


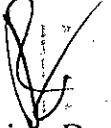
10.10.2023

SCANNED
KPST
Peshawar

1. Junior to counsel for the appellant present. Mr. Muhammad Jan learned District Attorney for the respondents present.

2. Junior to counsel for the appellant requested for adjournment on the ground that senior counsel is busy before Worthy Peshawar High Court, Peshawar. To come up for arguments on 17.11.2023 before D.B. P.P given to the parties.


(Muhammad Akbar Khan)
Member (E)

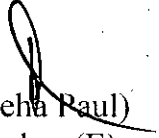

(Rashida Bano)
Member (J)


18th April, 2023

1. Counsel for the appellant present. Mr. Muhammad Jan,
District Attorney for the respondents present.

2. Learned counsel for the appellant seeks adjournment in order
to further prepare the brief. Last opportunity granted, failing which
the case will be decided on the basis of available record without the
arguments. To come up for arguments on 21.06.2023 before the
D.B. P.P given to the parties.

SCANNED
KFST
Peshawar


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Fazle Subhan P.S

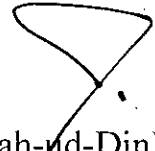
21.06.2023

Learned counsel for the appellant present. Mr. Fazal Shah
Mohmand, Additional Advocate General for the respondents
present.

Learned Member (Executive) Ms. Fareeha Paul is on leave,
therefore, bench is incomplete. To come up for arguments on
10.10.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
KFST
Peshawar

Naeem Amin

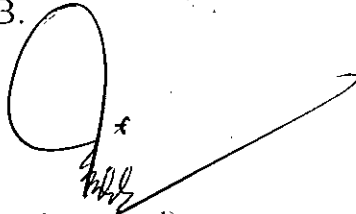

(Salah-ud-Din)
Member (J)

23.11.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents.

Learned counsel for the appellant requested for adjournment on the ground that she has not made preparation for arguments. Adjourned. To come up for arguments on 12.01.2023 before D.B.

SCANNED
KPST
Peshawar



(Mian Muhammad)
Member (E)



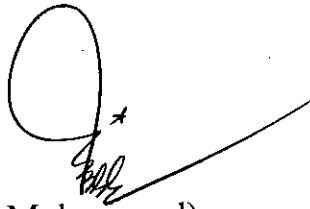
(Salah-Ud-Din)
Member (J)

12.01.2023


Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not gone through the brief of the instant appeal. Adjourned. To come up for arguments on 18.04.2023 before the D.B.

SCANNED
KPST
Peshawar




(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

14th Oct., 2022

Because of strike of the Bar, this matter is adjourned to 28.10.2022. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

28.10.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, 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 23.11.2022.


(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member (J)

SCANNED
KDS
Peshawar

03.11.2021

Junior to counsel for appellant present.

Javid Ullah, learned Assistant Advocate General alongwith
Munawar Khan ADEO for respondents present.

Reply on behalf of respondents was submitted. Request
for adjournment was made on behalf appellant. To come up
for arguments on 08.02.2022 before D.B.



(Rozina Rehman)
Member (J)



Chairman

8-2-2022

Due to retirement of the
Hon,ble Chairman the cas is adjourned
to come up for the same as before
on 30-5-2022

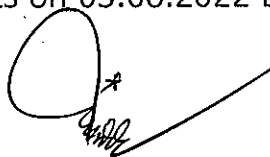


Reader.

30th May, 2022

Learned counsel for the appellant present. Mr. Asif
Masood, DDA, alongwith Munawar Khan ADO litigation for
the respondents present.

Learned counsel for the appellant seeks adjournment
in order to properly assist the court. Adjourned. To come up
for arguments on 03.08.2022 before D.B.



(Mian Muhammad)
Member(E)



(Kalim Arshad Khan)
Chairman

3-8-2022

Proper DB not available the case is
adjourned to 14-10-2022
of
Roads

31.03.2021

Junior to counsel for the appellant present.

Addl: AG alongwith Mr. Munawar Khan, ADEO for respondents present.

Written reply/comments not submitted despite last chance. Representative of the respondents seeks further time to submit written reply/comments. Request regretted.

To come up for arguments on 14.07.2021 before D.B.



(Atiq Ur Rehman Wazir)

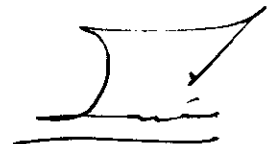
Member(E)

14.07.2021

Mr. Umar Farooq, Advocate, for the appellant present. Mr. Munawar Khan, ADO alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and requested that time may be granted for submission of written reply/comments, therefore, last chance is given to the respondents for filing of written reply/comments at the costs of Rs. 500/- on retrieval of which, the same shall be paid to the appellant. Adjourned. To come up for written reply/comments and costs of Rs. 500/- on behalf of respondents before the D.B on 03.11.2021.



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



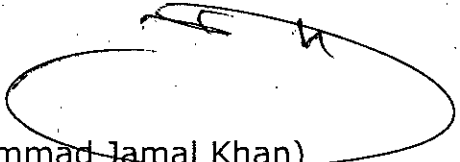
(SALAH-UD-DIN)
MEMBER (JUDICIAL)



22.10.2020

Since the Members of the High Court as well as of the District Bar Association Peshawar are observing strike today, therefore, learned counsel for appellant is not available today. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Munawar Khan, SST are present.

Representative of respondent No. 3 seeks further time to submit written reply/comments while neither written reply on behalf of respondents No. 1, 2 & 4 submitted nor any representative on their behalf is present, therefore, notices be issued to them for submission of written reply/comments for 31.12.2020 before S.B.

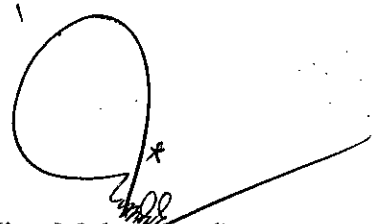

(Muhammad Jamal Khan)
Member (Judicial)

31.12.2020

Learned counsel for the appellant present. Asst: AG alongwith Mr. Munawar Khan, ADEO, SO for respondents present.

Written reply/comments on behalf of the respondents not submitted. Representative of the respondents seeks time to submit the same on the next date.

Adjourned to 23.02.2021 before S.B.


(Mian Muhammad)
Member(E)

24.02.2021

Junior to senior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Neither written reply on behalf of respondents submitted nor representative of the department is present, therefore, learned Additional Advocate General is directed to contact the respondents and furnish written reply/comments on the next date of hearing as a last chance. Adjourned to 31.03.2021 on which date file to come up for written reply/comments before S.B.


(Muhammad Jamal Khan)
Member

02.07.2020

Learned counsel for the appellant present.

On the strength of judgment of this Tribunal dated 02.07.2010, handed down in Service Appeal No.318/2009, instant appeal is admitted to regular hearing, subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 02.09.2020 before S.B.

Appellant Deposited
Security Process Fee

08/07/20


Chairman

02.09.2020

Junior to counsel for the appellant and Addl. AG alongwith Munawar Khan, SST for the respondents present.

Representative of the respondents seeks time to furnish reply/comments. Adjourned to 22.10.2020 on which date the requisite reply/comments shall positively be furnished.


Chairman

24.02.2019

Learned counsel for the appellant present. Heard.

The appellant was appointed against the project post of PTC in BPS-07/PM fixed for a project period for three years allegedly vide order dated 01.03.2004.

Consequent upon the selection of the Departmental Selection Committee, the appellant, being a PTC fresh local candidate, was appointed against PTC post on regular basis vide order dated 11.07.2009.

Learned counsel for the appellant could not demonstrate that the appellant is entitled to the pay fixation w.e.f 01.03.2004 instead of 11.07.2009.

Opportunity is granted to learned counsel for the appellant to further prepare the brief. To come up for and preliminary hearing on 09.04.2020 before S.B.


Member

09.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 02.07.2020 for the same. To come up for the same as before S.B.

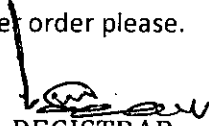




Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1394/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/10/2019 RECORDED IN FILE 06.12.2019	<p>The appeal of Mr. Jalal-ud-Din presented 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 22/10/19</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>06/12/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Nemo for the appellant.</p> <p>Notices be issued to appellant and his counsel for preliminary hearing on 13.01.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p> <p>13.01.2020</p> <p>Junior to counsel for the appellant present. Requests for adjournment due to general strike of the Bar. Adjourned to 24.02.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1394 /2019

JALAL-UD-DIN

V/S

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 3.
2	Education testimonials	A	4.
3	Appointment order	B	5.
4	Regularization	C	6.
5	Service book	D	7- 12.
6	Departmental appeal	E	13.
6	Judgment	F	14- 16.
7	Implementation order	G	17.
8	Vakalatnama	18.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2019

Mr. Jalal Ud Din, PST (BPS-12),
GPS Hukam Khan Killi, Bara, District Khyber **APPELLANT**

VERSUS

- 1- The Director E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Education Merged Area Districts, Merged Area Secretariat, Warsak Road, Peshawar.
- 3- The District Education Officer, District Khyber.
- 4- The District Account Officer, District Khyber.

..... **RESPONDENTS**

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY w.e.f 01-03-2004 i.e. FROM THE DATE ON WHICH THE APPELLANT WAS APPOINTED TO THE POST OF PRIMARY SCHOOL TEACHER AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f 01-03-2004 i.e. from the date on which the appellant was appointed as Primary School Teacher by counting the previous contractual service of the appellant towards regular service. Any other remedy which this august Service 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 is a law abiding citizen of Pakistan and permanently residing at Malak Ghari, Tehsil Bara, District Khyber.
- 2- That appellant having the requisite qualification and eligibility was initially appointed vide order dated 01.03.2004 as PST (BPS-07 now BPS-12) on contract basis in Boys Community School Malikzada Arab Spin Darno, Tirah, District Khyber on the proper

recommendation of Departmental Selection Committee. (Copies of the Education Testimonials & appointment order are attached as annexure.....**A & B**).

- 3- That later on the appellant was appointed/adjusted against regular PST post at GPS Hukam Khan Killi, Bara, Khyber Agency vide order dated 11/07/2009. That till then the appellant performing his duty quite efficiently and up to the entire satisfaction of his superiors. (Copies of the regular appointment order and service book are attached as annexure.....**C & D**).
- 4- That the appellant preferred Departmental Appeal to the respondent No.2 for fixation of his pay w.e.f. the date of his initial appointment i.e. 01.03.2004 in light of the judgment of this august Tribunal dated 2.7.2010 and subsequent order dated 16.7.2012 but the same has not been responded within the stipulated period. Copies of the Departmental appeal, judgment and order are attached as annexure **E, F & G**.
- 5- That appellant having no other remedy prefer the instant appeal on the following grounds amongst the others.

GROUND:

- A- That by not fixing the pay of the appellant w.e.f 02-6-2004 by the respondents is against the law, facts, norms of natural justice and materials on the record.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and mala fide manner by not granting/ allowing pay fixation to the appellant w.e. from 02-6-2004.
- D- That similar nature cases has already been decided by this august Service Tribunal in service appeal No.318/2009, decided on 02.07.2010, whereby fixation of pay was granted from the date of initial appointment.
- E- That under Article 38(e) of the Constitution of Pakistan 1973 state is bound to reduce disparity in the income and earnings of the individuals including persons in the various services of Pakistan, thus not allowing pay fixation to the appellant is utter violation of the above mentioned Article.

- F- That under the principle of Consistency reported in 2009 SCMR page 1 and 1996 SCMR Page 1185 the appellant is fully entitled for the relief meted out to other employees of various departments.
- G- That the respondents acted in discriminatory manner by not counting the previous service of the appellant towards regular service/pension.
- H- That not counting the previous service of the appellant the respondents violated Rule 2.3 of the West Pakistan pension Rules, 1963.
- I- That 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


JALAL UD DIN

THOROUGH:

NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

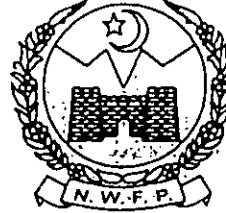
&


MIR ZAMAN SAFI
ADVOCATES

A-4

S.No. 11663

Departmental Examinations Schools & Literacy Department, NWFP



NWFP
DETAILED MARKS CERTIFICATE
Traing Classes Examination PTC

Name Talal-u-din

Session 2006

Father's Name Sharosa Din

Roll No. 463

Subject	Maximum Marks	Marks obtained		
		Internal	External	In words
1. Principles of Education & Method of Teaching	100			58
2. Child Development & Counselling	100			50
3. School Organisation & Classroom Management	100			55
4. Language and Method of Teaching	100			38
5. Mathematics & Method of Teaching	100			49
6. Science & Method of Teaching	100			52
7. Social Studies & Method of Teaching	100			61
8. Islamiyat & Methods of Teaching	100			67
9. Art & Craft, Art & Methods of Teaching	100			37
10. Health and Physical Education	100			55
11. Teaching Practice	200			135
Total	1200			657

Note: Errors/omissions excepted.

Failed/Passed Division

Division Talal

Prepared by _____

Deputy Director (Examination)

B-5

Consequent upon the recommendation of Political Administration and approval of the Director of Education PATA West Pakistan, the following appointments are hereby appointed against the project posts of 130 in order No. 07 fixed for the project period of three (3) years at Boys Communal Schools in inaccessible areas of Hyderabad Agency against the newly created post with effect from the date their taking in the school noted against their names:

S.NO.	NAME/FATHER'S NAME	QUALIF.	NAME OF SCHOOL	REMARKS
01.	Jatal ud Din S/O Shamshud Din.	SSC	BCS, Malikzoda Arab Shah Spin Darn Tirah.	From 01-03-54 after winter vacation.
02.	Muhammad Akber S/D Awal Zad.	SSC	DCS, Drota Khula Tirah.	--do--
03.	Akhter Marjan S/O H. Gandahar Khan.	SSC	--do--	--do--
04.	Majjad Khan S/D Adil Khan.	SSC	BCS, Sharafud Din Mirdad Khel. LKL.	--do--
05.	Muhammad-ud-Din S/O Adil Din.	SSC	--do--	--do--
06.	Muhammad Sher S/O Mukhtair Khan.	SSC	DCS, Sher Asghar Killi Cheena Khairogai.	--do--
07.	Abdul Qadir S/O Haji Galam Khan.	SSC	--do--	--do--
08.	Mohrab Khan S/O Ghaffar Khan.	SSC	BCS, Jarobai B.Z. Khel.	--do--
09.	Muhammad S/O Muhammad Khan.	SSC	BCS, Pahlawan Nabin Khel Marg Z. Khel.	--do--
10.	Murid-ud-Din S/O H. Matiullah.	SSC	BCS, Saleem Khan Killi Mukhtair Khel.	--do--
11.	Kamal-ud-Din S/O Ghous Khan.	SSC	--do--	--do--
12.	Muhammad Khan S/O Muhammad Fur.	SSC	BCS, Akhter Khan Killi Kam Shilman/Khail Muhammad.	From the date of taken over charge.

NOTES

1. The employed shall serve the Govt; as Communal schools Teachers from the date of assumption of charge.
2. They shall devote their whole time/their duties as communal school teachers.
3. They shall submit themselves to the lawful orders of the Govt; officers.
4. They shall motivate the parents to send their children to school.
5. Their posting will not be transferable, however local transfers preferably trained can be adjusted against regular posts on case-to-case basis.
6. They shall produce health and Age certificate from the Agency Surgeon concerned.
7. Their original qualification, date of birth and Domicile certificates should be checked before handing over charge of the school.
8. If they fail to report with-in 15-days the order will automatically be treated as cancelled.
9. Charge reports should be submitted to all concerned.
10. They will not be handed over the charge if they are below 18-years of age.

(SAYED RAZI MAH RAZVI)
Agency Education Officer
Hyderabad Agency



EndstNo. 667-74 /Asstt/PEE/PCS

Dated Islamabad 21/11/74

Copy of the above is forwarded for information and necessary action to the:-

01. Additional Secretary ~~Government~~ Government's Secretariat Govt; of NWFP, Peshawar.
02. Director of Education FATA NWFP Peshawar.
03. Political Agent Khyber at Peshawar.
04. Asstt; Political Agent Pura/Landi Kotah Khyber Agency.
05. S.A.P. (Co-ordinator) FATA PE&D Department Govt; of NWFP Peshawar.
06. Asstt; Agency Edu; Office (LitO local Office).
07. Accountant local office.
08. Candidates concerned.

ASSTT DIRECTOR OFFICE
KHYBER AGENCY AT JAMSHED

**AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD.
APPOINTMENT.**

C - (6)

Consequent upon the selection of Departmental Selection Committee the following PTC Fresh (Male) local candidates of Tehsil Bara Khyber Agency are hereby appointed against the PTC posts on regular basis (Non pension-able) at the school noted against their name in BPS No (09) of the National Pay Scale @ Rs.(3820-230-10720) PM plus usual allowances as admissible under the Rules in the interest of public service.

S.No	Name/Father Name	Posted at	Remarks
01	Hafeezullah Amin S/o Zari Jan BCS Said Rasan Kili Khapur Teerah.	GPS AllaDhand Bara Khyber Agency.	Against vacant PTC post
02	Muhammad Ashfaq s/o Haji Sikandar Khan	GPS Kaga Ghara Bra Khyber Agency.	--do--
03	Najeebullah S/o Shahbaz Khan	GPS Zafar Kili Tirah Khyber Agency.	--do--
04	Shamsudin S/o Sultan Muhammad	GPS Choor Lakka Bara Khyber Agency.	--do--
05	Khan Sher S/o Sabz Ali Khan	GPS Tandi Bughdad Khel Bara Khyber Agency.	--do--
06	Musafar Shah S/o Khial Noor	GPS Sarkai Kamar Bara Khyber Agency.	--do--
07	Mukharif Shah S/o Abdul Wahab	GPS Ghari Kamar Khel Bara Khyber Agency.	--do--
08	Shah Hussain S/o Gulat Khan BCS Habib Shah Killi	GPS Mothray Dada Nika Aka Khel Teerah Khyber Agency.	--do--
09	Jalalud Din S/o Shamsu Din BCS Shakirullah Killi Sepah	GPS Hukam Khan Kili Bara Khyber Agency.	--do--
10	Shah Muhammad S/o Shah Badeen BCS Haji Muhammad Killi Teerah	GPS Benay Arbab Kili Bara Khyber Agency.	--do--
11	Arif Khan S/o Alam Khan	GPS Benay Arbab Kili Bara Khyber Agency.	--do--
12	Rehman Gul S/o Abdul Amin BCS Haji Rasool Din Killi Teerah	GPS Stori Khel Almas Kili Bara Khyber Agency.	--do--
13	Rahim Shah S/o Khial Badshah	GPS Stori Khel Almas Kili Bara Khyber Agency.	--do--
14	Misal Khan S/o Fazali Rahim	GPS Mothray Dada Nika Aka Khel Teerah Khyber Agency.	--do--
15	Javed Iqbal S/o Hazrat Gul BCS Koki Khel zioddin Mastak	GPS Sarkai Kamar Bara Khyber Agency.	--do--
16	Amanullah S/o Asmatullah	GPS Ghari Kamar Khel Bara Khyber Agency.	--do--
17	Muhammad Akber s/o Hanif Gul	GPS Khurmatang Bara Khyber Agency.	--do--

TERMS AND CONDITIONS.

1. The Appointee will take over charge on 1/9/2009 (after the reopening of schools after summer vacations) at their respective schools. Charge report should be submitted to all concerned.
2. The appointment of the candidates is made purely on temporary basis and is liable to terminate without assigning any notice.
3. If the candidate wishes to resign his post he will be give one month prior notice or his pay for one month will be forfeited in lieu thereof.
4. Their documents, Date of birth, NIC and Domicile certificate should be checked before handed over charge of the post and attested copies thereof may be kept on record of the school/office.
5. They should produce their Health and Age certificate from the Agency Surgeon concerned.

[Handwritten signature]

6. They may not be handed over charge if he is below 18-years and above 36-years.
7. If they fails to report their arrival within 15-days of the issue of this appointment order then it will be treated as cancelled.
8. No salary may be drawn before the verifications of all the testimonials from the quarter concerned.
9. If any technical legal flaw is pointed out, the appointment will stand as cancelled.
10. They will not be entitled for pension/commutation and G.P.Fund emoluments as per Govt. policy. However they are entitled for C P Fund.


(HASHIM KHAN)
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD.

Endst: No. 3300-3324 /Estab:/C-6/Vol-III/Khy.

Dated Jamrud the 11/17/2009

Copy of the above is forwarded to the:-

1. Director of Education FATA (NWFP) Peshawar.
2. Political Agent Khyber Agency at Peshawar.
3. Agency Accounts Officer Khyber at Jamrud.
4. Agency Surgeon Khyber Agency at Landi Kotal.
5. Principal/Headmasters concerned.
6. EMIS Computer cell local office.
7. Candidates concerned.



AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

(For use in Police Department only)

D-7

He (S) Passed M.A Political Science Examination from University of Peshawar under Roll No 40761, Session Annual 2007, marks obt. 516/1100, vide verification letter No. 787/RCC/Secrecy dated 20-12-2012. Result Declared on 17-03-2008

Verification Roll No. _____ dated _____ Agency Education Officer received back

[Signature]
 Agency Education Officer
 Jamrud

Left Thumb Impression

1. Passed SSC Exam 1999 Annual from BISE Peshawar under Roll No 134093 marks obtained 454/850

Qualification _____ Date _____
 English _____
 Urdu _____
 Pushto _____
 Agency Education Officer
 Jamrud

English _____
 Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

2. Passed A.T General Exam from Dept. Exa S & L Dept. K.P.A. under Roll No. 795 Session 2008 marks obt. 726/1200. 1st Division, Result declared on 31-12-2008. vide verification letter no. 876 dated 6-5-2010

Qualification _____ Date _____
 English _____
 Urdu _____
 Pushto _____
 Agency Education Officer
 Jamrud

English _____
 Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

Urdu _____
 Pushto _____

N.B. - Line to be drawn under the qualification possessed

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

8

1. Name: Talabul Din

2. Race: Sydney

3. Residence: Village Chabi, Mohal Malik Court, Ghannu Cantonment
Tehsil Bara, Muzaffargarh Agency





4. Father's name and residence: Shamsul Din
As above

Date of birth by Christian era as nearly as can be ascertained: 02-02-1982
2nd February N.H. & Eighty Two

Exact height by measurement: 5-6

Personal marks for identification: Black mole on the side of the forehead

Left hand thumb and Finger impression of (Non-Gazetted) officer:

Little Finger:		Ring Finger:	
Middle Finger:		Fore Finger:	

Thumb: 

Signature of Government Servant: Talabul Din

Signature and designation of the Head of the Office, or other Attesting Officer: Attested
3/2/82
Agency Education Officer (L.D.)
Muzaffargarh Agency, Muzaffargarh

3/2/82

Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Leave		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure or reward or praise of the Government Servant
				Nature and duration of leave taken	Allocation of period of leave on average pay up to four months for which leave salary is debitable to another Government		
				Period	Government to which debitable		
A. E. O. Khyber Agency	30/11/04	A/mc NIL	[Signature]				
A. E. O. Khyber	30/6/06	R/Day	[Signature]				
A. E. O. Khyber	30/11/05	A/mc NIL	[Signature]				
A. E. O. Khyber	30/11/06	A/mc NIL	[Signature]				
A. E. O. Khyber	30/6/07	R/Day	[Signature]				
A. E. O. Khyber	30/11/07	A/mc NIL	[Signature]				
A. E. O. Khyber	30/6/08	R/Day	[Signature]				
A. E. O. Khyber	30/11/08	A/mc NIL	[Signature]				
A. E. O. Khyber	31/09/09	Appointed against vacant post in BPS No. 7 on regular basis. PTC post.	[Signature]				
A. E. O. Khyber	1/9/2009	Appointed against vacant post in BPS No. 7 on regular basis. PTC post.	[Signature]				

Appointed against PTC post in BPS-7 on contract basis for 3 years. Advance allowances admissible under the rules viz. 1-3, 4 & vide this office Endst. No. 667-74/1991 PTC/BOS dated 5-1-2004

Agency Education Officer Khyber Agency at Jamrud

SERVICES VERIFIED From 1-3-04 To 30-11-06 From the Pay Bill & other record of this office.

Agency Education Officer Khyber Agency at Jamrud

SERVICES VERIFIED From 1-12-06 TO 31-09-09 From the Pay Bill & other record of this Office.

Agency Education Officer Khyber Agency at Jamrud

Appointed against PTC (vacant) post in BPS No. 7 on regular basis, by Departmental Selection Committee, vide AEO Khyber Endst. No. 3300-3304 dt. 11-7-2009

Agency Education Officer Khyber Agency at Jamrud

1	2	3	4	5	6	7	8	9		
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government Servant	Signature and Designation of the head of office or other authority in accordance with columns 11		
PTC Post		Revised PPS No. 9/1/1999-10720								
EPS Hukam Khan Killa Bara		Rs. 3290/- P.M.				1/9/2009				
-11-		Rs. 3220/- P.M.				1/12/2009				
-11-										
									Rs. 4050/-	1/12/2010
									Revised PPS No. 9/1/1999-380-17600	
									Rs. 6580/- P.M.	1/7/2011
-11-						1/12/2011				
-11-						1/12/2011				
-11-						1/12/2012				
-11-						1/12/2013				

9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure or reward or praise of the Government Servant
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
				Period	Government to which debitable		
	30.11.2009	Nil		Allocated	BPS 09 on post of the FTA in 2nd division, vide of 09-2009, vide this office		
	30.11.2010	A/Incs		A.E.O.	Enroll No. 1309-11 dated 03/04/2010		
L-3-2480-uptd				Agency Education Officer Khyber Agency - Jamrud			
Change of scale from A-7 to B-5 w.e.f 2009				SERVICES VERIFIED From 01-07-09 TO 30-11-2009 From the Pay Bill & other records of this Office.			
A-7 to B-5 w.e.f 2009				Agency Education Officer Khyber Agency - Jamrud			
L-3-2480				Agency Education Officer Khyber Agency - Jamrud			
	30.6.2011	R/Pay		Agency Education Officer	SERVICES VERIFIED From 1-12-09 TO 30-11-2010 From the Pay Bill & other records of this Office		
A-7 to B-5 w.e.f 2009				Agency Education Officer Khyber Agency at Jamrud			
	30.11.2011	Incr		Agency Education Officer	SERVICES VERIFIED From 1-12-10 TO 30-11-2011 From the Pay Bill & other records of this Office		
A-7 to B-5 w.e.f 2009				Agency Education Officer Khyber Agency at Jamrud			
	30.11.2012	A/Inc		Agency Education Officer	SERVICES VERIFIED From 1-12-2011 TO 30-11-2012 From the Pay Bill & other records of this Office		
A-7 to B-5 w.e.f 2009				Agency Education Officer Khyber Agency at Jamrud			
	30.11.2013	A/Inc		Agency Education Officer	SERVICES VERIFIED From 1-12-2012 TO 30-11-2013 From the Pay Bill & other records of this Office		
A-7 to B-5 w.e.f 2009				Agency Education Officer Khyber Agency at Jamrud			
	30-2014	A/Inc		Agency Education Officer	SERVICES VERIFIED From 1-12-2013 TO 30-11-2014 From the Pay Bill & other records of this Office		
A-7 to B-5 w.e.f 2009				Agency Education Officer Khyber Agency at Jamrud			

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government Servant
		UP grade BPS 12 (7000-800-22000)					
			Rs 7500/-			1 ¹² / ₁₂	
	pre-mature inc		Rs 8000/-			2 ¹² / ₁₂	
			Rs 8500/-			1 ¹² / ₁₃	
			Rs 9000/-			1 ¹² / ₁₄	
		BPS 12 (9055-650-28555)					
			Rs 11655/-			1 ⁷ / ₁₅	
			Rs 12305/-			1 ¹² / ₁₅	
		BPS 12 (1140-800-35140)					
			Rs 15140/-			1 ⁷ / ₁₆	

Signature and the head of other attes in attesta columns

Agency Educational Officer
Rajasthan State Educational Society

E - (13)

To
The Director, Education Merged Area Districts,
Merged Area Secretariat, Warsak Road, Peshawar.

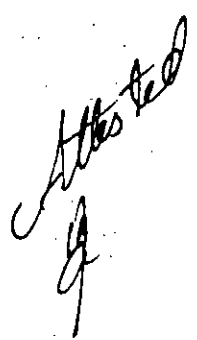
**Subject: DEPARTMENTAL APPEAL FOR FIXATION OF PAY w.e.f
01-03-2004 TILL 11.07.2009**

Respected Sir,

With due respect it is stated that I was initially appointed before your good self Department vide order dated 01.03.2004 as PST (BPS-07) on contract basis at boy's community school Malikzada Arab Spin Darno, Tirah, District Khyber on the proper recommendation of Departmental Selection Committee. After appointment I have submitted my arrival report and started performing duty at the concerned station quite efficiently and upto the entire satisfaction of my superiors. During service on contract basis I was appointed/adjusted against regular PST post at GPS Hukam Khan Killi, Bara, District Khyber vide order dated 11/07/2009 and till then I am performing my duty with all zeal and zest. Respected Sir, the previous service i.e. w.e.f. 01.03.2004 till my regularization has not been counted. That I am fully entitle for pay fixation for the period w.e.f. 01.03.2004 till 11.07.2009 which has already been awarded to other employees on the judgment of the Honorable Service Tribunal, Peshawar. I am feeling aggrieved from the inaction of the concerned authority by not fixing the my pay w.e.f. 01.03.2004 till 11.07.2009 preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Department appeal my pay may very kindly be fixed as regular service w.e.f 01.03.2004 till 11.07.2009.

Dated: 26.06.2019.



Your Obediently

JALAL-UD-DIN

PST GPS Hukamam Khan Killi, Bara
District Khyber

④ - 908
F-14

BETTER COPY OF ANNEXURE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 318/2009

Date of institution.....21.02.2009

Date of Decision.....02.07.2010 ✓

Mian Siraj, Driver, School of Nursing, Kohat.

Village & P/O Bilitang Tehsil and District Kohat.....Appellant

VS

- 1- Government of NWFP (K.P.K) through Secretary Health Department Peshawar.
- 2- Director provincial Health Services Academy, Peshawar.
- 3- Accountant General, NWFP (K.P.K), Peshawar.
- 4- District Accounts Officer, Kohat..... Respondents

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNAL ACT 1974 FOR FIXATION OF PAY WITH EFFECT FROM THE DATE OF APPOINTMENT AS PER NOTIFICATION DATED 30-7-2008 AS IS DONE TO THE OTHER EMPLOYEES AGAINST WHICH APPELLANT SUBMITTED HIS DEPARTMENTAL APPEAL DATED 10-11-2008 BUT THE SAME IS NOT RESPONDED DESPITE LAPSE OF 90 DAYS.

Mr. Waqar Ahmad Seth, Advocate

.....For appellant

Mr. Sher Afghan Khattak, Addl: Advocate General

.....For Respondents

Mr. Sultan Mehmood khattak

.....Member

Mr. Noor Ali Khan

.....Member

JUDGMENT

SULTAN MEHMOOD KHATTAK MEMBER:- According to the appointments made in the appeal, the appellant namely Mian Siraj was appointed as Driver in Family Health Project in the year 1994. On winding up of the said project on 31-12-1999, the Finance Department created posts

[Handwritten signature]

[Handwritten signature]

ATTESTED

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

(14)
(15)

of Drivers on fixed pay of Rs. 2500/- per month, without any break. The appellant was accordingly appointed as Driver Nursing School Kohat vide order dated 19-7-1999. At that time number of other employees were appointed on regular basis but the same was discriminated. Respondent No. 1 vide letter dated 21-1-2008 for the fixed employee namely Sahib-Ur-Rehman Driver into regular who is similarly placed employee like appellant, therefore respondent is requested for conversion of all other Drivers into regular pay scales. The Finance Department vide letter dated 12-5-2008 gave concurrence for conversion for the posts of Drivers on fixed pay into pay scale No.1 and in accordance with the said concurrence. Notification was issued by respondent No.2 on 17-5-2008, wherein the appellants name appeared at S. No. 7, but with immediate effect, whereas pay fixation of other employees was done with effect from the date of appointment. Feeling aggrieved the appellant submitted his departmental appeal on 09-11-2008, but with no response within the stipulated period, hence this appeal with the prayers that on acceptance of the appeal the respondents be directed to fix the pay of the appellant from the date of initial appointment in dated of 12-5-2008 along-with arrears to bring it at par with the length of service with such other relief as may deem fit-in the circumstances of the case may also be granted.

2. The respondents have filed their written reply, wherein they refuted the post of the appellant and stated that the case of the appellant is different from the case of other employees and that he was appointed in Family Health Project on 6-12-1994 till the project life i.e. 31-12-1999. He was adjusted as Driver at Nursing School on 14-2-2000 as per entry made in his service book on fixed pay of Rs. 3500/- P.M. Moreover he was brought to regular BPS-4 vide Finance Department's Notification dated 12-5-2008, with immediate effect. As such he is not entitled to the relief claimed by him.

Arguments heard and record perused.

3. As ^{no}doubt the appellant was appointed as Driver in the Family Health Project on 06-12-1991 but before winding up the project on 31-12-1999, he was appointed as Driver in Nursing School Kohat vide office order dated 19-7-1999. As per entry in the service book the appellant was later on adjusted as Driver at fixed pay @ Rs. 2500/- per month vide order dated 14-2-2000. In the light of Finance Department's letter dated 12-5-2008, the post of the appellant was

Attested
of

ATTESTED

Attested
of

Attested
of

10

16

reverted to BPS-4 on regular side, vide Notification dated 17-5-2008 of respondent No.2, but with immediate effect. The main contention of the appellant is that in the light of Finance Department's letter dated 30-7-2008 he is entitled to fixation of his pay from the date of his initial appointment instead of 12-5-2008. The Sahib-Ur-Rehman, similarly placed employee. Moreover, respondent No.2 has also addressed a letter dated 15-10-2008 to respondent No.4 in favor of the appellant for fixation of his pay from the date of appointment. However, it was observed that he will not be entitled to arrears up to 30-6-2008.

4. In view of the above the Tribunal deems it appropriate to remand the case of the appellant to the respondent Department with the direction to consider his claim with regard to entitlement of fixation of his pay from the date of appointment in the light of the aforesaid letters as well as case of Sahib-Ur-Rehman Driver, strictly in accordance with law/rules on the subject within a period of one month of the receipt of this order. The appeal is disposed of in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record.

ANNOUNCED

Attested
of

ATTESTED

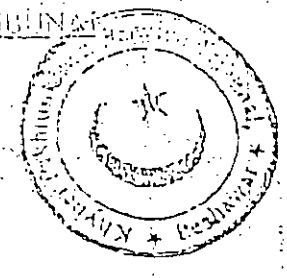
[Signature]

[Signature]

Page (A)

F-14

PROVINCIAL HEALTH SERVICES TRIBUNAL
PESHAWAR



SERVICE APPEAL NO 318/2009

Date of institution: 23.02.2009
Date of decision: 02.07.2010

M. Siraj, Driver, School of Nursing, Kohat,
Village & P.O Bilitang,
Tehsil & District, Kohat.

(Appellant)

VERSUS

Government of NWFP (K.P.K) through,
Secretary Health Department, Peshawar,
Director, Provincial Health Services Academy, Peshawar,
Accountant General, NWFP (K.P.K), Peshawar,
District Accounts Officer, Kohat. (Respondents)

APPEAL UNDER THE NWFP SERVICE TRIBUNALS ACT, 1974
FOR FIXATION OF PAY WITH EFFECT FROM THE DATE OF
APPOINTMENT AS PER NOTIFICATION DATED 30.7.2008, AS IS
DONE TO THE OTHER EMPLOYEES AGAINST WHICH
APPELLANT SUBMITTED HIS DEPARTMENTAL APPEAL
DATED 10.11.2008 BUT THE SAME IS NOT RESPONDED
DESPITE LAPSE OF 90 DAYS.

Mr. Saqir Ahmad Seth, Advocate
Mr. Iqbal Afgan Khattak,
Advocate General.

For appellant

Mr. Mian Muhammad Khattak,
Mr. Iqbal Ali Khan

For respondents

Member
Member

JUDGMENT

SULTAN MUHAMMAD KHAYAT, MEMBER:- According to the
statements made in the appeal, the appellant, namely, Mian Siraj, was appointed
as Driver in Family Health Project in the year 1994. On winding up of the said
Project on 31.12.1999, the Finance Department created posts of Drivers on fixed
pay of Rs. 2500/- per month, without any break. The appellant was accordingly
appointed as Driver in Family Health Project Kohat vide order dated 19.7.1999. At that
time, number of other employees were appointed on regular basis but the

Attested

ATTESTED

Attested

12
13
14
15

... was discriminated. Respondent No.1 vide letter dated 21.01.2008
... fixed pay employee, namely Salubair-Kelman Driver into regular
... who is similarly placed employee like appellant, therefore, respondent
... requested for conversion of all other Drivers into regular pay scales. The
Finance Department vide letter dated 12.5.2008 gave concurrence for conversion
... of Drivers on fixed pay into Pay Scale No.4 and in accordance with
the said concurrence. Notification was issued by respondent No.2 on 17.5.2008,
wherein, the appellant's name appeared at S.No.7, but with immediate effect,
whereas pay fixation of other employees was done with effect from the date of
appointment. Feeling aggrieved, the appellant submitted his departmental appeal
on 19.11.2008, but with no response within the stipulated period, hence this
appeal with the prayer that on acceptance of the appeal, the respondents be
directed to fix the pay of the appellant from the date of initial appointment
instead of 12.5.2008 along with arrears to bring it at par with the length of
service with such other relief as may deem fit in the circumstances of the case
may also be granted.

The respondents have filed their written replies, wherein, they refuted the
contentions of the appellant and stated that the case of the appellant is different from
the case of other employees and that he was appointed in Family Health project
on 6.12.1994 till the project life i.e. 31.12.1999. He was adjusted as Driver at
Nursing School on 14.2.2000 as per entry made in his service book on fixed pay
of Rs.2500-P.M. Moreover, he was brought to regular DPS-4 vide Finance
Department's Notification dated 12.5.2008, with immediate effect. As such he is
not entitled to the relief claimed by him.

Arguments heard and record perused.

ATTESTED

Attested
[Signature]

[Signature]

Attested
[Signature]



16

In doubt, the appellant was appointed as Driver in the Family Health Project on 06.12.1994 but before winding up of the Project on 31.12.1999, he was appointed as Driver in Muslim School Kohat, vide office order dated 19.7.1999. As per entry in the service book, the appellant was later on adjusted as Driver on fixed pay @ Rs.2500/- per month vide order dated 14.2.2000. In the light of Finance Department's letter dated 12.5.2008, the post of the appellant was upgraded to IPS-I on regular side vide Notification dated 17.5.2008 of respondent No.2, but with immediate effect. The main contention of the appellant is that in the light of Finance Department's letter dated 30.7.2008 he is entitled to fixation of his pay from the date of his initial appointment instead of 12.5.2008 like Sahib-ur-Rehman, similarly placed employee. Moreover, respondent No.2 has also addressed a letter dated 15.10.2008 to respondent No.4 in favour of the appellant for fixation of his pay from the date of appointment. However, it was observed that he will not be entitled to arrears upto 30.6.2008.

5. In view of the above, the Tribunal deems it appropriate to remand the case of the appellant to the respondents department with the direction to consider his claim with regard to entitlement of fixation of his pay from the date of appointment in the light of the aforesaid letters as well as case of Sahib-ur-Rehman, Driver, strictly in accordance with law/rules on the subject within a period of two months of the receipt of this order. The appeal is disposed of in the above terms. Parties are, however, left to bear their own costs. File be consigned to the record.

ANNOUNCED
12/07/2010
(NOOR ALI KHAN)
MEMBER

(SULTAN MEHMOOD KHATAN)
MEMBER

Attested
[Signature]

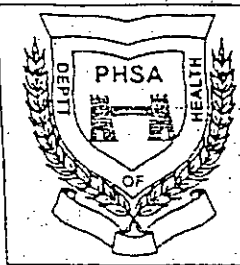
Certified true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Attested
[Signature]

ATTESTED

[Signature]

G-17 -
③ - ③



Provincial Health Services Academy
Dept: of Health Govt. of Khyber Pakhtunkhwa
Budhni Road Duran Pur Peshawar.
☎ # 091-2650861, 2260109; Fax # 091- 2261249
E-mail: phsa_peshawar@yahoo.com

To be substituted by even No. & date.

OFFICE ORDER

Ex-post facto approval is hereby accorded to regularize the services of the following driver of Nursing School Kohat with effect from the date of appointment i.e. 06/12/1994 as ordered by the honorable Services Tribunal, Peshawar judgment dated 02/07/2010 in Service Appeal No. 318/2009 on the analogy of Mr. Sahib-ur-Rahman Driver, vide Finance Department letter No. BVI/FD/4-48/2007/08 dated 12/05/2008 and Secretary Health letter No. SO-III/ 8-90/07 (Sahib-ur-Rahman) dated 21/01/2008. However, arrear of pay & allowances will be admissible from 14/02/2000.

Name	Designation	Date of appointment
Mr. Mian Siraj	Driver	06/12/1994

-sd-
DIRECTOR

F/No. 215/PHSA/Admn/Appointment/2012-13/5517-20 Dated . 16/07/2012

- Cc:
1. District Accounts Officer, Kohat.
 2. Vice Principal, School of Nursing Kohat for compliance under intimation to this office.
 3. Registrar, Services Tribunal Pakhtunkhwa Peshawar.
 4. Mr. Mian Siraj Driver, School of Nursing Kohat.

ATTESTED

DIRECTOR

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

_____ OF 2019

Talal-ud-Din

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

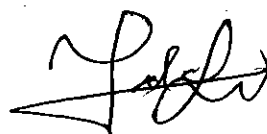
Education Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Talal-ud-Din

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. ____/____/2019



CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

KAMRAN KHAN

&

**MIR ZAMAN SAFI
ADVOCATES**

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Mobile No.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No...1394/2019

JALAL-UD-DINAppellant

Versus

The Director E&SE Department Khyber Pakhtunkhwa and other... Respondents

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1	Content		1
2	Parawise Comments		2-3
3	Affidavit		4
4	Authority latter		5
5	Copy of appointment order	A	6-7
6	Copy of the judgement	B	8-13

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No...1394/2019

JALAL-UD-DINAppellant

Versus

The Director E&SE Department Khyber Pakhtunkhwa and other... Respondents

Comments on behalf of Respondents No.1 & 3

Respectfully Sheweth;

Preliminary objections

- That the Petitioner has got no cause of action, Locus Standi to file the instant Petition
- That the matter in the instant petition is a close transaction as has already been dismissed by the Honorable Peshawar High Court in W.P 4597-P/2018 decided on 30-10-2019.
- That the petitioner has not added the necessary party in the instant petition
- That the Petitioner has not come to this Court with clean hands
- That the petitioner has concealed material facts from the Honorable court

ON FACTS

1. No comments.
2. Incorrect and baseless hence denied. The Appellant was initially appointed against project post of PTC on temporary basis just for three years only.
3. That initially the petitioner was appointed as PST Community School Teacher on temporary basis under a project namely Community School Teacher project for three years only. Later on, on the recommendation of Departmental Selection Committee the petitioner was regularly appointed on the post of PTC but that was to be considered as a Fresh appointment as mentioned in his appointment order (**Copy of the appointment order attached as annex A**).
4. The departmental appeal of the appellant was properly examined and regretted on basis that the petitioner was appointed on the post of PTC on regular basis but that his appointment was to be considered as fresh appointment as mentioned in his appointment order. Therefore, he is not entitled for pay fixation. Hence para No.4 is also denied.

On Grounds

- A.** Incorrect. Hence denied. As elucidated in para-3.
- B.** Incorrect. Hence denied. The respondent being bound by law acts in accordance with law and while doing so no provision ^{of} any law has been violated.
- C.** Incorrect and baseless. Hence denied. As elucidated in above para-3.
- D.** Incorrect. Hence denied. The matter in the instant appeal is a closed transaction as has already been dismissed by the Honorable Peshawar High Court in W.P 4597-P/2018 decided on 30-10-2019. So, the appellant is not entitled for the pay fixation as prayed for. **(Copy Of The Judgment is Attached As C)**
- E.** Legal, needs no comments. However the respondent does not violate any law and provision of constitution.
- F.** Incorrect. The case of the appellant is totally different from the one referred in the subject para. The petitioner was regular on the post of PTC but that was to be considered as a Fresh appointment as mentioned in his appointment order, Therefore he is not entitled for pay fixation, as prayed for.
- G.** Incorrect. Hence denied. As elucidated in above para-3.
- H.** Incorrect. Hence denied. As elucidated in above para-3.
- I.** That with the kind permission of the Honorable Court, The respondents may be allowed to take any other grounds at the time of arguments of the instant petition.

Pray

In light of the above stated facts and legal position, it is humbly requested that the case of the petitioners may kindly be dismissed.

Respondent 1:


Director Education

Khyber Pakhtunkhwa

Respondent 3:


District Education Officer

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No...1394/2019

JALAL-UD-DINAppellant

Versus

The Director E&SE Department Khyber Pakhtunkhwa and other... Respondents

Comments on behalf of Respondents No.1 & 3**Affidavit**

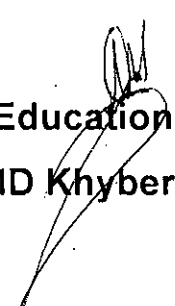
We the respondents do hereby solemnly affirm and declare that the contents of the accompanying para wise comments submitted by the respondent are correct to the best of their knowledge and belief and nothing has been concealed from this honorable court.

Respondent. 1:

Director Education
Khyber Pakhtunkhwa


Respondent. 3 :

District Education Officer
NMD Khyber



Authority Letter

Mr. Munawar Khan /focal Person of (Litigation) District education Officer Khyber is hereby authorized to submit parawise comments in the court on the behalf of respondent.


District education Officer
NMD Khyber

AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD. P-0
APPOINTMENT.

Consequent upon the selection of Departmental Selection Committee the following PTC Fresh (Male) local candidates of Tehsil Bara Khyber Agency are hereby appointed against the PTC posts on regular basis (Non pension-able) at the school noted against their name in BPS No (07) of the National Pay Scale @ Rs.(3530-190-9230) PM plus usual allowances as admissible under the Rules in the interest of public service.

S.No	Name/Father Name	Posted at	Remarks
01	Hafeezullah Amin S/o Zari Jan BCS Said Rasan Kili Khagur Teerah.	GPS AllaDhand Bara Khyber Agency.	Against vacant PTC post
02	Muhammad Ashfaq s/o Haji Sikandar Khan	GPS Kaga Ghara Bra Khyber Agency.	--do--
03	Najeebullah S/o Shahbaz Khan	GPS Zafar Kili Tirah Khyber Agency.	--do--
04	Shamsudin S/o Sultan Muhammad	GPS Choor Lakka Bara Khyber Agency.	--do--
05	Khan Sher S/o Sahz Ali Khan	GPS Tandi Bughdad Khel Bara Khyber Agency.	--do--
06	Musafar Shah S/o Khial Noor	GPS Sarkai Kamar Bara Khyber Agency.	--do--
07	Mukharif Shah S/o Abdul Wahab	GPS Ghari Kamar Khel Bara Khyber Agency.	--do--
08	Shah Hussain S/o Gulat Khan BCS Habib Shah Killi	GPS Mothray Dada Nika Aka Khel Teerah Khyber Agency.	--do--
09	Jalalud Din S/o Shamsu Din BCS Shakirullah Killi Sepah	GPS Hukam Khan Kili Bara Khyber Agency.	--do--
10	Shah Muhammad S/o Shah Muhammad BCS Haji Muhammad Killi Teerah	GPS Benay Arbab Kili Bara Khyber Agency.	--do--
11	Arif Khan S/o Alam Khan	GPS Benay Arbab Kili Bara Khyber Agency.	--do--
12	Rehman Gul S/o Abdul Amin BCS Haji Rasool Din Killi Teerah	GPS Stoni Khel Almas Kili Bara Khyber Agency.	--do--
13	Rahim Shah S/o Khial Badshah	GPS Stoni Khel Almas Kili Bara Khyber Agency.	--do--
14	Misal Khan S/o Fazali Rahim	GPS Mothray Dada Nika Aka Khel Teerah Khyber Agency.	--do--
15	Javed Iqbal S/o Hazrat Gul BCS Koki Khel zioddin Mastak	GPS Sarkai Kamar Bara Khyber Agency.	--do--
16	Amanullah S/o Asmatullah	GPS Ghari Kamar Khel Bara Khyber Agency.	--do--
17	Muhammad Akber s/o Hanif Gul	GPS Khurmatang Bara Khyber Agency.	--do--

TERMS AND CONDITIONS.

1. The Appointee will take over charge on 1/9/2009 (after the reopening of schools after summer vacations) at their respective schools. Charge report should be submitted to all concerned.
2. The appointment of the candidates is made purely on temporary basis and is liable to terminate without assigning any notice.
3. If the candidate wishes to resign his post he will be give one month prior notice or his pay for one month will be forfeited in lieu thereof.
4. Their documents, Date of birth, NIC and Domicile certificate should be checked before handed over charge of the post and attested copies thereof may be kept on record of the school/office.
5. They should produce their Health and Age certificate from the Agency Surgeon concerned.

- 21 / 9717238

2009 / 11-07-2009

K-1
Amex - A

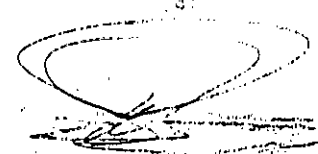
6. They may not be handed over charge if he is below 18-years and above 36-years.
7. If they fails to report their arrival within 15-days of the issue of this appointment order then it will be treated as cancelled.
8. No salary may be drawn before the verifications of all the testimonials from the quarter concerned.
9. If any technical legal flaw is pointed out, the appointment will stand as cancelled.
10. They will not be entitled for pension/commutation and G.P. Fund emoluments as per Govt. policy. However they are entitled for C.P. Fund.

(HASHIM KHAN)
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD.

Ends: No 3360-3324/Estab./C-6/Vol-III/Khy.
Copy of the above is forwarded to the:-

Dated Jamrud the 11/7/2009

1. Director of Education FATA (NWFP) Peshawar.
2. Political Agent Khyber Agency at Peshawar.
3. Agency Accounts Officer Khyber at Jamrud.
4. Agency Surgeon Khyber Agency at Landi Kotal
5. Principal/Headmasters concerned.
6. EMIS Computer cell local office.
7. Candidates concerned.



AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

درجہ اول کمرک
28-2009

PESHAWAR HIGH COURT, PESHAWAR
(Judicial Department)

W.P. No. 4597-P/2018 alongwith
CM No. 2293-P/2019

JUDGMENT

Date of hearing: 30.10.2019

Petitioner: (Anzar Gul & others) by
Mr. Saadullah Marwat, Advocate.

Respondents (Director Education FATA &
others) by: Mr. Rab Nawaz Khan, AAG.

MOHAMMAD IBRAHIM KHAN, J.- The

Department of Education FATA, in order to

raise literacy level, launched a project of

Community Schools under FATA Annual

Development Program in the year 1998 till

20.10.2010 wherein, 956 schools were opened

and total 1912 (02 per school) were appointed

as PST since 2003 including the petitioners

after fulfillment of all codal formalities. Due to

law and order situation in FATA, many

schools were destroyed and being non-

P-8

functional schools, it was decided to close the same as the teachers were getting salaries without performing their duties. In meeting of Standing Committee of SAFRAN held on 21.12.2011, it was decided that the FATA Secretariat should regularize the services of Community School teachers from their initial recruitment vide letters dated 16.01.2012 and 26.04.2012. After approval of Summary by the Government of Khyber Pakhtunkhwa, the Community School teachers were adjusted against regular posts of PST BPS-07 and in this respect, the Secretary Social Sectors Department FATA issued notification on 11.05.2012 and they were subsequently regularized however, the services rendered by the petitioners on contract basis for more than 10 years were not extended to them for pensionary benefits, against which the

petitioners filed representation but the same was regretted on 29.08.2018, hence, this writ petition preferred by them under Article 199 of the Constitution of the Islamic Republic of Pakistan with the following perspective prayers:-

"It is, therefore, most humbly prayed that on acceptance of this Writ Petition, in exercise of the extraordinary constitutional jurisdiction, this Hon'ble Court may graciously be pleased to:

- a. Declare notification dated 29.8.2018 of the R No. 01 to be illegal, improper, unjust, discriminatory, mala fide, without lawful authority and of no legal effect.*
- b. Direct the authority to regularize the initial service of the petitioners rendered in the Community Schools to the regular service for pensionary and other benefits.*
- c. Any other writ/order/ direction deemed proper and just in the circumstances of the case be also issued/ordered/ given."*

(Handwritten signature)

2. Having heard arguments of learned counsel for the petitioners and learned AAG on behalf of the official respondents,

record with their valuable assistance gone through.

3. The respondents were on high alert to submit their comments accordingly, the respondents No. 1, 2 and 5 jointly submitted their para-wise comments. True, that the petitioners were initially appointed in the project of Community Schools under the FATA Annual Development Program in the year 1998 wherein, 1912 teachers (02 per school) were appointed including the petitioners on PST Posts in the year 2003 but due to the law and order situation in FATA, some schools were non-functional but even then the petitioners were regularized after fulfilling all the codal formalities by the respondents. Now there arises factual controversy that the community schools were functional or non-functional in FATA; thus, it

Handwritten mark

leads to factual controversy to utter declare
 that the schools were functional or non-
 functional. The writ petition in view of factual
 controversy is not at all maintainable. The
 constitutional jurisdiction of this court would
 seriously be barred as such like controversy
 can be agitated before the Civil Court. In
 support of the matter being of factual
 controversy wisdom is derived from 2005
PLD 347 Supreme Court titled *Mst. Irshad*
Begum and 2 others vs Muhammad Arshad,
2005 PLC 366 Supreme Court titled *Pervez*
Alam vs Pakistan Dairy Products (Pvt) Ltd,
Karachi, 2005 SCMR 1650 Supreme Court
 titled *Muhammad Ayub vs Ghulam*
Muhammad, 2005 SCMR 1542 Supreme
Court titled *Muhammad Ramzan vs*
Additional District Judge, Multan, 2004
PLC 2013 Supreme Court titled *Riaz*

o — 12

Ahmed Malik vs Administrator, Municipal

Corporation Bahawalpur, 2004 SCMR 1602

*Supreme Court titled *Muhammad Saifdar**

Abbasi vs Amir Yar Mallk, 2004 SCMR

*1521 Supreme Court titled *Mst. Hanifa Bibi**

vs Munawar Ahmad, 2004 SCMR 979

*Supreme Court titled *Mirza Abdul Rehman**

vs Deputy Commissioner/ Returning Officer,

Attock and 2003 SCMR 225 Supreme Court

*titled *Commanding Officer, Frontier Works**

Organization, Karachi vs Haji Abdul

Waheed.

4. In view of the above, this petition has no force, which is hereby dismissed.

Announced.
Dt: 30.10.2019

Gaur
JUDGE
Wajid
JUDGE