appeal bearing No. 651/2018 titled "Sabeel Hassan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 22) Service Appeal bearing No. 652/2018 titled "Anwar Ali Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 23) Service Appeal bearing No. 653/2018 titled "Javed Hassan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 24) Service appeal bearing No. 654/2018 titled "Luqman Hakeem Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 25) Service Appeal bearing No. 655/2018 titled "Aziz-ur-Rehman Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 26) Service Appeal bearing No. 656/2018 titled "Muhammad Muneer Khan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 27) Service Appeal bearing No. 657/2018 titled "Mst. Shah Begum Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 28) Service Appeal bearing No. 658/2018 titled "Munir Khan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 29) Service Appeal bearing No. 659/2018 titled "Mst. Fahmeeda Begum Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 30) Service Appeal bearing No. 660/2018 titled "Muhammad Baz Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 31) Service Appeal bearing No. 661/2018 titled "Hanif Jan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 32) Service Appeal bearing No. 662/2018 titled "Sher Afzal Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".

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- 33) Service Appeal bearing No. 663/2018 titled "Mst. Dil Taj Begum Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 34) Service Appeal bearing No. 664/2018 titled "Raees Khan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 35) Service Appeal bearing No. 665/2018 titled "Syed Hijab Hussain Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 36) Service Appeal bearing No. 666/2018 titled "Eid Muhammad Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 37) Service Appeal bearing No. 667/2018 titled "Fazal Hakeem Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 38) Service Appeal bearing No. 668/2018 titled "Syed Zamir Hussain Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 39) Service Appeal bearing No. 669/2018 titled "Janat Khan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 40) Service Appeal bearing No. 670/2018 titled "Ayan Ali Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 41) Service Appeal bearing No. 671/2018 titled "Sohail Khan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".

02. Brief facts of the case are that the appellants are primarily aggrieved by inaction of the respondents to the effect that promotions of the appellants were delayed for no good reason, which adversely affected their seniority positions as well as sustained financial loss. The appellant, Mr. Afzal Shah and 18 others were serving under Agency Education Officer, Mohmand Agency (Now District Mohmand) and the appellant Mr. Khaista Sher and 22 others were serving under Agency Education Officer, Orakzai Agency (Now District Orakzai). All the appellants were promoted to the post of Secondary School Teachers (SST) (BPS-16) vide order dated 11-10-2017, which, as per stance of the appellants were required to be promoted in 2014.

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Feeling aggrieved, the appellants preferred respective departmental appeals against the impugned order dated 11-10-2017, which were not responded to, and hence the appellants filed service appeals in this Tribunal with prayers that promotions of the appellants may be considered from 24-07-2014 or the date when other employees serving in settled districts were promoted along with all back benefits.

03. Written reply/comments were submitted by the respondents.

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04. Learned counsel for the appellant Mr. Afzal Shah and 18 others has contended that the appellants have not been treated in accordance with law and their rights secured under law and constitution have been violated; that the respondents delayed promotions of the appellants for no good reason, which adversely affected their seniority positions and made them junior to those, who were promoted at settled district level in 2014; that the delay occurred due to lethargic attitude of respondents, otherwise the appellants were equally fit for promotion like their counterparts working in settled districts; that the appellants were discriminated which is highly deplorable, being unlawful and contrary to the norms of natural justice; that inaction on part of the respondents have adversely affected financial rights of the appellants as protected by the Constitution. He further added that the appellant be treated at par like other employees of districts who were promoted in 2014 in pursuance of notification dated 24-07-2014 and shall equally be dealt with in accordance with law and rules.

05. Learned counsel for the appellant Mr. Khaista Sher and 22 others mainly relied on the arguments of the learned counsel for the appellant Mr. Afzal Shah and 18 others with further arguments that departmental appeals of the appellants were not considered and the appellants were condemned unheard; that as per constitution every citizen is to be treated equally, while the appellants have not been treated in accordance with law, which need interference.

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06. Learned Assistant Advocate General appeared on behalf of respondents has contended that as per Para-VI of promotion policy, promotions are always made with immediate effect and not with retrospective effect; that promotion is neither a vested right nor it can be claimed with a retrospective effect. Reliance was placed on 2005 SCMR 1742. Learned Assistant Advocate General argued that promotions of the appellants were made in accordance with law and rule and no discrimination was made. He further argued that some of the appellants submitted successive appeals, which is violation of Rule 3(2) of Appeal Rules, 1986. Learned Assistant Advocate General prayed that appeals of the appellants being devoid of merit may be dismissed.

07. We have heard learned counsel for the parties and have perused the record.

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08. A perusal of record would reveal that all the appellants were employees of the provincial government, who were deputed to serve in Ex-FATA under the control of Director of Education Ex-FATA, whereas their other colleagues working in settled districts were working under the control of Director of Education at provincial level.

The provincial Government vide Notification dated 24-07-2014 had issued criteria for promotion of teachers to next grades, which was equally applicable to provincial as well as employees working in Ex-FATA. To this effect, the provincial directorate of Elementary & Secondary Education KP vide letter dated 07-08-2014 had asked the Directorate of Education Ex-FATA to fill in the vacant posts of SST in Ex-FATA by promotion of in-service teachers under the existing service rules. The said letter lingered in the Directorate of Ex-FATA for almost seven months, which finally was conveyed to all Agency Education Officers vide letter dated 09-03-2015 with directions to submit category wise lists of candidates for promotion against the post of SST. Agency Education Officers took another two years and seven months, while submitting such information to the directorate of Ex-FATA and finally the appellants

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were promoted vide order dated 11-10-2017. On the other hand, the office of the District Education Officer in the settled district took timely steps and the promotions were made possible in the same year i.e. 2014. Placed on record is a Notification dated 01-11-2014 issued by District Education Officer Charsada, whereby promotions had been made in pursuance of the Notification dated 24-07-2014 in the same year, whereas promotions in Ex-FATA were made in 2017 with delay of more than three years. Placed on record is another Notification dated 14-03-2017 issued by Directorate of Education Ex-FATA promoting Certified Teachers (CT) (BPS-15) to the post of Senior CT (BPS-16) w.e.f 20-02-2013, negating their own stance that promotions are always made with immediate effect. Similarly placed teachers was extended the benefit of their promotion with retrospective effect, however the respondents are denying the same to the appellants for the reasons best known to them. The material available on the record, would suggest that the appellants were treated with discrimination.

Wm

09. The appellants are primarily aggrieved by the inaction of the respondents to the effect that all the appellants were otherwise fit for promotion to the post of SST, but their promotions were delayed due to slackness of the directorate of education, which adversely affected their seniority position as well as suffered financially due to intentional delay in their promotions. The respondents also did not object to the point of their fitness for further promotion at that particular time.

10. We have observed that seniority of the appellants as well as their other counterparts working at Districts level had been maintained at Agency/District level before their promotion to the post of SST, whereas upon promotion to the post of SST, the seniority is maintained at provincial level and the appellants who were promoted in 2017 in comparison to those, who were promoted in 2014, would definitely find place in the bottom of the seniority list maintained at provincial level with dim future prospects of their further promotions, as well as they were kept

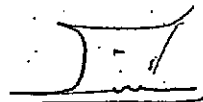
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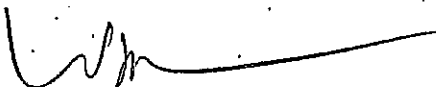
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deprived of the financial benefits accrued to them after promotion for no fault of them, hence they were discriminated. It was noted with concern that the only reason for their delayed promotion was slackness on part of directorate of education Ex-FATA and its subordinate offices at Agency level, which had delayed their promotions for more than three years for no fault of the appellants.

11. In view of the foregoing discussion, the instant appeals are accepted and all the appellants are held entitled for promotion from the date, the first batch of their other colleagues at provincial level were promoted in the year 2014 with all consequential benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
14.07.2021



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

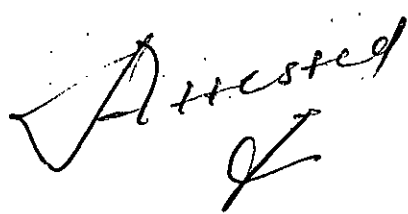

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

Date of Presentation of Application	4-1-22
Number	3600
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Khyb. & FATA
Services Tribunal
Peshawar


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