

31.05.2016

Counsel for the appellant, M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (lit.) alongwith Mr. Usman Ghani, Senior Government Pleader for respondents present. Re-arguments heard and record perused.

Vide our detailed judgment of today in connected service appeal No. 1343/2012 titled "Javed Iqbal-vs-Government of Khyber Pakhtunkhwa, through Secretary Elementary and Secondary Education Department, Peshawar and others", this appeal is also disposed of as per detailed judgment. Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED
31.05.2016


MEMBER


MEMBER

03.12.2015

Appellant in person and Mr. Hameed-ur-Rehman, ADO
alongwith Mr. Muhammad Jan, GP for respondents present.
Written reply submitted copy of which is placed on file. To come
up for rejoinder and arguments on 10.5.2016.


Member

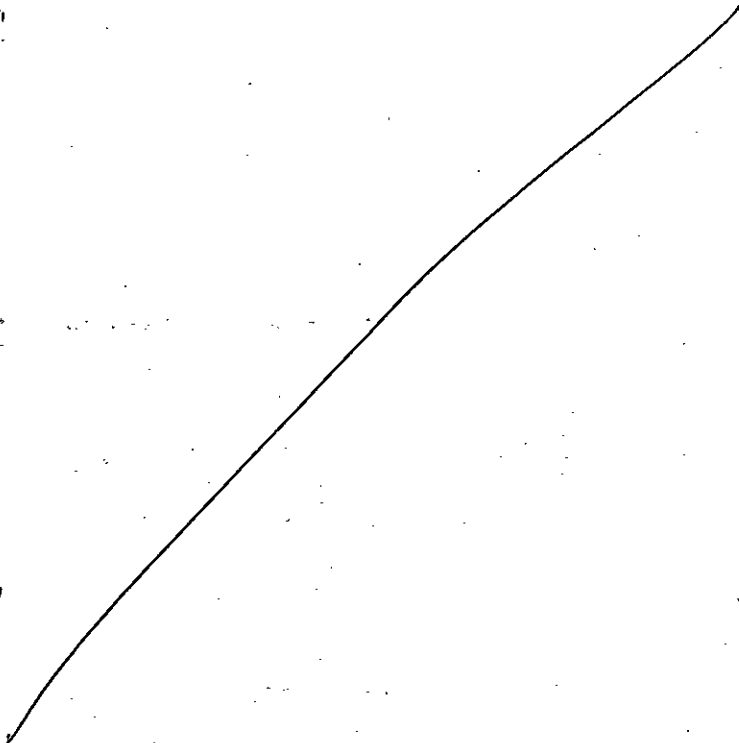

Member

10.5.2016

Counsel for the appellant and Mr. Usman Ghani, Sr. GP for
respondents present. Arguments in similar nature of appeals
have already been heard and fixed for order on 31.5.2016,
therefore, the same may also be clubbed with the said appeals
for order on 31.5.2016.

Member


Member



29.1.2014 vide order sheet dated 29.1.2014 in connected appeal No. 631/2013, this appeal is adjourned to 27.3.2014.

READER

27-3-14 Vide order sheet dated 29.1.2014 in connected appeal No. 631/2013, this appeal is adjourned to 27-5-14.

READER

27-5-14 Vide order sheet dated 29.1.2014 in connected appeal No. 631/2013, this appeal is adjourned to 27-8-14.

READER

27-8-14 Vide order sheet dated 29.1.2014 in connected appeal No. 631/2013, this appeal is adjourned to 28-11-14.

READER

28-11-14 Vide order sheet dated 29.1.2014 in connected appeal No. 631/2013, this appeal is adjourned to 4-2-15.

READER

4-2-15 Vide order sheet dated 29.1.2014 in connected appeal No. 631/2013, this appeal is adjourned to 23-4-15.

READER

23-4-15 Vide order sheet dated 29.1.2014 in connected appeal No. 631/2013, this appeal is adjourned to 19-10-15.

READER

Vide order sheet dated 29.1.2014 in connected appeal No. 631/2013, this appeal is adjourned to 3-12-15.

READER

5.
Appeal No. 633/2013.
Mr. Ram Kishan.

27.08.2013


Appellant with counsel present and heard on preliminary.

Contended that the appellant has not been treated in accordance with the law/rules. He further contended that similar nature of cases have already been admitted to regular hearing. In this respect he referred to one in service appeal No.1322/12 titled Ikramullah vs Govt which has been fixed for hearing before the Hon'ble Final Bench-II on 10.10.2013. On the same analogy the instant appeal also admitted for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 03.12.2013 for submission of written reply before Final Bench-II.


Member.

3.12.2013

Junior to counsel for the appellant present. Security and process fee have not been deposited. Junior to counsel for the appellant requested for extension of time. Request is accepted. Security and process fee be deposited within 7 days. Notices be issued to the respondents. To come up for written reply on 29.1.2014.


MEMBER

3.
3.6.2013


Munshi to Counsel for the appellant present.

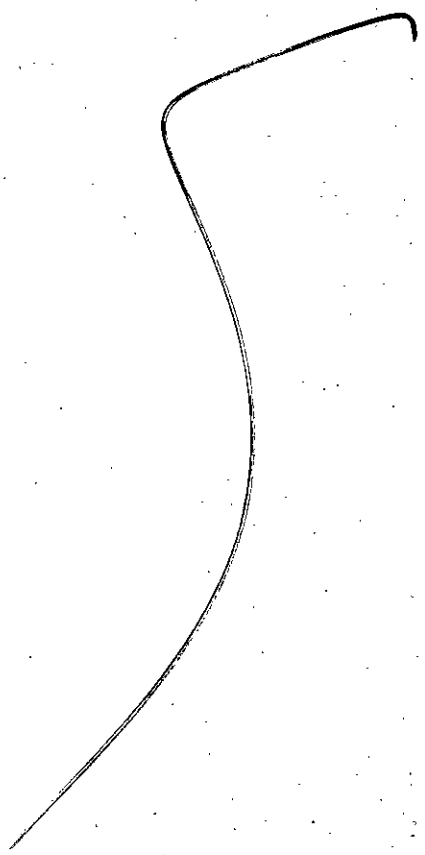
In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 19.6.2013.


Reader

4.
19.6.2013

None for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 27.8.2013.




Reader

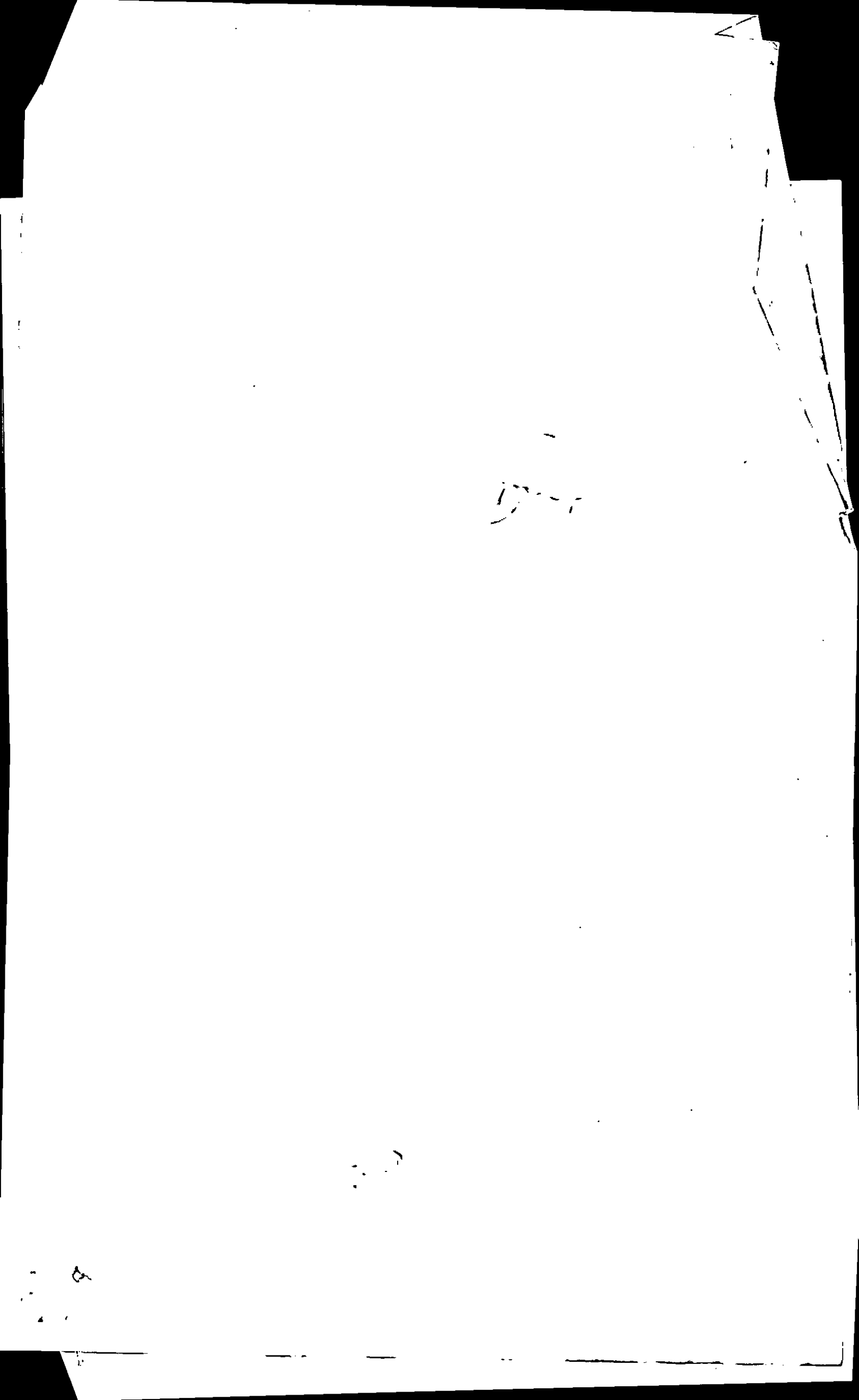


Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 633/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/04/2013	The appeal of Mr. Ram Kishan presented today by Mr. Shams-ul-Hadi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.  REGISTRAR
2	22-4-2013	This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>3-6-2013</u> .  CHAIRMAN



**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 633/2013

Ram Kishan.....Appellant

V E R S U S


Government of Khyber Pakhtunkhwa through Secretary
Education, Peshawar and others.....Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Memo of Appeal		1-8
2.	Affidavit		9
3.	Addresses of the Parties		10
4.	Copy of the Notification issued by the Government	A	11
5.	Copies of appointment letter and Notification dated 13/11/2012	B&C	12-28
6.	Copy of representation	D	29-32
7.	Wakalat Nama		33


Appellant

Through


Shams-ur-Hadi
Advocate High Court,
Peshawar.
Office: 2nd Floor, Bangush
Plaza Khyber Super Market,
Peshawar Cantt.
Cell No. 0313-9772262

①

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 633 /2013

W. S. B. No. 738
10-4-2013

Ram Kishan PST

GPS Village Matwari, Tehsil Daggar, District Buner.....Appellant

V E R S U S

1. Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department Civil Secretariat, Peshawar.
4. Director Elementary & Sedentary Education Khyber Pakhtunkhwa, Peshawar.....Respondents

**APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICE TRIBUNAL ACT
1974 TO THE EFFECT THAT THE NEWLY
INDUCTED CONDITION OF FA/FSC FOR
THE PROMOTION TO BPS-14/15 OF THE
PST TEACHER MAY PLEASE BE SET-ASIDE
AND THE PROMOTION MAY PLEASE BE
GRANTED ON SENIORITY-CUM-FITNESS
BASIS PURELY.**

PRAYER IN APPEAL:

*On acceptance of this appeal the condition of FA/FSc
from the above noted notification for the promotion of the
PST Teacher may please be removed and the promotion
may please be granted on seniority-cum-fitness basis.*

2

Respectfully Sheweth:

1. That the appellant is belonging to the Education Department, all serving on the posts as mentioned against his name in the heading of the appeal.
2. That the appellant has got at his credit on the above said post a long tenure of service extending over 20 to 40 years.
3. That previously the basic qualification for the appointment at the post of PST was fixed as Matric Certificate along with the PST Certificate from a recognized Institution and the appellant appointed on the above said post having the said qualification as was the requirement at the time of the appointment of the appellant.
4. That the basic qualification for the post of PST was duly enhanced with basic qualification from Matric to F.A/ F.Sc in the year 2011 and many other colleagues of the appellants were then appointed on the same posts of PST having their qualification as F.A/ F.Sc alongwith the PST Certificate.

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5. That in the year 2007 a policy of upgradation was promulgated by the then Provincial Government, whereby the PTC, Teachers were upgraded from BPS-07 to BPS-12 on the basis of the length of the service. (Copy of the Notification issued by the Government is attached herewith as annexure "A").
6. That again a similar summary was formulated at the initial stage by the Education Department that the PST Teachers will be upgraded to BPS-15 having 22 years service, whereas the teachers having 15 years service will be upgraded to BPS-14.
7. That the above said policy was just as according to the justice and demand of the teachers community, however later on the said policy was converted from time scale to the education scale, whereby the promotion policy for the PST Teachers was formulated as under:

"Primary School Head Teacher
(PSHT) (BPS-15)

By promotion, on the basis of seniority-cum-fitness from amongst senior primary school teachers with at least 10 years service and having qualification prescribed for initial recruitment of primary school teacher.

Primary School Teacher BPS-14

By promotion on the basis of seniority-cum-fitness from amongst school teachers with at least 05 years service as such and having qualification prescribed for initial recruitment of primary school teachers.

(u)

8. That thereby all the fresh appointed F.A/ PST have been given the BPS-12, whereas the holders of F.A. Certificate with 10 years length of service may be upgraded/ promoted to BPS-15 and the PSTs with the F.A. qualification having 05 years service may be upgraded to BPS-14. (Copies of appointment letter and Notification dated 13/11/2012 is attached herewith as annexure "B" & "C").
9. That the appellant alongwith his other hundreds of the colleagues having their services extending from 20 to 40 years have been totally ignored and have not been given any chance of upgradation/ promotion throughout their professional career inspite of having such a long spotless tenure of service.
10. That this attitude of the respondent department to give benefit to the PST teachers with the F.A/F.Sc qualification over the teachers with the Matric qualification has been formulated without any cogent/ legal grounds but just to give benefit to the blue eyed teachers of the respondent department, whom have been appointed in their tenure.
11. That the appellant is also equally entitled to be upgraded on the basis of his tenure of service and be given the

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same benefit as it has been given to the other PSTs teachers having the F.A. Certificates, as the higher qualification of F.A. can not be any means made the basis for giving any sort of above said benefit to the teachers.

12. That in this respect the appellant has also moved their representation to the concerned authority, thereby explaining their grievance, however no response whatsoever has yet been received by the appellant till the filing of this Service Appeal. (Copy of representation is attached as annexure "D").

13. That the appellant got no other efficacious/ adequate now approaches this Hon'ble Tribunal on the following grounds amongst the others:

GROUND:

A. That act of the respondent department, thereby depriving the appellant from the above said benefit of upgradation is illegal, unlawful, without authority/ jurisdiction, as well as being based on the malafide intentions of the respondent department is liable to be set aside.

B. That since hundred and hundreds of the teachers have been treated in a discriminatory manner and have been

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deprived of the above said benefit mere on the ground that they are not having the qualification of F.A/F.Sc is an act unjust and without any reasonable ground, as the basic qualification at the time of the appointment of the appellant was Matric with PST and the basic qualification at the time of the appointment of the benefited teachers were F.A/F.Sc with PST, hence no privilege can be granted to the persons, whom have been appointed on the prescribed qualification.

C. That the appellant has been serving on the above said since long, whereas the minimum tenure of the service amongst the appellant is 18 years and the maximum tenure amongst the appellant is extended to 40 years and since long the appellant has been waiting for his turn to be promoted/ upgraded to some higher scale, however after having a tenure of such a long legitimate expectations the appellant has been treated unlawfully without any cogent/ solid grounds.

D. That it is very respectfully submitted it has never happened that in the cases of upgradation/promotion the factor of seniority should be abolished/ ignored totally and the grounds of upgradation/ promotion should be made mere educational qualification, whereas the

upgradation/ promotion has always been made on the basis of seniority-cum-fitness and have never at the basis of higher qualification whatsoever it may be. Furthermore still it is not the higher qualification for the teachers whom have been going thorough get benefit for the above said notification, but with the passage of time as the basic qualification has been raised, hence they have been appointed on the basis of F.A/F.Sc Certificate, which said factor cannot be made a ground for their upgradation to BPS-14/15.

- E. That the said act of the respondent department is not merely illegal as well as unlawful, but is also against the very clear Articles of Constitution of Islamic Republic of Pakistan as engraved in the basic rights of said constitution.
- F. That the appellant has got every right to be treated equally with his other colleagues and closing all the ways of upgradation/ promotion for the appellant is against all the norms of justice as it has been done in the above mentioned notification dated 13/11/2012.
- G. That it will be pertinent to bring into the notice of this Hon'ble Tribunal that the above said benefit has also been extended to the Clerk's community, whereby the

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clerk's even with the Martric Certificate have been upgraded from BPS-09 to BPS-16 and similarly according to other notification dated 24th April, 2012 the Federal Government has been pleased to upgrade the PST Teachers from BPS-09 to BPS-14 including the Matriculate Teachers.

It is, therefore, prayed that on acceptance of this Service Appeal the respondents may please be directed to set-aside the term of:

“having qualification prescribed for initial recruitment of primary school teachers”

and the appellant may please be considered equally for the above said promotion/ upgradation with the other colleagues, whom have been appointed on F.A/F.Sc basis and the above said conditions being illegal, unlawful, unconstitutional and discriminatory may please be deleted from the conditions of promotion of the PST Teachers to the BPS-14/15.

Any other remedy to which appellant is found entitled, in the peculiar circumstances of the case may also be granted.


Appellant 

Through

Shams-ul-Hadi
Advocate High Court,
Peshawar.

(9)

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2013

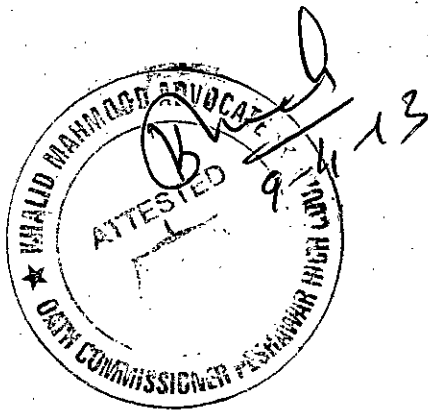
Ram Kishan.....Appellant

V E R S U S

Government of Khyber Pakhtunkhwa through Secretary
Education, Peshawar and others.....Respondents

AFFIDAVIT

I, **Shams-ul-Hadi**, Advocate, Peshawar do hereby as per information conveyed to me by my client solemnly affirm and declare that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



ADVOCATE

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2013

Ram Kishan.....Appellant

V E R S U S

Government of Khyber Pakhtunkhwa through Secretary
Education, Peshawar and others.....Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Ram Kishan PST

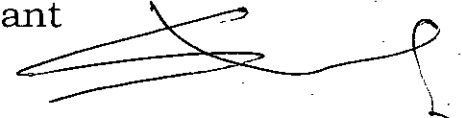
GPS Village Matwari, Tehsil Daggar, District Buner

RESPONDENTS:

1. Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department Civil Secretariat, Peshawar.
4. Director Elementary & Sedentary Education Khyber Pakhtunkhwa, Peshawar.

Appellant

Through



Shams-ul-Hadi
Advocate High Court,
Peshawar.

1.	Qualification DPS-07	with	with B.Sc. at least 2 nd Division and B.Ed. at least 2 nd Division	17
2.	SST/SST Teacher/Agri	with	M.A./M.Sc at least 2 nd Division	17
	with requisite experience	with	B.Ed. M.Ed/M.A. Education equivalent qualification	
3.	SST/Sr. SST Teacher/Sr. SST Agri			
4.	BPS-16			
5.	DPE BPS-16		M.Sc. at least 2 nd division in (HPE)	17

2. The promotion/direct Promotion against the upgraded posts shall be made as per laid down procedure and in accordance with the Service Rules to be framed pursuant to the relevant provisions of NWFP Civil Servants (appointments, Promotion and Transfer) 1989 read with the NWFP Civil Servants Act, 1973 in the light of the meeting held on 26.09.2007 of the committee constituted vide Schools & Literacy Department Notification No. SO(G)S&L/1-4/2007 dated 01.08.2007.

Audit copy may please be prepared and sent to the Department for authentication/signature.

Section Officer (FR)

End of even No. & date.

Copy for information & necessary action to:-

1. Accountant General NWFP.
2. Director Schools & Literacy NWFP, Peshawar.
3. Director of Education FATA NWFP, Peshawar.
4. PSO to Chief Minister NWFP.
5. PSO to Chief Secretary NWFP.
6. PS to Secretary Finance Department NWFP.
7. All District/agency Accounts Officers in NWFP.

Attest
SHEIKH
ADIG
copy
HAMMAD
ADIG
ADIG COURT PARK

ADIG COURT PARK

Better Copy

(11)

Government of NWFP
Finance Department
No SO (FR) 10-22(B)/2005
Dated: 01.10.2007

To

The Secretary to Govt. of NWFP
Schools & Literacy Department.

Subject: UPGRDATION OF VARIOUS POSTS OF TEACHING/
CAREER STRUCTURE IN SCHOOLS AND LITERACY
DEPARTMENT GOVERNMENT OF NWFP.

Sir,

I am directed to refer to your letter No. SO(G)104/2007 dated 01.10.2007 on the subject noted above and to inform that the Chief Minister NWFP has been pleased to upgraded various posts of teachers in Schools and Literacy Department NWFP as per details given below in respect of those incumbents mentioned against each with immediate effect.

S.No	Designation/ existing Pay Scale	Qualification	Revised Pay Scale
1	Primary School Teacher PST BPS-09	F.A / FSc at least 2 nd Division with PTC/ Diploma in Education	09
2	PST with requisite experience renamed as Head Teacher/ head Mistress of Rprimary School BPS-07	On the basis of 10 years service experience as Primary School Teacher in BPS-09	12
3	C.T BPS-09	B.A / BSc at least 2 nd Division with Diploma in Education/CT	15
4	AWICT Technical Industrial Arts/ Home Economics BPS-09	B.A/ BSc at least 2 nd Division with Diploma in Education/ Certificate from Directorate of Curriculum and Teachers Education NWFP Abbottabad in Agro Tech/ Industrial Arts Home Economics.	15
5	D.M BPS-09	B.A/ B.Sc at least 2 nd Division with Drawing Master Course	15
6	PET BPS-09	B.A/ BSC at least 2 nd Division with JOPE.	15

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Annex - B²

(12)

DISTRICT EDUCATION OFFICER (M) PRIMARY BUNIR AT SOWARI.

Consequent upon the date of interview advertised in the daily Peshawar dated 6-5-94 and interview conducted on 25-5-1994 in the office of the undersigned, the appointment order of the following approved PTC Trained candidates of PF-63 is hereby ordered in the interest of public service in the BPS-7 (Rs=1095-60-1995) @ Rs=1095/- P.M. plus usual allowances as admissible under the rules w.e.f. the date of their taking over charge in the school noted against them:-

S.No	Name and Address	Posted at	Remarks.
13.	Amanul Mulk Shah S/O Said Ali Shah Vill: Kalpanai.	GMPS: Jang Garn	Against V.P.
14.	Ismail Shah S/O Mir Ahmad Shah Village Bajkata.	" Ghakhay	-do-
15.	Akbar Ali S/O Ali Haidar Village Takhta Band.	" Akhoon Khelo Dherai. (Amazi).	-do-
16.	Ali Bahadar S/O Ashraf Din Village Bajkata.	GPS: Kass (Chagh:)	-do-
17.	Ram Kishan S/O Seeta Ram Village Dewana Baba.	" Alagram	-do-

2/22
Matwari

TERMS AND CONDITIONS.

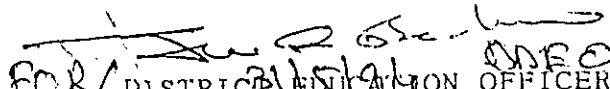
- 1-Their appointment is purely temporary and liable to termination without assigning any reasons or notice.
- 2-In case of resignation He/They will have to submit one month prior notice to the department or forfeit one month pay in lieu thereof to the Government.
- 3-He/They are required to produce Health and age certificates from the Medical authority concerned before taking over charge provided they are not Government servants.
- 4-He/They should not be allowed to take over charge if his /their age is less than 18 years or above 25 years.
- 5-His/Their appointment is/are subject to further condition that He/They is/are domiciled in Distt: Bunir.
- 6-All Educational, Character, and Domicile certificates should be thoroughly checked before handing over charge and if necessary they should be verified from the institutions concerned.
- 7-If He/They fail to take over charge of the post within 14 days of the issue of this order, the offer of appointment shall stand cancelled.
- 8-Charge reports should be submitted to all the concerned.
- 9-No AT/DA/TG etc is allowed.

(HABIBULLAH KHAN)
DISTRICT EDUCATION OFFICER (M)
PRIMARY DISTT: BUNIR AT SOWARI.

Endst: No. 4882-90/F.No.4/AE-11/APP:of PTC Trained Dated: 30-5/1994.

Copy forwarded for information and necessary action to the:-

- 1:- PA to The Director of Primary Education N.W.F.P. Peshawar at Hayataba
- 2:- Sub Divnl: Edu: Officer (M) Daggar.
- 3:- District Account Officer District Bunir.
- 4-11-Candidates Concerned.

FOR / 
DISTRICT EDUCATION OFFICER (M)
PRIMARY DISTT: BUNIR AT SOWARI.



Annex = 'c' (13)

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

NOTIFICATION

Peshawar, dated the November 13, 2012.

No. SO/PE/1-NSS/PC/Meeting/2012/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 and in supersession of all Notifications issued in this behalf, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby lays down the method of recruitment, qualification and other conditions specified in the Appendix to this Notification which shall be applicable to all the posts specified in Column No. 2 of the said Appendix and the schedule therewith.

SECRETARY TO GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

Encl. No. & Date as above.

Copy forwarded to:-

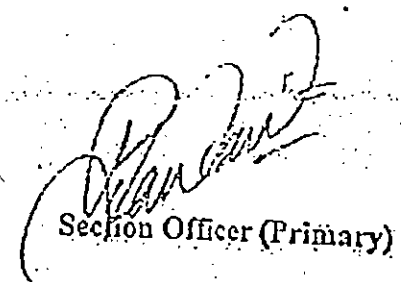
1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General, Khyber Pakhtunkhwa Peshawar.
6. The Director (E&SE) Khyber Pakhtunkhwa Peshawar.
7. The Director Education (FATA), Peshawar.

ATTESTED

13/11/12

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5. The Director Curriculum & Teachers Education Abbottabad.
6. The Director (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director ESRU, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
11. The Deputy Director Database (E&S) E&SE Department.
12. All District Coordination Officers in Khyber Pakhtunkhwa.
13. All Executive District Officers Elementary & Secondary Education in Khyber Pakhtunkhwa.
14. All District Accounts Officers in Khyber Pakhtunkhwa / Agency Accounts Officers FATA.
15. All Agency Education Officers FATA.
16. P.S to Governor, Khyber Pakhtunkhwa.
17. P.S to Chief Minister, Khyber Pakhtunkhwa.
18. P.S to Chief Secretary, Khyber Pakhtunkhwa.
19. PS to Minister E&SE Khyber Pakhtunkhwa Peshawar.
20. PS to Secretary E&SE Department.
21. Master File.



Section Officer (Primary)


ATTESTED

APPENDIX

(15)

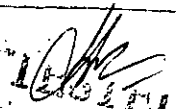
S.No.	Nomenclature of the post.	Minimum qualification and experience for initial appointment or by transfer.	Age limit.	Method of recruitment.
1.	2.	3.	4.	5.
1.	Secondary School Teacher (BPS-16).	(i) Second class Bachelor's Degree with two subjects as Chemistry, Botany, Zoology, Physics, Mathematics, Statistics Humanities and other equivalent groups from a recognized University; or (ii) MA in Education or Bachelor's Degree in Education, from a recognized University.	18 to 35 years.	(a) Fifty percent by promotion on the basis of seniority-cum-fitness, in the following manner: (i) forty per cent from amongst the Certified Teachers (General), Certified Teachers (Agriculture), Certified Teachers (Industrial Arts) and Certified Teachers (Home Economics) with at least five years service as such and having qualification mentioned in column No. 3; (ii) four per cent from amongst the Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3; (iii) four per cent from amongst the Physical Education Teachers with at least five years service as such and having qualification mentioned in column No. 3;


 ATTACHED
 LIST

				<p>(iv) one per cent from amongst Instructional Material Specialists with atleast five years service such and having qualification mentioned in column No. 3; and</p> <p>(v) one per cent from amongst Arabic Teachers with at least five years service as such and having qualification mentioned in Column No.3; and</p> <p>(b) fifty per cent by initial recruitment.</p>
2.	Senior Arabic Teacher (SAT) (BPS-16)			By promotion, on the basis of seniority-cum fitness, from amongst Arabic Teachers, with least five years service as such and having qualification as prescribed for initial recruitment of Arabic Teacher.
3.	Senior Theology Teacher (STT) (B-16)			By promotion, on the basis of seniority-cum fitness, from amongst Theology Teachers, with at least five years service as such and having qualification as prescribed for initial recruitment of Theology Teacher.
4.	Senior Certified Teacher (SCT)(General) (BPS-16)			By promotion, on the basis of seniority-cum fitness, from amongst Certified Teachers (General), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (General).

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L. S. S. S. S.

	Industrial Arts) (BPS-16).		By promotion, on the basis of seniority-cum fitness, from amongst Certified Teachers (Industrial Arts), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (Industrial Arts).
6.	Senior Certified Teacher (Agriculture) (BPS-16).		By promotion, on the basis of seniority-cum fitness, from amongst Certified Teacher (Agriculture), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (Agriculture).
7.	Senior Drawing Master (BPS-16).		By promotion on the basis of seniority-cum fitness from amongst Drawing Masters, with at least five years service as such and having qualification as prescribed for initial recruitment of Drawing Master.
8.	Senior Certified Teacher (SCT) (Home Economics) (BPS-16).		By promotion, on the basis of seniority-cum fitness, from amongst Certified Teachers (Home Economics), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (Home Economics).
9.	Senior Physical Education Teacher (BPS-16).		By promotion, on the basis of seniority-cum fitness, from amongst Physical Education Teachers, with at least five years service as such and having qualification as prescribed for initial recruitment of Physical Education Teacher.

ATTESTED

 2023/11/21

<p>Arabic Teacher (AT) (BPS-15).</p>	<p>(i) Second Class Secondary School Certificate, from a recognized Board with Shahdatul Alamia Fil Uloomul Arabia wal Islamia from a recognized Tanzimuatul Wafaqul Madaris; or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by the Government from time to time; or (ii) Second Class Master's Degree in Arabic from a recognized University.</p>	<p>20 to 35 years.</p>	<p>By initial recruitment</p>
<p>Theology Teacher (T1) (BPS-15).</p>	<p>(i) Second Class Secondary School Certificate, from a recognized Board with Shahdatul Alamia from a recognized Tanzimatul Wafaqul Madaris; or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by the Government from time to time; or (ii) Second Class Master's Degree in Islamiyat from a recognized University.</p>	<p>20 to 35 years.</p>	<p>(a) Seventy-five per cent by initial recruitment; and (b) twenty-five per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Qaris, with at least five years service and having qualification prescribed for initial recruitment of Theology Teacher. <u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment.</p>
<p>Senior Qari (BPS-15):</p>			<p>By promotion, on the basis of seniority-cum-fitness, from amongst Qaris, with at least five years service as such and having qualification prescribed for initial recruitment.</p>
<p>Certified Teacher (General) (BPS-15).</p>	<p>Bachelor's Degree or equivalent qualification from a recognized University with Certified Teacher</p>	<p>18 to 35 years.</p>	<p>(a) Forty per cent by initial recruitment; and</p>

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	<p>Certificate or two years Associate Degree in Education from a recognized University or eighteen months Diploma in Education.</p>		<p>(b) sixty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Primary School Head Teachers with at least five years service and having qualification prescribed for initial recruitment of Certified Teacher (General):</p> <p>Provided that if no suitable candidate is available amongst the Primary School Head Teachers for transfer, then the posts will be filled by promotion on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least five year service and having qualification prescribed for initial recruitment of Certified Teacher (General).</p> <p><u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment.</p>
<p>14. Certified Teacher (Industrial Arts) (BPS-15).</p>	<p>(i) Bachelor's Degree from a recognized University with two years training in the relevant technical subjects from any Government Industrial or Govt. Technical Vocational Institute or Center; or</p> <p>(b) Bachelor's Degree from a recognized</p>	<p>18 to 35 years.</p>	<p>(a) Forty per cent by initial recruitment; and</p> <p>(b) sixty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Primary School Head Teachers with at least five years service and having qualification prescribed for initial recruitment of Certified Teacher</p>

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	University with nine months training from any Government Agro Technical Teacher Training Center of the Level of Certified Teacher, Agro technical (Industrial Arts).		<p>(Industrial Arts):</p> <p>Provided that if no suitable candidate is available amongst the Primary School Head Teachers for Promotion, then the posts will be filled by promotion on the basis of seniority cum fitness, from amongst Senior Primary School Teachers with at least five years service and having qualification prescribed for initial recruitment of Certified Teachers (Industrial Arts).</p> <p><u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment.</p>
15. Certified Teacher (Agriculture) (BPS-15).	<p>(i) Bachelor's Degree from a recognized University with one year training in Agriculture from any Government institute or center with nine months training from Government Agro Technical Teacher Training Center of the level of Certified Teacher Agro Technical (Agriculture); or</p> <p>(ii) Bachelor's Degree with Agriculture as one of the subject, from a recognized University; or</p> <p>(iii) Bachelor's Degree from a recognized</p>	18 to 35 years.	<p>(a) Forty per cent by Initial recruitment; and</p> <p>(b) sixty per cent by promotion, on the basis of seniority-cum-fitness from amongst the Primary School Head Teachers, with at least five years service and having qualification prescribed for initial recruitment of Certified Teachers (Agriculture):</p> <p>Provided that if no suitable candidate is available amongst the</p>

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		any Government Agro Technical Teacher Training Center of the Level of Certified Teacher, Agro technical (Agriculture)		<p>promotion, then the posts will be filled by promotion on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least five years service and having qualification prescribed for initial recruitment of Certified Teacher (Agriculture).</p> <p><u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment.</p>
16:	Certified Teacher (Home Economics) (BPS-15).	<p>(i) Bachelor's Degree with Home Economics, as one of the subject, from a recognized University with in service training from Government Agro Technical Teacher Training Center; or</p> <p>(ii) Certified Teacher Certificate with Home Economics, as one of the subjects, from any Government Training school or college with Bachelor's Degree; or</p> <p>(iii) Bachelor's Degree from a recognized University with nine months training from Government Agro Technical Teacher Training Center of the level of the Certified Teacher Agro Technical (Home Economics); or</p> <p>(iv) Bachelor's Degree, from a recognized</p>	18 to 35 years.	<p>(a) forty per cent by initial recruitment; and</p> <p>(b) sixty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Primary School Head Teachers with at least five years service as such and having qualification prescribed for initial recruitment of Certified Teacher (Home Economics):</p> <p>Provided that if no suitable candidate is available amongst the Primary School Head Teachers for promotion, then the posts will be filled by promotion on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least five years service and having qualification prescribed for initial recruitment o</p>

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		University with one year vocational training from any Government training center or institute with nine months training from Government Agro Technical Teacher Training center of the level of certified Teacher Agro Technical (Home Economics).		Certified Teacher (Home Econ.) <u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment.
17.	Drawing Master (BPS-15).	Bachelor's Degree from a recognized University with one year Drawing Master (DM) course Certificate.	18 to 35 years.	(a) Eighty per cent by initial recruitment; and (b) twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Primary School Head Teachers with at least five years service and having qualification prescribed for initial recruitment of Drawing Master. Provided that if no suitable candidate is available for promotion then on the basis of seniority-cum-fitness from Senior Primary School Teachers with at least five years service and having qualification prescribed for initial recruitment of Drawing Master. <u>Note:</u> In case of non-availability of suitable candidate for promotion, then by initial recruitment.

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18.	Physical Education Teacher (BPS-15).	Bachelor's Degree from a recognized University with one year junior Diploma in Physical Education course or Army equivalency or other equivalent qualification.	18 to 35 years.	<p>(a) Eighty per cent by initial recruitment; ar</p> <p>(b) twenty per cent by promotion, on ti basis of seniority-cum-fitness, fro amongst the Primary School He Teachers with at least five years servi and having qualification prescribed f initial recruitment of Physical Educatio Teacher.</p> <p>Provided that if no suitab candidate is available for promotion th on the basis of seniority-cum-fines from amongst Senior Primary Scho Teachers with at least five years servi and having qualification prescribed f initial recruitment of Physical Educatio Teacher.</p> <p><u>Note:</u> In case of non-availability of suitab candidate for promotion, then by initi recruitment.</p>
19.	Primary School Head Teacher (PSHT) (BPS-15).			By promotion, on the basis of seniority-cun fitness, from amongst Senior Primary Scho Teachers with at least ten years service ar having qualification prescribed for initi recruitment of Primary School Teacher.
20.	Senior Primary School Teacher (BPS-14).			By promotion, on the basis of seniority-cun fitness, from amongst Primary School Teache

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				with at least five years service as such : having qualification prescribed for ini recruitment of Primary School Teacher.
21.	Primary School Teacher (BPS-12).	(i) Intermediate or equivalent qualification, from a recognized Board with Primary School Teacher Certificate/ Diploma in Education from a recognized Institute; or (ii) Secondary School Certificate, from a recognized Board in second Division with two years Associate Degree in Education from a recognized University.	18 to 35 years.	By initial recruitment on merit at Union Cou level: provided that if no suitable candidate within the Union Council is available, then fr the adjacent Union Councils on merit.
22.	Qari (BPS-12).	Intermediate with Hiz-c-Quran and Qirat Saad from a recognized Institution.	18 to 35 years.	By initial recruitment.

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Qual/Oaria

Category of Qualification	Total Marks 100
SSC	Marks obtained X 20 / total marks =
Qual. Awarded from a recognized Institution	Marks obtained X 20 / total marks =
HSSC	Marks obtained X 20 / total marks =
BA/BSc	Marks obtained X 20 / total marks =
MA/MSc/M.Ed/MA Edu	Marks obtained X 20 / total marks =
MPhil/PhD	Marks obtained X 15 / total marks =
	Marks = 05

Certified Teacher
(General, Industrial Arts, Agriculture, Home Economics)

Category of Qualification	Total Marks 100. For Humanities group at Intermediate/Graduation Level	For Candidate of Science group 5 Extra marks for F.Sc. 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection
SSC	Marks obtained X 20 / total marks =	
HSSC	Marks obtained X 20 / total marks =	
BA/BSc	Marks obtained X 20 / total marks =	
CT Certificate/ Diploma in Education /ADE	Marks obtained X 20 / total marks =	
MA/MSc/M.Ed/MA Edu	Marks obtained X 20 / total marks =	
MPhil/PhD	Marks obtained X 15 / total marks =	
	Marks = 05	

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Drawing Master

Category of Qualification	Total Marks 100	For Candidate of Science group
SSC	Marks obtained X 20 / total marks = _____	5 Extra marks for F.Sc, 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection
HSSC	Marks obtained X 20 / total marks = _____	
BA/BSc	Marks obtained X 20 / total marks = _____	
DM Certificate	Marks obtained X 20 / total marks = _____	
MA/MSc/M.Ed / MA Edu	Marks obtained X 15 / total marks = _____	
MPhil/PhD	Marks = 05	

Physical Education Teacher

Category of Qualification	Total Marks 100	For Candidate of Science group
SSC	Marks obtained X 20 / total marks = _____	5 Extra marks for F.Sc, 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection
HSSC	Marks obtained X 20 / total marks = _____	
BA/BSc	Marks obtained X 20 / total marks = _____	
JDPE or Equivalent Certificate	Marks obtained X 20 / total marks = _____	
MA/MSc/M.Ed / MA Edu	Marks obtained X 15 / total marks = _____	
MPhil/PhD	Marks = 05	


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Primary School Teacher

Category of Qualification	Total Marks 100 For Humanities group at Intermediate Level	For Candidate of Science group
SSC	Marks obtained X 20 / total marks = _____	5 Extra marks for FSc, 3 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection
IISSC	Marks obtained X 10 / total marks = _____	
BA/BSc	Marks obtained X 25 / total marks = _____	
PST Certificate/Diploma in Education /ADP	Marks obtained X 20 / total marks = _____	
MA/MSc/BA.Ed / MA Edu	Marks obtained X 20 / total marks = _____	
MPhil/PhD	Marks = 05	

Other conditions:-

1. The concerned Appointing Authority will scrutinize and verify the documents and make the appointment as per prescribed rule and the will get the documents verified after the issuance of appointment orders within shortest possible time, not exceeding ninety (90) days.
2. The merit list prepared by the concerned appointing authority shall be displayed for ten days to receive the objections/appeals, if any, and shall issue the final merit list after making necessary corrections while addressing the observations/objections/appeals, followed by requisite appointment orders.
3. In case a document(s) is/are found fake/ forged/ bogus upon scrutiny/ verification, the service of the teacher concerned shall be terminated and the amount paid to him as salary shall be recovered from him and an FIR shall be lodged against him on account of forgery/fraud under the relevant law.
4. Don't work from recognized Tazeeemat-ul-Wafaqid Madaris. Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by the Government from time to time will be acceptable for the purpose of appointment against the posts of Arabic Teachers or Theology Teachers, as the case may be.

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 2023-03-30
 12:30

Annex = D

(29)

To
Secretary
The Director Of Education (S
Peshawar, KPK

the respondents.....
the petitioners.....

Departmental APPEAL AGAINST THE ORDER/
NOTIFICATION DATED 13.11.2012

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Respectfully Sheweth:

- 1) That education department advertised posts of (PTC) Primary School Teachers and described the qualification as metric PTC certificate.
- 2) That appellants competed for the same and were selected and appointed as PTC/PST (Primary School Teachers) in BPS 7.
- 3) That appellants are serving as teachers (primary school teacher) for the last more than 25 years.
- 4) That appellants served in the said grade for the last more than 25 years and all are serving as Head Teachers.
- 5) That throughout the Province/ Pakistan, rules/ notification was issued for upgradation of those employees who served for 10 years in one grade.
- 6) That vide notification dated 13th November, 2012 respondent held in Column No.19 as under:-

"By promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least ten years service and having qualification prescribed for initial recruitment for Primary School Teacher."

In column No.20 of notification held as under:-

"By promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least ten years service and having qualification prescribed for initial recruitment for Primary School Teacher."

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Column No.21 is reproduced as under:-

- 30
- i. *Intermediate or equivalent qualification, from a recognized Board with Primary School Teacher Certificate/ Diploma in Education from a recognized Institute; or*
 - ii. *Secondary School Certificate, from a recognized Board in second Division with two years Associate Degree in Education from a recognized University."*

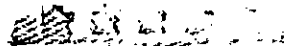
7) That education department are interpreting column No.19 of said rules by depriving petitioners, of Primary School Head Teacher (BPS-15) on the ground that petitioners are lacking F.A, whereas petitioners are continuously performing the duties of Head Teacher for more than 10 years.

That appellants being aggrieved approach your good-self on following grounds.

GROUNDS:

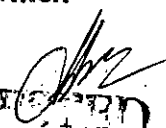
- A) Because appellants are qualified for the post of Primary School Teacher as possessing Metric with PTC which is the requisite qualification for the post in question.
- B) Because appellants are qualified for the post, that is why, appellants are holding the posts.
- C) Because appellants are holding and occupying the post of Primary School Head Teacher for more than 10 years, therefore, vested right has accrued to appellants and appellants can't be divested of the same.
- D) Because the instant notification dated 13th November, 2012 is to be given effect immediately and it has no retrospective effect. Thus already vested qualification of metric & PTC can't be divested for appellants.


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- E) Because as per principles of Interpretation of statute, retrospective effect is not to be given to a statute unless it is specifically provided in clear words.
- F) Because as per column No.20, Senior Primary School Teacher (BPS-14) is by promotion on the basis of Seniority-cum-Fitness from amongst the Primary School Teachers, and column 19 of the notification prescribes that (PSHT) BPS-15 is by promotion on the basis of seniority-cum-fitness from amongst Senior Primary School Teacher (BPS-14) with at least 10 years service, and having qualification prescribed for initial recruitment of Primary School Teacher (BSP-12). The last condition needs harmonious interpretation of column No.21 (II) i.e. S.S.C or the initial recruitment qualification at the time of appointment of petitioners or the initial recruitment qualification of Primary School Teacher (BSP-12) needs to be deleted or declared ultra-vires as petitioners crossed Primary School Teacher (BPS-12), Senior Primary School Teacher (BPS-14) are practically working as Head of the Primary School i.e. Primary School Head Teacher (PSHT) BPS-15, thus the qualification of BPS-12 can't be trusted upon them or in other words when promotion is amongst Senior Primary School Teacher (BPS-14) then report to initial recruitment of Primary School Teacher (BPS-12) is not to be made or this reference means qualification which existed at the time of initial recruitment of petitioners i.e. 25/30 years back.
- G) Because as per General Clause Act/ Principles of interpretation of statute, these rules ought to be beneficially interpreted in favor of appellants.
- H) Because if education department succeeded in interpreting the rules with respect to initial qualification in present rules, the young/junior most F.A qualified Teachers are to be promoted as against appellants holding S.S.C + PTC qualification and senior most, equal to the age of Fathers of said F.A qualified Teachers, then appellants shall be made subordinate to his subordinate (F.A qualified) which


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is against all canons of justice, service laws, S- 8 (seniority), S-9 (promotion) of Civil Servant Act, 1973 and would be ultra-vires.

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- 1) Because as per General Clause Act, notice is must to the effectees if rules are changed to their disadvantage (Relevant Section 23 of General Clause Act is Annexure "H" and Repeal Chapter of Interpretation of Statute is Annexure "I")

It is, therefore, humbly prayed that on acceptance of this appeal, an appropriate order may please be issued to by putting harmonious interpretation upon column NO.16,19,20 of the notification dated 13th November, 2012 read with qualification prescribed for initial recruitment at the time of entry into service and not the qualification of initial recruitment mentioned in column No.16 of notification dated 13th November, 2012 as it would amount to give retrospective effect to the notification dated 13th November, 2012 with respect to qualification of initial recruitment.

Any other relief deemed fit may also be graciously granted.

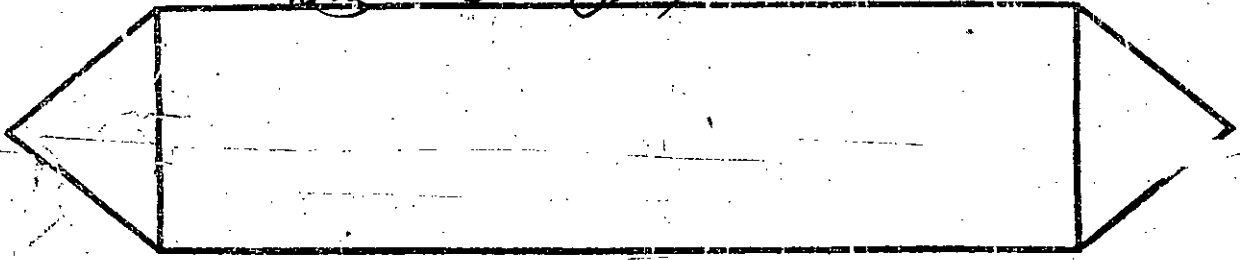
Date: 23.11.2012

- ① Zor Bakht Shah
- ② Gul Ahmad
- ③ MST. Shariat
- ④ Bakht Afzar
- ⑤ Hidayat-ur-Rehman
- ⑥ Malak Zada
- ⑦ MST. Gul Hawa Bibi
- ⑧ MST. Shahnaz Bibi
- ⑨ Shams-ur-Hadi
- ⑩ Amjad Ali

- ⑪ Said Malik
- ⑫ MST. Mihaqat Bibi
- ⑬ MST. Yasmeen Begum
- ⑭ Wahid Rasool
- ⑮ Tehsinullah
- ⑯ Shah Roz Khan
- ⑰ Misar Ahmad
- ⑱ Ram Kishan
- ⑲ Jeet Kumar

ATTESTED

بعدالت ارور پریوینل کے لیے دعویٰ



2013ء منجانب

لا آکٹس ہنگام گورنمنٹ آف ایس وکلاء

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لیسٹہ کیلئے جس میں ایس وکلاء نے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوفہ مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالثہ فیصافہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک اور پیسہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا قاتر قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے۔ اور اس کا ساختہ
پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو ترچہ و ہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھو یا کہ سند رہے۔

2013ء

بج ۵ ماہ

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المرقوم

واہ

کے لئے منظور ہے۔

بمقام لیسٹہ
Shams-ul-Hadi
Advocate