

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL No. 1564/2023

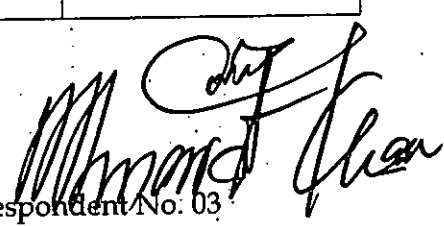
Muhammad Yasin

VS

Government of KPK

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Respondent No. 03
District Education Officer
(Male) Dera Ismail Khan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

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PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 TO 3

Respectfully Sheweth

PRELIMINARY OBJECTIONS

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8217

Dated 10/10/23

1. That the appellant has got no cause of action / locus standi to file instant appeal.
2. That the appellant has not come to the honorable tribunal with clean hands.
3. That the appellant has filed the service appeal on malafide objectives.
4. That the instant appeal is against the prevailing laws and rules.
5. That the appeal is barred by law and limitations.
6. That the instant appeal is illegal and against the facts.
7. That the appellant has concealed the material facts from the honorable tribunal.
8. That the appeal is badly time barred.
9. That the appeal is bad for mis joinder and non joinder of necessary parties.

Reply on behalf of Respondents

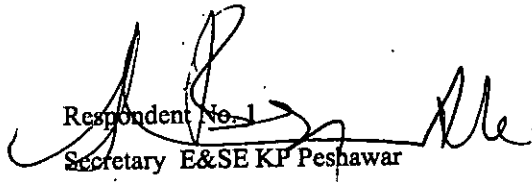
Respected Sir, The respondents humbly submits as under

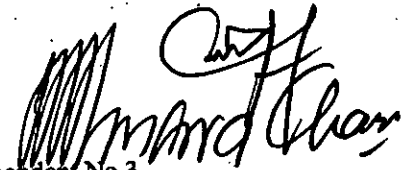
1. Para pertains to the appointment of appellant as a ASSA in Pesco on 09-12-2002.
2. Para pertains to the service of appellant in Pesco about regularization cadre office order dated 28-06-2006.
3. Para pertains to the advertisement about PST in year 2014 education department.
4. Para pertains to the constitutional writ petition No. 603/D 2014 and for final hearing on 06-03-2018.
5. Para pertains to the his appointment orders issued by the respondent No. 3 District Education Officer Male DIKhan as a Primary School Teacher in BPS-12 on 20-04-2019.
6. Para pertains to the NOC by the Pesco authorities to join the post of PST and his resignation from the Pesco 22-04-2019.
7. Para pertains to the assuming of charge of primary school teacher in BPS-12 in GPS No. 10 DIKhan in year 2019. Whereas remaining para is related to the constitutional petition No. 487-D 2021 decided on 22-12-2022.
8. Para pertains to the directions of honourable Peshawar High Court to the respondent No. 3 District Education Officer (Male) DIKhan to decide the application of appellant.
As the appellant was appointed as a PST in BPS-12 by the compliance of honourable Peshawar High Court in writ petition No. 603-D/2014 decided on 06-03-2018 on contract basis initially for the period of one year. The appellant applied for continuation of previous service for contract basis of one year on 11-07-2019. His service was regularize by the regularization act 2022 by DEO M DIKhan on 01-12-2022 as the appellant was regularized on 01-12-2022 so he is not entitled for promotion from post of PST to SPST where as policy statement SPST post will be fulfillment seniority cum fitness from the amongst primary school teachers with at least five years service. (Annexure-A).
9. Para pertains to the departmental appeal of appellant on 13-03-2023.
10. Para pertains to the service appeal of appellant in service tribunal court.

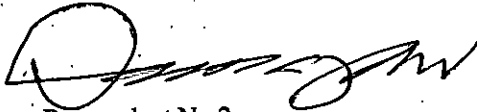
GROUND


- a. As the appellant was appointed as a ASSA in Pesco w.e.f 09-12-2002 to 21-04-2019 so he cannot claim the seniority and promotion from the education department.
- b. Para pertains to the constitutional petition 603-D/2014 in Honourable Peshawar High Court and service in Pesco.
- c. Incorrect / not admitted. As replied above.
- d. Incorrect / not admitted. As discussed above.
- e. Incorrect / not admitted. The appellant has no right to claim the post of PST to SPST without of fulfilling codal formalities and at least five years service in Education Department. As his service was regularized by the respondent No. 3 DEO M DIKhan on 01-12-2022.
- f. Incorrect / not admitted. Para is strongly refuted.

So it is humbly prayed that service appeal of appellant may kindly be dismissed with cost.


Respondent No. 1
Secretary E&SE KP Peshawar


Respondent No. 3.
DEO (M) D. I. Khan


Respondent No. 2.
Director E&SE KP Peshawar


Respondent No. 4
SDEO (M) D.I.Khan

**GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
DERA ISMAIL KHAN**

OFFICE ORDER

WHEREAS, Mr. Muhammad Yaseen S/O Muhammad Amin was appointed as Assistant Sub Station Attendant (ASSA) on contract basis w.e.f. 09-12-2002 in PESCO DIKhan.

AND WHEREAS, His services were regularized w.e.f. 28-06-2006 in that department i.e PESCO DIKhan

AND WHEREAS, He applied for PST post through NTS in the year 2014 in Education Department DIKhan.

AND WHEREAS, He was appointed as PST in BPS-12 vide DEO (M) DIKhan under Endst No 10088-96 dated 22-04-2019 in compliance of Honorable Peshawar High Court DIKhan Bench in Writ Petition bearing No. WP 603-D/2014 decided on 06-03-2018 on contract basis initially for the period of one year.

AND WHEREAS, He has applied for continuation of his previous service while he was on contract for the period of one year on 11-07-2019.

AND WHEREAS, His service are regularized under regularization ACT 2022 vide DEO (Male) DIKhan Endst No.28396-28400 dated 01-12-2022 at Serial No. 101 of 2019.

AND WHEREAS, After regularization he can apply for his pay protection as well as for his continuation of his previous service under Govt. of KPK finance Department (Regularization wing) No FD (SOSR-1) 12-7/2014 dated Peshawar 6th February 2014. On the terms & condition mentioned in the said Notification.

AND WHEREAS, He was given seniority along with his batch mates of 2014 NTS as per Honourable Peshawar High Court DIKhan Bench judgment as mentioned in his appointment order.

AND WHEREAS, He will be promoted to SPST post after fulfilling the prescribed criteria mentioned in SO (PE) 4-5 / SSRC meeting / 2012 / Teaching cadre dated 13-11-2012 & notification dated 30-01-2018 at Serial No.20. As per policy statement SPST post will be filled by promotion on basis of seniority cum fitness, from amongst Primary School Teachers with at least five years' service as such and having qualification prescribed for initial recruitment of Primary School Teacher.

NOW THEREFORE, As per policy he is not entitle for promotion from PST to SPST post at that time.

-Sd-

**DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN**

Endst: No. 4441-45

Dated 13 /03/2023

Copy of the above is forwarded to the:

1. Registrar Peshawar High court DIKhan Bench .
2. SDEO (Male) DIKhan.
3. Teacher Concerned.
4. PA to DEO (Male) DIKhan
5. Office copy.


**DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN**

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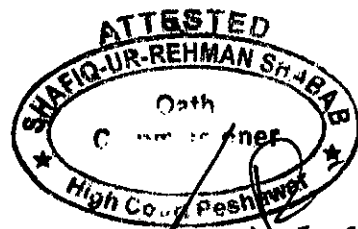
Authority


I District Education Officer (M) D.I.Khan do hereby authorized Mr: Muhammad Kamran Khan to attend the honorable Service Tribunal KPK Peshawar on behalf of respondent in connection with submission para wise comments till the decision of service appeal.

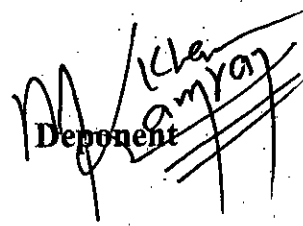

Respondent No.3
District Education Officer
(M) D.I.Khan

Affidavit

I Mr: Muhammad Kamran Khan ADEO (M) D.I.Khan do solemnly affirm and declare on oath that contents of written reply are correct to the best of my knowledge and nothing has been concealed from this honorable Court. It is further stated that on oath in this appeal the answering respondents have been neither placed ex-parte nor their defense has been struck off.




10/10/23


Deponent