

18.10.2022

Learned counsel for the appellant present. Mr. Muhammad Nisar, Focal Person alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments before the D.B on 28.11.2022.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

28/11/22

Deleted from list to come up
for the same on 7/2/23

0



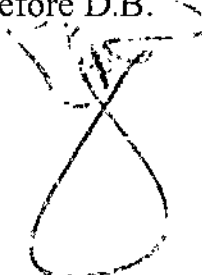
07.02.2023

Clerk of counsel for the appellant present. Muhammad Adeel Butt, Additional Advocate General for respondents present.

File to come up alongwith connected Service Appeal No. 7135/21 titled "Nek Nawaz Khan Vs. Education Department" 15.05.2023 before D.B.



(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

SCANNED
KPST
Peshawar

23.12.2021

Junior to counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Yasir Khan, Junior Clerk for the respondents present.

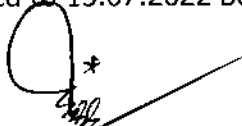
The respondents have not furnished reply/comments and seek further time. Let the respondents be afforded with last opportunity with the warning that in case they fail to submit the written reply/comments on or before next date, their right for reply/comments shall be deemed as struck off by virtue of this order. Case to come up for arguments on 06.04.2022 before the D.B.


Chairman

06.04.2022

Appellant present in person. Mr. Kabirullah Khattak Adl. AG along with Mr. Muhammad Nisar (Focal Person) for respondents present. Written reply has been submitted which is placed on file.

Counsel, are at strike. Therefore the case is adjourned to 13.07.2022 before D.B.


(Mian Muhammad)
Member (E)


Chairman

13.07.2022

Junior of learned counsel for the appellant present. Mr. Naseer Ud Din Shah, Assistant Advocate General for respondents present.

File to come up alongwith connected Service Appeal No.7135/2021 titled "Neik Nawaz Khan Vs. Education Department" on 18.10.2022 before the D.B.


(Rozina Rehman)
Member (J)


(Salah-Ud-Din)
Member (J)

28.10.2021

Appellant in person present. Memorandum of appeal and the copies of record annexed there with have been perused.

Learned counsel for the appellant states on his own risk that service appeal No. 8647/2020, 8651/2020 and 8650/2020 involving the similar factual and legal position have already been admitted for full hearing and next date in the said appeal is fixed before the D.B-I on 03.02.2022. Subject to all just factual and legal objections this appeal is also admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. Let it be fixed before the S.B on 23.12.2021 for filing of the reply/comments and thereafter is shall be clubbed with the aforementioned appeal.

Approved
Security Deposited
Process Fee
28/10/21

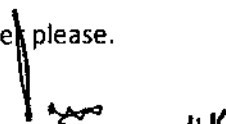

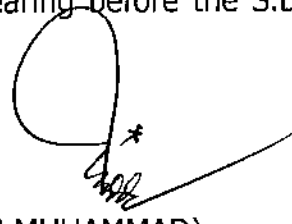

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7136 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/08/2021	<p>The appeal of Mr. Gul Rauf resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>10/09/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-	10.09.2021	<p>Clerk of counsel for the appellant present.</p> <p>Due to general strike of the legal fraternity, the case is adjourned. To come up for preliminary hearing before the S.B on 28.10.2021.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

The appeal of Mr. Gul Rauf SCT GHS Mandoos Kot District NW Miranshah received today i.e. on 28.06.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of judgment order dated 22.2.2018 and impugned order dated 31.5.2012 mentioned in para-3 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Annexures-G & H of the appeal are illegible which may be replaced by legible/better one.

No. 1434 /S.T.

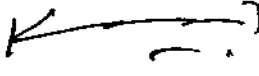
Dt. 29/07 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Sir
2/8/21

Resubmitted after the Completion.


2/8/21

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

GUL RAUF

VS

EDUCATION DEPTT:

INDEX

S.N	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal with affidavit	1-4
2.	Service certification	A	5
3.	Pay roll	B	6
4.	Educational testimonial	C	7-12
5.	Impugned notification	D	13-18
6.	Judgment 28-01-2016 & 05-04-2016	E&F	19-25
7.	Notification	G	26
8.	Departmental appeal & Registry receipt	H	27-28
9.	Vakalatnama	29

Dated 07/2021

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

OFFICE: Flat No.4, 2nd Floor,
Juma Khan Plaza, Near FATA Secretariat,
Warsak Road, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2021

GUL RAUF s/o Sardar Khan, SCT (BPS-16),
GHS Mandoos Kot, North Waziristan.

.....**APPELLANT**

VERSUS

- 1- The Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Director, Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
- 5- The District Education Officer (Male), District North Waziristan.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST OF THE RESPONDENTS BY NOT CONSIDERING THE APPELLANT FOR PROMOTION TO THE POST OF SST (BPS-16) ON THE BASIS OF THE BASIS OF HAVING BACHELOR DEGREE IN 3RD DIVISION AND AGAINST THE SERVICE RULES NOTIFIED ON 24-07-2014 WHEREBY THE CONDITION OF BACHELOR 2ND DIVISION HAS BEEN INSERTED IN SERIAL NO. 1 (B), COLUMN No 3 (i) OF THE TABLE AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL DATED 29-03-2021 OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned service Rules dated 24.07.2014 may kindly be modified to the extent that the condition of 2nd Division/Class be expunged from Column No. 3 (i), Serial No. 1B of the Table and the respondents may kindly be directed to consider the appellant for promotion to the post of Secondary School Teacher (BS-16) from the date when his colleagues and

junior colleagues were promoted with all consequential back benefits including seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant was initially appointed as Certified School Teacher in the respondent Department since 28-04-1987 and right from the date of appointment the appellant is serving the respondent Department quite efficiently and upto the entire satisfaction of his high ups. Copy of service certificate & Pay roll is attached as annexure **A & B.**
- 2- That appellant is highly qualified person having Master of Art in Islamiyat from Gomal University as well as B. Ed Decrees from reputed & recognized institution of the country. Copy of the Educational Testimonials are attached as annexure **C.**
- 3- That it is pertinent to mention here that the respondent issued the impugned notification dated 24-07-2014 whereby the post of secondary school teachers was restructured and 20% promotion quota to the aforementioned posts was reserved for Primary School Teachers. That according to the said notification required qualification for initial recruitment as well as promotion was mentioned as second class bachelor degree. Copy of impugned notification dated 24-07-2014 attached as annexure **D.**
- 4- That it is pertinent to mention here that the respondents denied promotion to some colleagues of the appellant to the post of SST due to having 3rd Division bachelor degree. That feeling aggrieved some colleagues of the appellant filed writ petitions which were allowed in favour fo the petitioners vide judgments dated 05-04-2016 and 28-01-2016 and consequently they were promoted to the post of SST. Copies of the judgments dated 28-01-2016 & 05-04-2016 are attached as annexure **E & F.**
- 5- That it is worth mentioning here that appellant was also denied from promotion due to having 3rd Class Bachelor degree despite the fact that appellant is having second division in higher qualification i.e. Master as well as in B.Ed & M.Ed.

- 6- That appellant being a similarly placed employee approached the respondent to extend him the benefits of the above mentioned judgments, but still in vain.
- 7- That it is also pertinent to mention that establishment department issued a notification dated 15-12-2011 whereby amendment has been made in PMS Rules 2007 by providing that a candidate who has obtained 3rd Division in Bachelor degree will be eligible for the examination in cases where he/she has obtained a higher division in Master's degree. Copy of notification is attached as annexure **G.**
- 8- That appellant feeling aggrieved, from the inaction of the respondent by not promoting the appellant to the post SST (BPS-16) preferred Departmental Appeal dated 29-03-2021 before the respondents through register post but the same is not responded within the statutory period of ninety days. Copy of the Departmental Appeal dated 29.03.2021 & Registry receipt is attached as annexure **H.**
- 9- That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the inaction of the respondent by not promoting the appellant to the post of SST (BPS-16) and notification dated 24-07-2014 is against the law, facts, norms of natural justice and material on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondent violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That appellant is entitled to be promoted to the post of SST (BPS-16) from due date in light of judgments of Peshawar High Court by attracting Principle of Parity as mentioned in the apex court judgment reported as 2009 SCMR page 01.
- D- That the appellant has been discriminated on the subject noted above as other colleague who are having 3rd division are given promotion but the appellant has been deprived from the benefit of promotion to the post of SST (BPS-16).
- E- That the respondents while not promoting the appellant to the post of SST (BPS-16) is against the Law & Rules on the subject

matter and as the respondent violated the Principle of Natural Justice.

F- That the appellant has 2nd division in higher qualification i.e. Master degree and other educational related degrees i.e. B.Ed & M.Ed that entitle to be promoted from the due date in light of notification dated 15-12-2011.

G- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for

Appellant

GUL RAUF

Through:

NOOR MOHAMMAD KHATTAK

MUHAMMAD MAAZ MADNI
Advocates, Peshawar

CERTIFICATE:

No such like appeal has earlier been filed between the parties

ADVOCATE

AFFIDAVIT:

I, Gul Rauf s/o Sardar Khan do hereby solemnly affirm that the contents of the above appeal are true and correct to the best of my knowledge & believe and nothing has been concealed from this Honourable Court.

DEPONENT

21505-1823658-3



ELEMENTRY & SECONDRY EDUCATION DEPARTMENT KHYBER
PAKHTUN KHWA.

OFFICE OF THE HEADMASTER G.H.S MANDOOS KOT NORTH
WAZIRSTAN DISTRICT MIRALI.

(5)

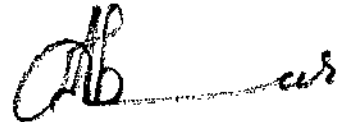
ANNEXURE A

No.----- SERVICE CERTIFICATE Dated.----/-----/-----

This is to certify That MR.GUL-RAUF S/O Sardar Khan bearing CNIC No.
21505-1823658-3 resident of Tehsil Mir Ali North Wazirstan Tribal District is a
provincial government servent oppinted on dated 28/ 04/ 1987 having
personal No 50213126 warking as senior C .T.BPS.16 at G.H.S Mandoos kot Mir
Ali NWTD

Under the control of the undersigned.

He deserves all right of a govt servent as deemed.



HEAD MASTER
HEAD MASTER
G.H.S Mandoos Kot Mir Ali (N.W.T.D.)

NWD

ANNEXURE

B

6

Miran Shah-N.W.
 S#:245
 P Sec:001 Month:February 2021
 MM6039 -Head Master GHS Mandoz
 HEAD MASTER GHS MANDOZ
 NTN:
 GPF #:
 Old #:

Miran Shah-N.W.
 S#:244
 P Sec:001 Month:February 2021
 MM6039 -Head Master GHS Mandoz
 HEAD MASTER GHS MANDOZ
 NTN:
 GPF #:
 Old #:

Miran Shah-N.W.
 S#:244
 P Sec:001 Month:February 2021
 MM6039 -Head Master GHS Mandoz
 HEAD MASTER GHS MANDOZ
 NTN:
 GPF #:
 Old #:

Miran Shah-N.W.
 S#:244
 P Sec:001 Month:February 2021
 MM6039 -Head Master GHS Mandoz
 HEAD MASTER GHS MANDOZ
 NTN:
 GPF #:
 Old #:

MM6039 -503
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MM6039 -503
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 1,140.00
 763.00
 3,892.00
 5,235.00
 85,577.00

MM6039 -503
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 2,727.00
 5,000.00
 1,500.00
 2,500.00
 1,140.00
 763.00
 3,892.00
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MM6039 -503
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 2,500.00
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 3,892.00
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85,577.00

Gross Pay and Allowances

DEDUCTIONS:

IT Payable 5,335.28 Deducted 10,304.00
 GPF Balance 236,630.00

TAX:(3609)
 Subrc:

IT Payable 5,335.28 Deducted 10,304.00
 GPF-Balance 236,630.00
 3501-Benevolent Fund 800.00
 3990-Edu. Fund KPK 150.00
 4004-R. Benefits & Death Comp: 650.00

Subrc:

Accepted

6,274.00

Total Deductions

6,274.00

79,303.00

79,303.00

D.O.B 15.08.1965
 LFP Quota: MCB BANK LIMITED
 085335186100

D.O.B 15.08.1965
 LFP Quota: MCB BANK LIMITED
 085335186100

D.O.B 15.08.1965
 LFP Quota: MCB BANK LIMITED
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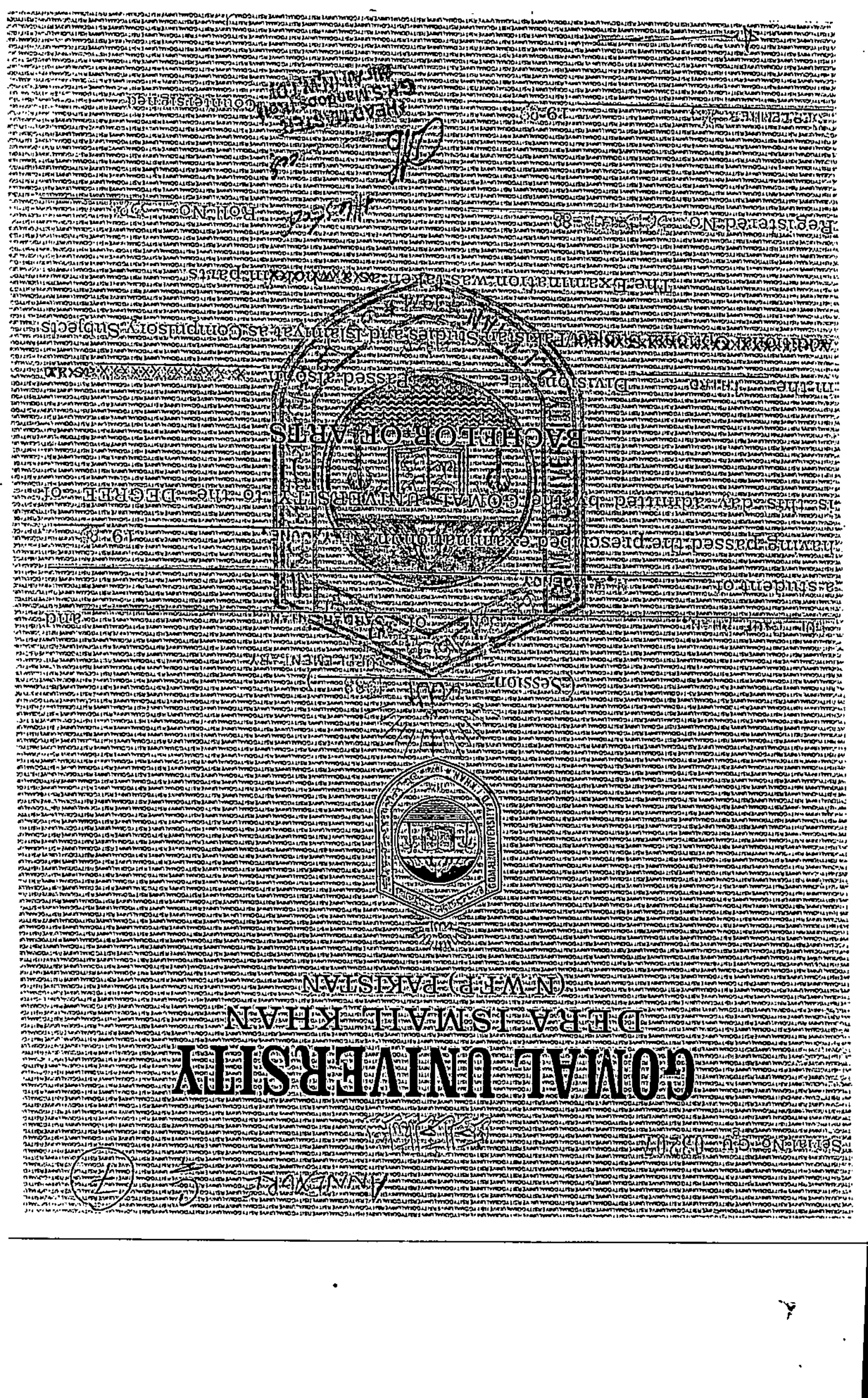
D.O.B 15.08.1965
 LFP Quota: MCB BANK LIMITED
 085335186100

33 Years 10 Months 002 Days

33 Years 10 Months 002 Days

0853351861007083

A/A 10



ROYAL COLLEGE OF SURGEONS

THE ROYAL COLLEGE OF SURGEONS IN LONDON
HOLDERS OF THE CHARTER OF 1540
AND OF THE LETTERS PATENT UNDER THE GREAT SEAL OF GREAT BRITAIN
BEARING DATE THE 27TH DAY OF APRIL 1800
AND OF THE LETTERS PATENT UNDER THE GREAT SEAL OF GREAT BRITAIN
BEARING DATE THE 27TH DAY OF APRIL 1800



GENERAL INQUIRY

INTO THE STATE OF THE
ROYAL COLLEGE OF SURGEONS
IN LONDON
AND OF THE
HOSPITALS AND DISPENSARIES
UNDER ITS CONTROL
AND OF THE
MANNER IN WHICH THE
SAME ARE MANAGED
AND CONDUCTED
AND OF THE
MANNER IN WHICH THE
SAME ARE FINANCED
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MANNER IN WHICH THE
SAME ARE CONTROLLED



BY
THE
COMMISSIONERS
OF THE
GENERAL INQUIRY
INTO THE
STATE OF THE
ROYAL COLLEGE OF SURGEONS
IN LONDON
AND OF THE
HOSPITALS AND DISPENSARIES
UNDER ITS CONTROL
AND OF THE
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PRINTED BY
RICHARD CLAY AND COMPANY
BUNGAY, SUFFOLK
1911

8

GOMAL UNIVERSITY



DERA ISMAIL KHAN.

Passed/Re-appear/Failed in Agg/Failed

DETAILED MARKS CERTIFICATE

B. A. Examination 1988 Annual/Supplementary/Free

Roll No. 3524

Mr./Miss Gul Rauf Khan

The candidate secured the following marks & has been placed in Third Division

SUBJECTS	Total number of marks allotted	MARKS OBTAINED	
		In figures	In words
1. English.	150	51	Fiftyone
2. Urdu/Pashto/Arabic/ Persian/English-Elective.	150	50	Fifty
3. Islamic Studies.	150	66	Sixty six
4. Political Science.	150		
5. History.	150		
6. Economics.	150		
7. Pakistan Studies (Comp).	40	14	fourteen
8. Islamic Studies (Comp.)	60	43	forty three
9. Statistics.	200		
10. Geography	200		
11.			
12.			
TOTAL	550	224	Two hundred twenty four

HEAD MASTER
G.O.S. (Kot)
G.O.S. (T.D.)
G.O.S. (T.D.)
G.O.S. (T.D.)

THE EXAMINATION WAS TAKEN AS A WHOLE/IN PARTS.

No. 21962

Dated 24-9-1988

Controller of Examinations,
Gomal University, Dera Ismail Khan

1.10.88

Serial No. GU 00384

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

9

GOMAL UNIVERSITY

DERA ISMAIL KHAN
(N.W.F.P) PAKISTAN



(Session 1945)

NAME OF CANDIDATE: _____ NO. OF SEAT: DAK KHAN, _____

and a student of _____ AGENCY, _____

having passed the prescribed examination in _____ 1955

is this day admitted by the GOMAL UNIVERSITY to the DEGREE of

BACHELOR OF EDUCATION

in the _____ Division in Part I (Theory)

in the _____ Division in Part II (Skill in Teaching) and

in the _____ Division in Aggregate

The Examination was taken as a whole in parts. EN - PART I.

Registered No. _____ -38

Roll No. 77

Handwritten signature
HEAD MASTER
G.H.S. Mandoba (Kot)
D.A. (N.W.F.P.)

Result declared on October 12, 1955

Countersigned

10

GOMAL UNIVERSITY



DERA ISMAIL KHAN.

Passed/Re-appear/Failed in Agg

DETAILED MARKS CERTIFICATE

B. Ed Private Examination 1994 Annual/Supplementary/ Term.

Roll No. 77Mr. / Miss Gul Rauf KhanThe candidate secured the following marks & has been placed in II Division.

SUBJECTS	Total Number of Marks allotted	MARKS OBTAINED.	
		In figures	In words
Edu. Psychology	100	44	Forty four
Pr. of Education	100	49	Forty nine
School org. & manag.	100	44	Forty four
History of Education	100	36	Thirty six
Methods of Teaching Eng.	100	37	Thirty seven
Islamiat	100	54	Fifty four
Methods of Teaching Urdu	100	45	Forty five
General Science	100	42	Forty two
Practical Skill in Teaching	200	106	one Hundred & Six only
TOTAL	1000	457	Four Hundred & fifty seven

THE EXAMINATION WAS TAKEN ~~AS A WHOLE~~ IN PARTS

No 051759

Dated 12-10-

1995

GREAD MASTER

G.H.S Mandoos, (Kot) Controller of Examinations,
Mir Ali (N.W.T.D.) Gomal University, Dera Ismail Khan.

Serial No. ^{GU} 00391

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

11

GOMAL UNIVERSITY

DERA ISMAIL KHAN

(N.W.F.F)



(Session 1999 ANNUAL)

GUL RAUF KHAN. SON of HAJI SARDAR KHAN. and
a student of the N.W.AGENCY.

having passed the prescribed examination in APRIL/MAY, 19 2000
is this day admitted by the Gomal University to the DEGREE of

MASTER OF ARTS

in the SECOND Class

The subject of examination being PASHTO.

The Examination was taken as a whole/in parts.

Registered No. 5615-GUP-88

Roll No. 4272

OCTOBER 6, 19 2000

Attested
[Signature]

HEAD MASTER
G.H.S Mandoos (Kot)
Mandoos (N.W.F.F.)

Countersigned

[Signature]
Vice-Chancellor

[Signature]
Controller of Examinations

GOMAL UNIVERSITY



DERA ISMAIL KHAN.

12

Passed/Re-appear/Failed in Agg

DETAILED MARKS CERTIFICATE

M. A. Pashto Examination 19 99 Annual/Supplementary/Final Term.

Roll No. 4272

Mr./Miss Govul Raza Khan

The candidate secured the following marks & has been placed in 2nd Division.

SUBJECTS	Total Number of Marks allotted	MARKS OBTAINED	
		In figures	In words
1) Dict & Study of Reg / H. A. L. P. 100	100	33	thirty three
2) Hist of Reg Lang / Lit 100	100	75	seventy five
3) ESSAY / Translation 100	100	59	fifty nine
4) Literary Criticism 100	100	58	fifty eight
5) Under. U. C. 100	100	67	sixty seven
Agg of previous 300	300	129	one hundred twenty nine
TOTAL	800	421	four hundred twenty one

THE EXAMINATION WAS TAKEN AS A WHOLE/IN PARTS

No 066277

Dated 6-10-19

HEAD MASTER
G.H.S Mandoos (Kot)
Mir Ali (N.W.T.D.)
Controller of Examinations,
Gomal University, Dera Ismail Khan.

Request wali
13 to 18
Better Copy e

ANNEXURE

D

13

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 provision contained in sub rule (2) 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 date 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 new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1.	Subject specialist (BPS-17)	<p>i. At least second class Master Degree or four Years BS Degree in the Relevant subject: and.</p> <p>ii. Bachelor of education or Master of education (Industrial Art or Business education) or MA education or equivalent qualification from a recognized university</p>	23 to 35 years	<p>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.</p> <p>Note: if no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial recruitment: and</p> <p>b) fifty percent by initial recruitment.</p>
1A	Director physical education (BPS-17)	At least second class master Degree in physical Education from a recognized university	22-35 years	<p>a) Fifty percent by promotion on the basis of seniority cum fitness from amongst senior Physical Education Teachers BPS-16 with at least five year's service as senior physical education teacher and physical education teacher and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable person is available from amongst senior physical education teachers for promotion then the post</p>

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			<p>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;</p> <p>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</p> <p>b) fifty percent by initial recruitment"; and</p>
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ii) against serial No.1B, as so renumbered for the existing entries the following shall be substituted in respective column, namely:

1	2	3	4	5
1B	Secondary School Teachers (BPS-16)	<p>1. 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</p> <p>b) Physics, Maths 'A or B' or statistics Or</p> <p>c) Humanities and other equivalent groups at degree level with English as compulsory subject; And</p> <p>11. Bachelor of Education, or Master of education (industrial Art or business Education) or MA education or equivalent qualifications from a recognized university.</p>	21 to 35 years	<p>1. seventy five percent by promotion on the basis of seniority cum fitness from the district concerned in the following manner:</p> <p>2. forty percent 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 percent from amongst the senior drawing master BPS-16 with at least five years service as</p>

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senior drawing masters and drawing masters and having qualification mentioned in column No.3 ;

provided that if no suitable candidate is available from amongst senior drawing master for promotion then the post shall be filled by promotion on the basis of seniority cum fitness from amongst drawing master with at least five years service as such and having qualification mentioned in column No.3;

c) four percent 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 column No.3;

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 seniority cum fitness from Arabic teachers with at least five years service as such and having qualification mentioned in column No.3;

d) four percent 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;

provided that if no suitable candidate is available from

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				<p>amongst senior theology teachers for promotion then the post shall be filled by promotion on the basis of seniority cum fitness from amongst the Theology Teachers with at least five years service as such and having qualification mentioned in column No.3;</p> <p>e) three percent from amongst the Senior Qari BPS-16 with at least five years service a senior Qari and having qualification mentioned in column No.3;</p> <p>provided that if no suitable candidate is available from amongst the senior Qari 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 percent 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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ATTESTED

ZAMIN KHAN MOMAND
SECTION OFFICER (PRIMARY)

GOVERNMENT OF KENYA
 MINISTRY OF EDUCATION
 NATIONAL EXAMINATIONS COUNCIL OF KENYA
 NATIONAL EXAMINATIONS BOARD

13

AMENDMENTS

The following new entries shall be added to the syllabus numbered as follows:

<p>(a) Syllabus numbered as follows:</p>	<p>Base second class Master's Degree or post-graduate BS Degree in the relevant subject and</p>	<p>(b) Fifty per cent of promotion on the basis of seniority/qualification for the relevant subject from amongst the Secondary School Teachers (BPS-16) with at least five years' service as such and having qualifications mentioned in column (a).</p>
<p>Subject: English</p>	<p>Teacher of Education or Master of Education (Business Administration) or</p>	<p>NOTE: If no suitable candidate is available, the relevant subject will be promoted on the basis of seniority/qualification.</p>

AMENDED

14

Director-Physical Education (BPS-17)	At least second class Master's Degree in Physical Education from a recognized University	2-35 years	<p>recruitment and</p> <p>(b) fifty percent by initial recruitment</p> <p>(c) fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Physical Education Teachers (BPS-10) with at least five years service as Senior Physical Education Teacher and Physical Education Teacher and having a qualification mentioned in column No. 3</p> <p>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.</p> <p>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</p> <p>(b) fifty percent by initial recruitment, and</p>
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(1b) against Serial No. 1B, as so remembered for the existing entries, the following shall be substituted, in respective columns, indently.

1	2	3	4	5
(1b)	Secondary School Teacher (BPS-16)	<p>I. At least second class Bachelor Degree's from recognized University or need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology)</p> <p>Or</p> <p>(b) (Physics, Maths, A or B or Statistics)</p> <p>Or</p> <p>(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>	21.10.35	<p>I. 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 qualifications 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>

(3)

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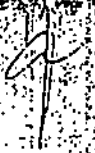
			<p>Provided that if no suitable candidate is available from amongst Senior Drawing Masters for promotion the post shall be filled by promotion on the basis of seniority-cum-fitness from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3.</p> <p>(c) Fifty per cent from amongst the Senior Arabic Teachers (BRS-16) with at least five years service as Senior Arabic Teachers and Arabic Teachers and having qualification mentioned in column No. 3, 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.</p> <p>(d) 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.</p>

(4)

ANNEXURE
B

				<p>Provided that if no suitable candidate is available from amongst Senior-Primary Teachers for promotion then the post shall be filled by promotion on the basis of seniority cum fitness from amongst teachers with at least five years service as such and having qualification mentioned in column No. 3.</p> <p>(c) Three per cent from amongst the Senior Oais (BPS-16) with at least five years service as Senior Oai and Oai and having qualifications mentioned in column No. 3.</p> <p>Provided that if no suitable candidate is available from amongst the Senior Oais then the post shall be filled by promotion on the basis of seniority cum fitness from Oais with at least five years service as such and having qualification mentioned in column No. 3.</p> <p>(d) 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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(5)

MAHARASHTRA


18

SECRETARY TO GOVERNMENT OF KHUZDUR PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Final Report No. S (file)

- 1. The Secretary to Government of Khuzdur Pakhtunkhwa, Establishment and Administration Department, Peshawar.
- 2. The Secretary to Government of Khuzdur Pakhtunkhwa, Finance Department, Peshawar.
- 3. The Secretary to Government of Khuzdur Pakhtunkhwa, Public Service Commission, Peshawar.
- 4. The Secretary, Khuzdur Paktunkhwa, P. H. C. Service Commission, Peshawar.
- 5. The Accounts Officer, Khuzdur Paktunkhwa, Peshawar.
- 6. The Director, Elementary and Secondary Education Department, Khuzdur Paktunkhwa, Peshawar.
- 7. The Director of Education (I), Peshawar.
- 8. The Director, Curriculum and Teacher Education, Khuzdur Paktunkhwa, Peshawar.
- 9. The Director (G.P.H.C.) Khuzdur Paktunkhwa, Peshawar.
- 10. The Director, P.S. of Elementary and Secondary Education Department, Khuzdur Paktunkhwa, Peshawar.
- 11. Manager, Government Printing Press, Khuzdur Paktunkhwa, Peshawar.
- 12. The Deputy Director (M.S. (S.S.D.) Department, Khuzdur Paktunkhwa, Peshawar.
- 13. All District Education Officer (M.S.) of Khuzdur Paktunkhwa.
- 14. All District Accounts Officer in Khuzdur Paktunkhwa.
- 15. All Agency Education Officer in Khuzdur Paktunkhwa.
- 16. All Agency Accounts Officer in Khuzdur Paktunkhwa.
- 17. P.S. to Governor, Khuzdur Paktunkhwa, Peshawar.
- 18. P.S. to Chief Minister, Khuzdur Paktunkhwa, Peshawar.
- 19. P.S. to Chief Secretary, Khuzdur Paktunkhwa, Peshawar.
- 20. P.S. to Minister, E.S.E. Khuzdur Paktunkhwa, Peshawar.
- 21. P.S. to Secretary, E.S.E. Khuzdur Paktunkhwa, Peshawar.
- 22. Master file.

(ZAMIN KHAN NOMAND)
SECTION OFFICER (PRIMARY)

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ANNEXURE

E
7

19

PESHAWAR HIGH COURT BANNU BENCH
FORM OF ORDER SHEET

Date of order or other proceedings (1)	Order or other proceedings with signature of Judge (S) (2)
28.01.2016	<p>WP No.73-B-2014 Present Mr. Ali Jan Khan Advocate for petitioner: MUHAMMAD GHAZANFAR KHAN :-</p> <ol style="list-style-type: none">1. the petitioner namely Mumtaz Khan son of the Gull Jan, through the instant Constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, seeks issuance of directions to the respondents/department to consider him for promotion in the post of SST in BPS-16 in view of the department promotion committee meeting held on 18.01.2014.2. we have heard learned counsel for the petitioner and gone through the available record of the case.3. Perusal of the record transpires that the petitioner has passed B.A in third division while as per notification bearing No. dated 18.1.2011 the minimum qualification for the post of SST BPS-16 are Bachelor's degree or MA in education bachelor degree in education. The record further shows that the petitioner has also passed M.ed during the year 2000 in second division and M.A History and Pak study during the session 2003 in second division.4. In wake of the above, we direct the respondents to consider the petitioner for promotion to the post of SST BPS-16 in the next departmental promotion Committee meeting on the basis of his degree in MA History and Pak Study coupled with M.ed qualifications. The writ petition is disposed of in the above terms. <p>ANNOUNCED 28.01.2016.</p> <p style="text-align: right;">Sd/- ikramullah Khan Sd/-Muhammad Ghazanfar Khan, J</p>

ATTESTED

FORM OF ORDER SHEET

E

19

Date of order or other proceedings	Order or other proceedings with signature of Judge(s)
(A)	(B)
28/01/2016	<p>AYP No. 73-B-2014</p> <p>Present: Mr. Justice Khan Iqbal Kazi for petitioner</p> <p>MULLA AMAN ULLAH AZHAR, Advocate General, Government of Punjab, petitioner, through the instant Constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, seeks issuance of directions to the respondents/department to consider a promotion in the post of SSA in PS-16 review of the Departmental Promotion Committee meeting held on 18-01-2014.</p> <p>2. We have heard learned counsel for the petitioner and gone through the available records in the case.</p> <p>3. The record of record of this case shows that petitioner has passed AY in initial division while a perusal of notification bearing No. 1825/2014 (SSA) dated 18/01/2014, the minimum qualifications for the post of SSA (B-16-10) are second class Bachelors degree or M.A. in Education or Bachelor's degree in Education or</p>

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[Handwritten signature]
Justice Ijaz Ali
Supreme Court of Pakistan

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record further shows that the petitioner has also passed M.Ed. during the year 2000 in second division and M.A. History and Public Study during the session 2003 in second division.

In wake of the above we direct the respondents to consider the petitioner for promotion to the post of SST (BPS-16) in the Departmental Promotion Committee meeting on the basis of his degree in M.A. History and Public Study equal to M.Ed. qualifications. The said petition is disposed of in the above terms.

Sd/- Kamal Khan

ANNOUNCED
28/07/2015

Sd/- Muhammad Ghazwan Khan

(Handwritten signature and date)
13/7/15

CERTIFIED TO BE TRUE COPY

Examinator
Central Board of Secondary Education
Under Section 107 of
The Central Board of Secondary Education Act, 1964

ATTESTED

21 to 25

BETTER COPY- E

Judgment Sheet

IN THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH JUDICIAL DEPARTMENT

Writ Petition No.1041-A/2015

JUDGMENT

1. **IKRAMULLAH KHAN, J:-** Through the instant writ petition under article 199 of the Islamic republic of Pakistan, 1973 the petitioner seeks declaration to the effect that the act of respondent NO, 3 where by the promotion notification dated 28.10.2014 was withdrawn vide impugned notification 24.04.2014 on the ground of having qualification of B.Sc (3rd division) is illegal and without lawful authority and against the judgment of this court passed in W.P.No.58-B of 2014.
2. In essence, the petitioner was initially appointed as certified teacher and, as per entitlement, later on promoted to the post of senior certified teacher (BPS-16) Vide notification dated 28.10.2014, where after the petitioner assumed the charge of the said post on 30.10.2014 and after performing his duties to the satisfaction of his competent authority, on 24.04.2015 respondent No,3 has passed the impugned notification and, as such, the promotion order of the petitioner was withdrawn on the ground having B.SC in third division.
3. Comments were called from respondent No.3 who filed the same, averring therein that though petitioner was promoted to the post of SST vide notification dated 28.10.2014 by respondent No.2 scrutinizing his qualification documents, it was found that petitioner was not eligible for promotion to the post of SST being B.SC third divisioner hence, his promotion order was de-notified by the director elementary and secondary education : Khyber Pakhtunkhwa Peshawar and on the direction of director the promotion order of the petitioner was withdrawn vide impugned notification dated 24.04.2015.
4. It is further been averred in the comments that promotion order of the petitioner was withdrawn on the ground of B.sc third division and it was done in light of policy circulated vide Notification No.SO(PE)4-5/SSRC/meeting/2013/teaching cadre dated 24.07.2014 according to which the method of recruitment of SST was specified with a first condition of at least second class BA/Bsc from a recognized university on need basis with two relevant subjects along with second condition of MA education or B.ed from the recognized university further averred that it is the prerogative of the government to enhance, modify or alter the promotion criteria/ policy for the civil servants and a civil servant is not supposed to be treated with a set of rules of his own choice.
5. In response to para-6 of the petition, respondent No.3 averred in the comments that the judgment of this court was announced on 04.06.2015 where as the withdrawal order of the petitioner was passed on 24.04.2015, prior to the announcement of the judgment.
6. The main contention of learned counsel for the petitioner is that this court has already declared the condition of having third division as null and void in its judgment dated 04.06.2015 and the case of the petitioner is on better footing for reason that in referred judgment the petitioner had not been appointed but so far as the case of the petitioner is concerned, he was duly promoted rather received its benefits from 28.10.2014 to 24.04.2015 and thus the impugned order is illegal, without lawful authority and jurisdiction.

7. Admittedly, the petitioner was duly promoted to the post of question on 28.10.2014, after the departmental promotion committee evaluated his case /PERs.
8. Now the question for determination before this court would be that when the petitioner actually performed his duties on the promoted post and that too for six long months, then how the respondent No.3 could withdraw earlier promotion order only on the pretext having B.Sc third division.
9. It appears from the record that a division Bench of this had already declared the condition of having third division as null and in its judgment dated 04.06.2015 which fact has also been affirmed by the respondent No.3 in his comments by stating that they were not aware of that judgment at the time of withdrawal of the impugned promotion of the petitioner and when the case of the present petitioner is it par with that of the petitioner there in, rather on better footing because the petitioner was not only promoted to the post in question but he performed his duties for six long months and received its benefits, the impugned notification passed by respondent No,3 is required to be set at naught.
9. It is also a well settled principle of law that once a benefit is granted to a civil servant, cannot taken back from him and, if so, very stringent strong reason are required for the same, which are not available in the case in hand, more so, when the promotion order of similarly placed teachers having B.Sc third division have not been so far withdrawn which is clearly violation of article 25 of the constitution of Pakistan.
10. For the reasons mentioned above, this petition is accepted and the impugned notification dated 24.04.2015 issued by respondent No.3 where by the promotion order of the petitioner was withdrawn is declared to be without lawful authority and, as, such the promotion notification dated 28.10.2014 is hereby restored.

**Announced:
05.04.2016.**

IN THE DISTRICT COURT OF WEST BENGAL

W.P. No. 24 of 2014

W.P. No. 24 of 2014

Deponent

Petitioner

Respondent

DECLARATION

under Article 199 of the Indian Constitution

petitioner seeks declaration to show that the appointment of

respondent No 3 whereby the petitioner was appointed as

28.10.2014 was withdrawn vide order of the respondent No 1

24.04.2014 on the ground of having been appointed in the

division) is illegal and without effect and that the

judgment of this court passed in W.P. No. 24 of 2014

2. In essence, the petitioner was originally appointed as

Certified Teacher and, as per certificate of appointment issued to

the post of Senior Certified Teacher of the respondent No 1

dated 28.10.2014 whereas the petitioner was appointed in the charge

of the said post on 30.12.2014 and the respondent No 1 was

to the satisfaction of the competent authority on 24.04.2014

respondent No 5 has passed the impugned order and as

such, the promotion order of the petitioner was withdrawn on the ground of having B.Sc. in third division.

3. Comments were called from respondent No. 2, who filed the same, averring therein that though petitioner was promoted to the post of SST vide notification dated 23.10.2014 by respondent No. 2, but on scrutinizing his qualification documents, it was found that petitioner was not eligible for promotion to the post of SST being B.Sc. third divisioner, hence, his promotion order was denounced by the Director, Elementary and Secondary Education, Khyber Pakhtunkhwa Peshawar and on the direction of Director the promotion order of the petitioner was withdrawn vide impugned notification dated 24.04.2015.

4. It has further been averred in the comments that promotion order of the petitioner was withdrawn on the ground of B.Sc. third division and it was done in light of policy circulated vide Notification No. SO(PE)45/SSRC/Meeting/2013 / teaching cadre dated 24.07.2014 according to which the method of recruitment of SST was specified with a first condition of at least second class BA / B.Sc. from a recognized University on need basis with two relevant subjects along with second condition of MA Education or B.Ed. from the recognized University. Further averred that it is the prerogative of the government to enhance, modify or alter the promotion

ATTESTED

criteria / policy for the civil servants and a civil servant is not supposed to be treated with a set of rules of his own choice

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5. In response to Para 6 of the petition, respondent No. 5 averred in the comments that the judgment of this court was announced on 04/06/2015 whereas the withdrawal order of the petitioner was passed on 24/04/2015 prior to the announcement of the judgment.

6. The main contention of learned counsel for the petitioner is that this court has already declared the condition of having third division as null and void in its judgment dated 04/06/2015 and the case of the petitioner is on better footing for the reason that in the referred judgment the petitioner had not been appointed but so far as the case of the petitioner is concerned, he was duly promoted, rather received its benefits from 28/10/2014 to 24/04/2015 and thus the impugned order is illegal, without lawful authority and jurisdiction.

7. Admittedly, the petitioner was duly promoted to the post in question on 28/10/2014 after the departmental promotion committee evaluated his case / PERs.

8. Now the question for determination before this court would be that when the petitioner actually performed his duties on the promoted post and that too for six long months, then how the respondent No. 5 could withdraw the earlier promotion order only on the pretext of having B. Sc. in supervision.

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Received for
the Court
on 24/04/2015

ATTORNEY

9. It appears from the record that the respondent No. 1 had already declared the promotion null and void in its judgment. It has also been admitted by the respondent No. 1 that the promotion was not only withdrawn but also the petitioner has been ordered to perform his duties for six long months and receive all benefits. The impugned promotion passed by respondent No. 1 is a nullity and hence it is set aside.

10. It is also a well settled principle that when a benefit is granted to a civil servant, it is not to be taken back from him and if so, very strong or strong reasons are required for the same. In this case, the promotion order of the petitioner, who is a teacher having B.Sc. third division, have not been set aside without any reasons which is clearly violation of Article 25 of the Constitution of Pakistan.

11. For the reasons mentioned above, the petition is accepted and the impugned promotion order is set aside. The respondent No. 1 is directed to issue a promotion order to the petitioner, which is in accordance with the law.

Signature
Date

author by and 125 1/2

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Announced

05 04 2016

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated Peshawar the December, 15 of 2011

NOTIFICATION

No. SOE-II (ED) 2(14)2011:-In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No.XVIII of 1973), the Chief MINISTER OF THE Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Provincial Management Service Rules 2007, the following further amendment, shall be made, namely:

AMENDMENT

In Schedule-I, against Sr. No.1, in Column No.3, the full stop appearing at the end shall be replaced by colon and thereafter that following proviso shall be added, namely:

“Provided that a candidate who has obtained a 3rd Division or D-Grade in Bachelor's Degree will be eligible for the examination in cases where he/she has obtained a higher Division in Master's Degree”.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA



GOVERNMENT OF PUNJAB
ESTABLISHMENT DEPARTMENT

Date: 24/11/2011

NOTIFICATION

RE-SOLICITATION

In exercise of the powers conferred on me by the Punjab Civil Service (Recruitment) Act, 1973, I hereby invite applications for the post of Junior Assistant in the Punjab Civil Service (Recruitment) 2011. The candidates must be of the age group 18 to 25 years as on the date of application. The candidates must be of the age group 18 to 25 years as on the date of application. The candidates must be of the age group 18 to 25 years as on the date of application.

ELIGIBILITY

The candidates must be of the age group 18 to 25 years as on the date of application. The candidates must be of the age group 18 to 25 years as on the date of application. The candidates must be of the age group 18 to 25 years as on the date of application. The candidates must be of the age group 18 to 25 years as on the date of application.

- 1. Secretary, Punjab Public Service Commission
- 2. Secretary, Punjab Public Service Commission
- 3. Secretary, Punjab Public Service Commission
- 4. Secretary, Punjab Public Service Commission
- 5. Secretary, Punjab Public Service Commission
- 6. Secretary, Punjab Public Service Commission
- 7. Secretary, Punjab Public Service Commission
- 8. Secretary, Punjab Public Service Commission
- 9. Secretary, Punjab Public Service Commission
- 10. Secretary, Punjab Public Service Commission
- 11. Secretary, Punjab Public Service Commission
- 12. Secretary, Punjab Public Service Commission
- 13. Secretary, Punjab Public Service Commission
- 14. Secretary, Punjab Public Service Commission
- 15. Secretary, Punjab Public Service Commission
- 16. Secretary, Punjab Public Service Commission
- 17. Secretary, Punjab Public Service Commission
- 18. Secretary, Punjab Public Service Commission
- 19. Secretary, Punjab Public Service Commission
- 20. Secretary, Punjab Public Service Commission

ATTACHED

To,

The secretary, E&SE department,
Khyber Pakhtunkhwa, Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST THE INACTION OF THE RESPONDENTS BY NOT CONSIDERING THE APPELLANT FOR PROMOTION TO THE POST OF SST (BPS-16) ON THE BASIS OF HAVING BACHELOR DEGREE IN 3RD DIVISION AND AGAINST THE SERVICE RULES NOTIFIED ON 24.07.2014 WHEREBY THE CONDITION OF BACHELOR 2ND DIVISION HAS BEEN INSERTED IN SERIAL NO, 18 COLUMN NO, 3(i) OF THE TABLE.

Respected Sir,

With due respect it is stated that I was initially appointed as Certified School Teacher in the respondent Department and right from the date of my 1st appointment I am performing my my duties quite efficiently and up to the entire satisfaction of his superiors. During service, later on I was promoted to the post of SCT. That I have the higher qualification of Master in Arts, B.ed in 2nd Division but the authorities issued the impugned Notification dated 24.07.2014 whereby the post of SST was restricted and 20% promotion quota to the aforementioned post was reserved for Certified Teachers. That according to the said Notification required qualification for initial recruitment as well as promotion was mentioned as second class bachelor degree. That the concerned authority denied promotion of my some colleagues to the post of SST due to having third class bachelor degree. They were feeling aggrieved filed writ petitions which were allowed in favor of petitioners vide judgment dated 05.04.2016 and 28.01.2016 and consequently they were promoted to the post of SST. That I was also denied from promotion due to having third class bachelor degree despite the fact that I am having second division in higher qualification of Master of Arts, B.ed. That being a similar placed employee approached the concerned authority to extend the same benefit of the above mentioned judgments but in vain. That the establishment Department issued a Notification dated 15.12.2011 whereby amendment has been made in PMS rules 2007 by providing that a candidate who has obtain 3* division In bachelor degree will be eligible for the examination in cases where he/she has obtained a higher division in Master's degree. That feeling aggrieved from the inaction of the concerned authority by not considering me for promotion to the post of SST(BPS-16) filed the instant Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal I may very kindly be considered for promotion to the post of SST (BPS-16) from the date when my colleagues and junior colleagues were promoted with all consequential benefits including seniority. Any other remedy which your good self deems fit that may also be awarded in my favor.

GUL RAUF, SCT (BPS-16)
GHS Mandoos kot,
North Waziristan, District Miransha

To,
The Secretary, ERSE Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST THE INACTION OF THE RESPONDENTS BY NOT CONSIDERING THE APPELLANT FOR PROMOTION TO THE POST OF SST (BPS-16) ON THE BASIS OF HAVING BACHELOR DEGREE IN 3RD DIVISION AND AGAINST THE SERVICE RULES NOTIFIED ON 24.07.2014 WHEREBY THE CONDITION OF BACHELOR 2ND DIVISION HAS BEEN INSERTED IN SERIAL NO. 10, COLUMN NO. 3(I) OF THE TABLE.

Respected Sir,

With due respect it is stated that I was initially appointed as Certified School Teacher in the respondent Department and right from the date of my 1st appointment I am performing my duties quite efficiently and up to the entire satisfaction of his superiors. During service, later on I was promoted to the post of SCT. That I have the higher qualification of Master in Arts, B.ed in 2nd Division but the authorities issued the Impugned Notification dated 24.07.2014 whereby the post of SST was restricted and 20% promotion quota to the aforementioned post was reserved for Certified Teachers. That according to the said Notification required qualification for initial recruitment as well as promotion was mentioned as second class bachelor degree. That the concerned authority denied promotion of my some colleagues to the post of SST due to having third class bachelor degree. They were feeling aggrieved filed writ petitions which were allowed in favor of petitioners vide judgment dated 05/04/2016 and 28/01/2016 and consequently they were promoted to the post of SST. That I was also denied from promotion due to having third class bachelor degree despite the fact that I am having second division in higher qualification of Master of Arts, B.ed. That being a similar placed employee approached the concerned authority to extend the same benefit of the above mentioned judgments but in vain. That the establishment Department issued a Notification dated 15.12.2011 whereby amendment has been made in PMS rules 2007 by providing that a candidate who has obtain 3rd division in bachelor degree will be eligible for the examination in cases where he/she has obtained a higher division in Master's degree. That feeling aggrieved from the inaction of the concerned authority by not considering me for promotion to the post of SST (BPS-16) filed the instant Departmental appeal before your good self.

It is therefore most humbly prayed that on acceptance of this Department appeal it may very kindly be considered for promotion to the post of SST (BPS-16) from the date when my colleagues and junior colleagues were promoted with all consequential benefits including seniority. Any other remedy which your good self deems fit that may also be awarded in my favor.

Date: 29/03/2021

APPLICANT

GUL RAUF SGT (BPS-16)

TIGHS Mardoskot

North Waziristan District Miranshah

ATTESTED

288

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Stamps affixed except in case of
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Dr. J. J. J. J. J.
Date-*1950*
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with the word "insured" before if when necessary.
(in words) *Def*

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Insurance fee Rs.
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of sender

Ps. *100* Weight *100* Kilo
(in words) Grams

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2021

Gul Rauf Khan (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt. (RESPONDENT)
(DEFENDANT)

I/We Gul Rauf

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2021

Gul Rauf
CLIENTS

NM
ACCEPTED
NOOR MOHAMMAD KHATTAK

K
KAMRAN KHAN

Umer
UMER FAROOQ MOHMAND

Said Khan
SAID KHAN

Haider Ali
& HAIDER ALI
ADVOCATES

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Appeal No. 7136/2021

1. **GUL RAUF S/O Sardar Khan, SCT(BPS-16),GHS Mandoos Kot,North Waziristan,**

-----**Appellant**

VERSUS

1. The Secretary Elementary and Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
4. The Director Education (E&SE) Department, Khyber Pakhtunkhwa; Peshawar
5. District Education officer (M), District North Waziristan, Miranshah

-----**Respondents.**

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Assistant District Education Officer

North Waziristan Tribal District

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Appeal No. 7136/2021

1. **GUL RAUF S/O Sardar Khan**, SCT(BPS-16),GHS Mandoos Kot,North Waziristan,

-----**Appellant**

VERSUS

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5. District Education officer (M), District North Waziristan, Miranshah

-----**Respondents.**

Comments on behalf of respondent No.1 to 5

Respectfully Sheweth:

Preliminary Objection:

- That the appellant has got no cause of action, locus standi to file the instant appeal.
- That the appellant has not come to this honorable Tribunal with clean hands.
- That the appellant has concealed material facts from this Honorable Tribunal.
- That the appeal is not maintainable in the present form.
- That the appellant has estopped by his own conduct to bring the present appeal.
- That the appeal is badly time barred as there is no appeal on record on part of the appellant in the respondent department.
- That the appellant is lacking prescribed qualification i.e Third division and not eligible for promotion under the in-vogue rules/policy.

On facts:

- 1) That Para-1 pertains to record.
- 2) That Para-2 pertains to record.
- 3) That para-3 is correct to the extent that 20% promotion quota was reserved from 75% for promotion to the post of SST from the eligible Primary School Teachers, Policy is attached as **(Annexure A)**.
- 4) That the appellant is misleading this Honorable Tribunal by and exerting illegal pressure through instant appeal. The respondent department is bound to abide by the rules/policy in-vogue ,the policy dated 24-07-2014 for promotion to the post of SST General is;
 - I. "At least second class bachelor's Degree from a recognize university on need basis from the humanities and other equivalent groups at Degree level with English as compulsory Subject"
 - And
 - II. Bachelor of Education or Master of Education(Industrial Art or Business Education) or equivalent qualification from a recognize university, attached as **(Annexure A)**

In view of the said policy, appellant is with 3rd division, so he is not eligible for promotion

- 5) That the appellant is not eligible as he is not fulfilling required criteria, i.e. the appellant is with 3rd division in Bachelor Degree.
- 6) That the appellant is not eligible as he is not fulfilling required criteria i.e. the appellant is with 3rd division in Bachelor Degree, so he is not entitle/eligible under the in-vogue policy/rules, furthermore, there is no appeal on record on part of the appellant in the Respondent Department.
- 7) The detail reply is already submitted under Para-4 above while the respondent Department has its own rules/policy for promotion and induction, which is attached as **(Annexure A)**

- 8) That the appellant is not eligible as he is not fulfilling required criteria i.e. the appellant is with 3rd division in Bachelor Degree, so he is not entitle/eligible under the in-vogue policy/rules, furthermore, there is no appeal on record on part of the appellant in the Respondent Department.
- 9) Legal, The respondent also submits on following grounds inter alia.

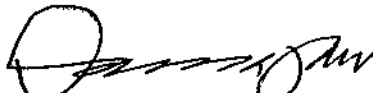
Grounds:

- A. **Incorrect and Denied**, The appellant is exerting illegal pressure on the respondent department through instant appeal and the respondent department has acted according to the rules/policy.
- B. **Incorrect and Denied**, The Respondent department did not violate Article 4&25 of the constitution of the Islamic republic of Pakistan 1973 and has been acted according to the rules and policy.
- C. **Incorrect and Denied**, the Respondent Department is bound to abided by the law /Rules and Policy.
- D. **Incorrect and Denied**, Detail Reply has already been submitted above under Para-4above on facts.
- E. **Incorrect and Denied**, Detail Reply has already been submitted above under Para-4above on facts.
- F. **Incorrect**.
- G. Respondents are also seeking permission of the Honorable Tribunal to produce additional grounds and proofs at the time of Hearing.

PRAYER:

In the light of the above stated facts, it is requested to dismiss the case of the appellant.

Respondent No: 4


Director Education (E & SE)
Khyber Pakhtunkhwa Peshawar

Respondent No: 5


District Education Officer(M)
North Waziristan Tribal District

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Appeal No. 7136/2021.

1. **GUL RAUF** S/O Sardar Khan, SCT(BPS-16),GHS Mandoos Kot,North
Waziristan,

-----Appellant

VERSUS


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4. The Director Education (E&SE) Department, Khyber Pakhtunkhwa; Peshawar
5. District Education officer (M), District North Waziristan, Miranshah

----- Respondents.

AFFIDAVIT

I, Muhammad Nisar Focal Person Litigation,DEO North Waziristan do solemnly affirm and declare that the Comments of Respondent No 4&5 in the Appeal.NO 7136/2021 is true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.




Muhammad Nisar
Assistant District Education Officer
North Waziristan Tribal District

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AUTHORITY LETTER

This office has the honor to state that Mr. Muhammad Nisar has been serving in the District Edu: Office as Focal Person Litigation. He has been given the authority to attend all kinds of court case. So he may be considered as representative of the District Edu: officer, N.W.T.D



**DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN Tribal District**



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&L/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

(1)

M/S/c

(5)

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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

Annex
"A"

(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),</p> <p>Or</p> <p>(b) (Physics, Maths "A" or "B" or Statistics)</p> <p>Or</p> <p>(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>

Mr. H
etc

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				<p>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;</p> <p>(c) 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:</p> <p>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;</p> <p>(d) 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;</p>
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(4)

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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;

(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;

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;

(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;

Provided that if no suitable candidate is available from amongst

AMF
CTC

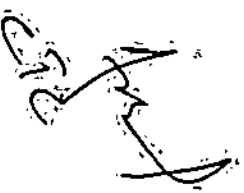
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				<p>Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least seven years service as Senior Primary School Teachers and 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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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, (PTEE) 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)