

Service Appeal No. 369/2017

21.01.2019

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Clerk of counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 15.03.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

15.03.2019

Nemo for appellant. Addl. AG for the respondents present.

It is already 3.00 P.M and the case has been called several times. Despite, the appellant is not represented.

Dismissed for non-prosecution. File be consigned to the record room.


Member

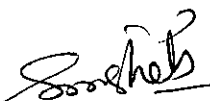



Chairman

ANNOUNCED
15.03.2019

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 369/2017

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 18/04/2017 | <p style="text-align: center;">The appeal of Syed Zahid Hussain presented today by Mr. Muhammad Adnam Sher Advocate, may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2- | 18/4/2017 | <p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>04-05-2017</u></p> <p style="text-align: right;"> MEMBER</p> |
| 3- | 05.05.2017 | <p style="text-align: center;">Counsel for the appellant present. Seeks adjournment. Adjourned for preliminary hearing to 25.05.2017 before S.B.</p> <p style="text-align: right;"> Chairman</p> |

25.05.2017

Clerk to counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 15.06.2017 before S.B.



(AHMAD HASSAN)
MEMBER

5, 15.06.2017


Clerk to counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 13.07.2017 before S.B.



Chairman

13.07.2017

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 09.08.2017 before S.B.



(Muhammad Amin Khan Kundi)
Member.

09.08.2017

Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 28.08.2017 before S.B.



(Ahmad Hassan)
Member

Service Appeal No. 369/2017

28.08.2017

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 18.09.2017 before S.B.


(Muhammad Amin Khan Kundi)
Member

18.09.2017

Clerk to counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 16.10.2017.


(Ahmad Hassan)
Member

16/10/2017

Appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 07/11/2017.


(GUL ZEB KHAN)
MEMBER

07.11.2017

None for the appellant present. Notices be issued to the appellant and his counsel. To come up for preliminary hearing on 05.12.2017.


(AHMAD HASSAN)
MEMBER

05.12.2017

Learned counsel for the appellant present.
Preliminary arguments heard and case file perused.

Learned counsel for the appellant argued that the appellant has been appointed as Instructor BPS-17 on fixed pay in GCMS, Parachin (Kurram Agency) for being fit, eligible and competent on the recommendations of the Department Selection Committee. That the said appointment was for a fixed period or till the arrival of selectee of the KPK Public Service Commission which makes it clear that the posts were of permanent nature and regular posts against which the appellant was appointed. That some of the colleagues of the appellant filed seeking the regularization of their services whereby all such writ petitions were allowed vide common judgment dated 08.03.2012 passed in W.P No. 1289/2010. That in pursuance to judgment dated 8.03.2012, the services of the colleagues of the appellant were regularized while the appellant was not given the same treatment. That appellant preferred departmental appeal with the request for regularization of services with effect from 31.12.2012 with all back benefits but the same has not been decided within statutory period. Further argued that when the colleagues of the appellant enjoy the benefits to which the appellant is also entitled in the light of judgments of hon'ble High Court, Peshawar then restraining him from enjoyment of the same is in absolute disregard to fundamental rights so enshrined in the Constitution of 1973.

Points raised need consideration. Admitted for regular hearing subject to all legal objections including limitation. The appellant is also directed to deposit security and process ^{fee} within (10) days, whereafter notice be issued to the respondents department for written reply/comments on 29.01.2018 before S.B.

Appellant Deposited
Security & Process Fee


(Gul Zeb Khan)
Member

29.01.2018


Appellant in person and Asst: AG alongwith Mr. Naeem Gul, AD for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply on 12.02.2018 before S.B.



(Ahmad Hassan)
Member(E)

12.02.2018

Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Naeem Gul, AD for the respondents also present. Written reply not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for written reply/comments on 27.02.2018 before S.B.



(Muhammad Amin Khan Kundi)
Member (J)

27.02.2018

Counsel for the appellant and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Notices be also issued to the respondents. To come up for written reply/comments on 29.03.2018 before S.B.



(Ahmad Hassan)
Member (E)

29.03.2018

None present on behalf of appellant and his counsel. Mr. Kabir Ullah Khattak, Additional AG alongwith Naeem Gul, AD (Lit) & Shah Saud, Junior Clerk for the respondent present. Written reply not submitted. Requested for adjournment. Adjourned. Notices be also issued to the appellant and his counsel for attendance. Last opportunity is granted. To come up for written reply/comments on 03.05.2018 before S.B.


Chairman

03.05.2018

The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 28.06.2018 before S.B.



Reader

28.06.2018

None present on behalf of appellant. Mr. Muhammad Jan, DDA alongwith Mr. Zarghun Shah, Supdt & Mr. Shah Saud, Junior Clerk for the respondents presents. Written reply not submitted on behalf of respondents. Requested for further adjournment. Granted by way of last chance. To come up for reply/comments on 04.07.2018 before S.B..

Member

04.07.2018


Counsel for the appellant and Mr. Sardar Shaukat Hayat, Addl: AG alongwith Mr. Saad Ullah Khan Marwat, Legal Officer & Mr. Zarghun Shah, Supdt for respondents No. 2 & 5 present. Written reply submitted on behalf of respondents No. 2 & 5 which is placed on file. Written reply not submitted on behalf of remaining official respondents. Requested for adjournment. adjourned. Another last opportunity is granted. To come up for written reply/comments on 17.07.2018 before S.B.



Member

17.07.2018

Associate to learned for the appellant and Addl: AG alongwith Mr. Shah Saud, Junior Clerk for the respondents present. Written reply already submitted on behalf of respondents No. 2 & 5. Written reply not submitted on behalf of respondents No. 1, 3, & 6. Representative of the respondents department seeks time to furnish reply. Adjourned. Another last opportunity is granted. To come up for written reply/comments on **31.08.2018** before S.B



Member

Handwritten mark

31.08.2018

Counsel for the appellant and Mr. Kabirullah Khattak AAG, alongwith Naeem Gul, Assistant Director for the respondents present. Written reply already submitted on behalf of the respondents No.2 & 5. Written reply not submitted on behalf of the respondents No.1, 3, 4 & 6. Representative of the respondents department seeks time to furnish reply. Adjourned. Another last opportunity is granted. To come up for written reply/comments on 11.10.2018 before S.B.


(Ahmad Hassan)
Member

11.10.2018

Clerk of counsel for the appellant present. Mr. Muhammad Naeem, A.D alongwith Mr. Kabirullah Khattak, Addl. AG for the respondents present. Written reply submitted. To come up for rejoinder, if any, and arguments on 27.11.2018 before the D.B.


Chairman

27.11.2018

Junior to counsel for the appellant and Mr. Muhammad Jan, DDA for the respondents present.

Learned senior counsel for the appellant was stated busy before Hon'ble High Court, therefore, request for adjournment ^{was} made. Adjourned to 21.1.2019 for arguments before the D.B.


Member


Chairman

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No 369/2017

Syed Zahid Hussain

VERSUS

Govt of KP & Others

INDEX

| S. No | Documents | Annexure | Page No. |
|-------|---|----------|----------|
| 1. | Service Appeal | -- | 01-05 |
| 2. | Affidavit | -- | 06 |
| 3. | Copy of the appointment order | 'A' | 07 |
| 4. | Copy of the judgment dated 08.03.2012 | 'B' | 08-30 |
| | Copy of Appointment Orders of Colleagues | 'C' | 31-35 |
| 5. | Copy of Notification dated 31.12.2012 | 'D' | 36-40 |
| 6. | Copy of the judgment dated 31.03.2015 | 'E' | 41-45 |
| 7. | Copy of the judgment dated 27.10.2015 | 'F' | 46-52 |
| 8. | Copy of the judgment of Apex Court dated 08.03.2016 | 'G' | 53-55 |
| 9. | Copy of the Notification dated 04.04.2016 | 'H' | 56-57 |
| 10. | Copy of the Departmental Appeal | 'I' | 58 |
| 5. | <i>Wakalatnama</i> | -- | --- |

Dated: _____, 2017

Through


APPELLANT


MUHAMMAD ADNAN SHER
Advocate High Court, Peshawar

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No: 369/2017

**Khyber Pakhtukhwa
Service Tribunal**

Diary No. 400

Dated 18/4/2017

Syed Zahid Hussain

Son of Syed Zulfiqar Hussain
Lecturer, Government College of Management Sciences,
Parachinar, Kurram Agency

..... APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa

Through Chief Secretary KP
Peshawar

2. Government of Khyber Pakhtunkhwa

Through Additional Chief Secretary
FATA Secretariat, Peshawar

3. Government of Khyber Pakhtunkhwa

Through Secretary Industries, Mineral, Technical Education
Department, Peshawar

4. Directorate of Technical Education (FATA)

Through Director/ Assistant Director
FDA Building, Near Rehman Hospital
Phase-V, Hayatabad, Peshawar

5. Director General

Technical Education and Manpower Training
Khyber Pakhtunkhwa, Peshawar

**6. Secretary Higher Education
KPK**

..... RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHAWA
SERVICE TRIBUNAL ACT, 1974

Deleted

Filed today
18/4/17
Registrar

Respectfully Sheweth;

1. That the Appellant has been appointed as instructor (BPS-17) on fixed pay in Government College of Management Sciences, Parachinar (Kurram Agency) for being fit, eligible and competent on the recommendations of the Departmental Selection Committee. (Copy of the appointment order is hereby annexed as **Annexure 'A'**).
2. That as per terms and conditions of the appointment orders, the said appointment was for a fixed period or till the arrival of selectee of the KPK Public Service Commission which makes it clear that the posts were of permanent nature and regular posts against which the appellant was appointed.
3. That some of the colleagues of the appellant filed writ petitions seeking the regularizations of their services whereby all such writ petitions were allowed *vide* common judgment dated 08.03.2012 passed in W.P No 1289/2010 and the services of the petitioners were then regularized by the respondents in pursuance to the said judgment. (Copy of the judgment dated 08.03.2012 is hereby annexed as **Annexures 'B'**).
4. That in pursuance to judgment dated 08.03.2012, the services of the colleagues of the appellant were regularized while the appellant was not given the same treatment. That thereafter the appellant approached several times to the respondents for regularization of services of the appellant but all efforts proved futile. (Copy of order of appointments and Notification of regularization are hereby annexed as **Annexure 'C'** & **'D'** respectively).
5. *Without prejudice to the above and in addition thereto*, some other colleagues of the petitioner whose date of appointments are the same as that of the appellant filed a writ petition No 865-P/2014 for the purpose of regularization of their services in pursuance to judgment dated 08.03.2012 and the above referred writ petition was then

allowed *vide* judgment dated 31.03.2015. (Copy of the judgment is hereby annexed as **Annexure 'E'**).

6. *Without prejudice to the above and in addition thereto*, the appellant filed writ petition No. 1601-P/ 2015 for his regularization of services and the same was allowed on 27.10.2015 in the light of judgments dated 08.03.2012 in W.P No. 1289/2010 and dated 31.03.2015 in W.P No 865-P/2014. (Copy of the judgment dated 27.10.2015 is hereby annexed as **Annexure 'F'**).
7. That it is pertinent to mention at this juncture that respondents have assailed the judgment dated 31.03.2015 before the Apex Court in CPLA NO. 251-P/ 2015 but the same was dismissed on 08.03.2016 and upheld the judgment dated 31.03.2015. Besides the respondents have also filed CPLA before the Apex Court against the judgment dated 27.10.2015 the fate of which is yet to be decided. (Copy of the judgment dated 08.03.2016 is hereby annexed as **Annexure 'G'**).
8. That in pursuance to judgment dated 31.03.2015, on the basis of which appellant writ petition No. 1601-P/ 2015 was also allowed/ admitted, the respondents issued Notification No. SO(CE&MS)HE/1-11/179(1-22) dated 04.04.2016 whereby service of the appellant was regularized with immediate effect while the services of the colleagues of the appellant were regularized *vide* Notification dated 31.12.2012 with immediate effect. (Copy of the Notification dated 04.04.2016 is hereby annexed as **Annexure 'H'**).
9. That the appellant being aggrieved by the Notification dated 04.04.2016 filed Departmental Appeal with request for regularization of services with effect from 31.12.2012 with all back benefits but the same has not been decided within the statutory period. (Copy of the Departmental Appeal is hereby annexed as **Annexure 'I'**).
10. That the appellant being aggrieved by the act of the respondents, approached the hon'ble Tribunal on the following grounds;

GROUNDS:

- A. That the act of the respondents is absolutely illegal, void and ineffective upon the rights of the appellant.
- B. That it is the inalienable right of the appellant to enjoy the protection of law and to be treated in accordance with law. However by not treating the appellant at par with other colleagues is violation of fundamental right.
- C. That moreover regularization of the services of the colleagues of the appellant having same date of appointments but not that of appellant is a clear violation of Article 27 of the Constitution of Islamic Republic of Pakistan, 1973 that safeguards against all sorts of discrimination in services.
- D. That even otherwise, the act of the respondents is also in negation to the settled principles of law and natural justice by not meting out the same treatment to the appellant as that to his colleagues.
- E. That when the colleagues of the appellant enjoy the benefits to which the appellant is also entitled to enjoy in the light of judgments of hon'ble High Court, Peshawar then restraining him from enjoyment of the same is in absolute disregard to fundamental rights so enshrined in the Constitution of 1973.
- F. Moreover, the performance of the appellant has been satisfactory and up-to the mark but even then the respondents are adopting delaying tactics not to let the appellant be on equal footings with his colleagues who have been regularized *vide* Notification dated 31.12.2012.
- G. That the respondents otherwise should have regularized the appellant after the judgment dated 31.12.2012 as per law of the land and demands of natural justice without compelling the appellant to go into litigations however the respondents were reluctant to do and so

the appellant has to knock the doors of the hon'ble courts for justice.

H. That the appellant also seeks permission to raise any other ground at the time of hearing of this appeal.

It is, therefore, most respectfully prayed that on acceptance of this service appeal, the hon'ble Tribunal may be pleased to direct the respondents to treat the appellant at par with his colleagues as a regular employee with effect from 31.12.2012 with all the back benefits.

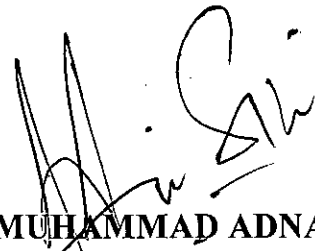
The hon'ble Tribunal may further be pleased to extend any other appropriate relief in the given circumstances of the case.

Dated: _____, 2017



APPELLANT

Through



MUHAMMAD ADNAN SHER
Advocate High Court, Peshawar

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: / 2017

Syed Zahid Hussain

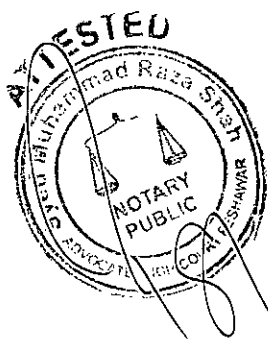
VERSUS

Government of Khyber Pakhtunkhwa
Through Chief Secretary & Others

AFFIDAVIT

I, **Syed Zahid Hussain** son of Syed Zulfiqar Hussain resident Government College of Management Sciences, Parachinar (Kurram Agency) do hereby declare and affirm on oath;

1. That the contents of this Service Appeal are true and correct to the best of my knowledge and belief &
2. That nothing has been concealed from the august court, which it is necessary to disclose.



[Handwritten Signature]
DEPONENT

Annex 'A' (7)

**DIRECTORATE OF INDUSTRIES, MINERAL AND TECHNICAL EDUCATION
FATA SECRETRAIT WARSAK ROAD PESHAWAR.**

OFFICE ORDER

Mr. S.Zahid Hussain S/O S. Zulfiqar Hussain is hereby appointed as **Instructor (Business Administration)** on Fixed Pay @ **Rs. 8000/- P.M.** in Government College of Management Sciences, Parachinar (Kurram Agency) with effect from date of taking over the charge. His appointment is subject to the following terms and conditions: -

TERMS AND CONDITIONS

- 1- His appointment will be on Fixed Pay up to 30-06-2010 or till the arrival of Selectee of the NWFP Public Service Commission which ever is earlier.
- 2- He appointment on fixed pay shall not confer on him any right of appointment on regular basis.
- 3- He will not be entitled for any TA/DA for joining service.
- 4- If he wishes to accept the post on the above terms and conditions he should report for duty to the Principal, Government College of Management Sciences, Parachinar (Kurram Agency), immediately failing which the offer of appointment will be treated as cancelled.
- 5- The offer shall be automatically held cancelled if he fails to join in 07-days of the receipt of this offer.

-Sd/-

DIRECTOR (IMTE) FATA

Endst: No. DIMTE/FATA/Admn/Apptt: / 2828(1-6) Dated 12 / 12 / 2009.
Copy forwarded for information and necessary action to: -

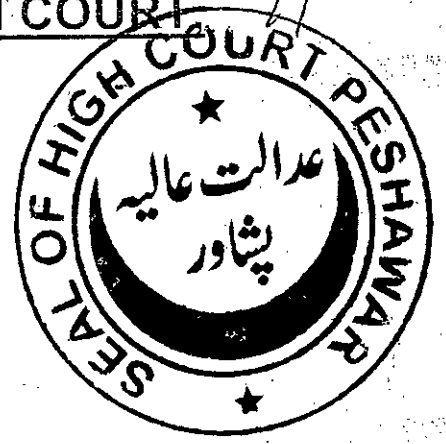
1. The AGPR (Sub Office), Peshawar.
2. The Principal, Government College of Management Sciences, Parachinar (Kurram Agency).
3. The Political Agent, (Kurram Agency)
4. Mr. S.Zahid Hussain S/O S.Zulfiqar Hussain, (Business Administration).
5. The Accountant Local Directorate.
6. Personal File of the officer/official concerned.


DEPUTY DIRECTOR (TE) FATA

Handwritten signature

Arwa 'B' (8)

BEFORE PESHAWAR HIGH COURT
PESHAWAR.



Writ Petition No. 1289/2010.

1. **Ahmad Shah**
Instructor in D.P.E.
2. **Irfanullah**
Lecturer / Instructor
3. **Sangeen Khan**
Lecturer / Instructor
4. **Abdul Qadoos**
Lecturer / Instructor
5. **Hayatullah**
Lecturer / Instructor
6. **Muhammad Ilyas**
Lecturer / Instructor
7. **Muhammad Ibrahim**
Lecturer / Instructor
8. **Ikhtiar Zada**
Lecturer / Instructor

569/12

At GCMS Khar, Bajaur Agency.

9. **Engr. Rahmat Khan**
Instructor in Electronics,
GTI Ekka Ghund.
10. **Engr. Muhammad Iqbal**
Instructor in Telecom,
GTI Ekka Ghund.
11. **Sajid Ullah**
Instructor in English
GTI Bara,
Khyber Agency.

ATTESTED
EXAMINER
Peshawar High Court,
24 FEB 2015

FILED TO
Deputy Registrar
0-1/2010 2010

2

9

12

12. **Muhammad Ilyas**
Instructor (Business Admn):
GCMS Ghallani,
Mohmand Agency.
13. **Shahid Alam**
Instructor Computer Science
GCMS Ghallani,
Mohmand Agency.
14. **Irfan Qadir**
Instructor Computer Science
GCMS Ghallani,
Mohmand Agency.
15. **Rehan ud Din**
Instructor D.P.E.
GCMS Ghallani,
Mohmand Agency.
16. **Ataf Hussain**
Instructor Computer Science
GCMS Ghallani,
Mohmand Agency.
17. **Khial Bahadur**
Instructor Business Admn:
GCMS Ghallani,
Mohmand Agency.
18. **Sajjad Ahmad**
Instructor Computer Science
GCMS Ghallani,
Mohmand Agency.
19. **Zeenat Shah**
Instructor Business Admn:
GCMS Ghallani,
Mohmand Agency.
20. **Asif Khan**
Instructor Physics
GCMS Ghallani,
Mohmand Agency.

ATTESTED

EXAMINER
Peshawar High Court

24 FEB 2016

FILED TO
01 APR 2016

3

10

13

- 21. **Iftikhar Ali**
Instructor Physics
GCMS Ghallani,
Mohmand Agency.
- 22. **Muhammad Iqbal**
Instructor Business Admn:
GCMS Ghallani,
Mohmand Agency.
- 23. **Sartaj Aziz**
Instructor Business Admn:
GCMS Ghallani,
Mohmand Agency.
- 24. **Inam Khan**
Librarian
GCMS Ghallani,
Mohmand Agency.

_____ Petitioners

VERSUS

- 1. **Government of NWFP,**
Through Additional Chief Secretary,
Peshawar (FATA).
- 2. **Directorate of Technical Education (FATA)**
Through it's Director
FATA Secretariat, Warsak Road, Peshawar.
- 3. **Secretary**
Industries Commerce, Mineral Development, Labour &
Technical Education Department, Govt. NWFP, Peshawar.
- 4. **Director Technical Education & Man Power Training**
NWFP Peshawar.

_____ Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION
OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.

Respectfully Sheweth,

Short facts giving rise to the present Writ Petition, are as under:

ATTESTED

EXAMINER
Peshawar High Court

24 FEB 2007

01 APR 2007

4

11

14

1. That, Respondent No.4 advertised the posts of Instructors, Junior Instructors, Librarians etc. in BPS-17, 16 & 14 on contract basis, copy of the one such Advertisement is attached as Annexure-A.
2. That, Petitioners being competent, eligible and fit for the Advertised posts, applied for the same and after the recommendation of Departmental Selection Committee comprising of Deputy Secretary (P&D), Deputy Secretary (Admin), Director (Technical Education) and Deputy Director (Technical Education FATA), assisted by subject specialists / expert, the Petitioners were appointed but on fixed pay, against the Advertisement, copies of the Appointment Orders are attached as Annexure-B/1 to B/24.
3. That, in the above mentioned Office Orders of Appointments, Terms & Conditions were also given and one of the condition was that the period of Selection is one year or till the creation of regular posts / arrival of NWFP Public Service Commission Nominees which makes it clear that the posts against which Petitioners are working is a permanent nature and regular posts.
4. That, the contract / period of the Petitioners were extended from time to time without any break and lastly the same was extended upto 30.06.2010 vide Notification dated 01.08.2009, copy of the same is attached as Annexure-C. Moreover, two extensions Notifications are attached as Annexure-C/1 & C/2, where in the word "Contract" is mentioned.
5. That, the Advertisement for the Contract appointment but melafide the Appointment Letters was issued on fixed pay and meanwhile Government of NWFP Act XVI of 2009 was promulgated wherein under Section 3 all employees appointed on contract or Adhoc basis and holding that post on 31.12.2008 or till the commencement of this Act were deem to be validly appointed on regular basis, copy of the Act is attached as Annexure-D.
6. That, on 30.12.2009, Respondent No.2 addressed a request for regularization of Petitioners to Respondent No.3, copy of the same is attached as Annexure-E and before the said Letter a Summary was also prepared for the Governor NWFP, who is the over all Incharge of the Colleges and Institutions in FATA, copy of the Summary is attached as Annexure-F.
7. That, Petitioners are getting their monthly salaries from the AGPR as Regular / Contract Employee but that salary is on fix pay, copies of the Pay-Slip are attached as Annexure-G/1 to G/24.
8. That, since Petitioners are working against the Regular posts, continuously and are discriminated, hence, they submitted their Appeals for Regularization in Service, copies of the Appeals alongwith Covering Letters are attached as Annexure-H/1 to H/24.

FILED TODAY

Deputy Registrar

04 APR 2010

ATTESTED

EXAMINER
Peshawar High Court

24 FEB 2015

9. That, as there is no adequate and efficacious remedy available to the Petitioners, hence, this Writ Petition on the following amongst other grounds:

GROUNDS:

- A. That, the acts of the Respondents are illegal, unlawful, void and ineffective.
- B. That, the same are also against the principles of Natural Justice.
- C. That, the Respondent No.4 advertised the said posts on Contract Basis but melafide and without any lawful authority changed the same into fix pay. The said fix pay employees are no where provided under the law but in order to exploit the Petitioners, they are being treated as Fix Pay employees and that too on very meager per month amount, which even otherwise is below / less that the minimum wage fixed for un skilled workers.
- D. That, no where in the Law of the Land a Government Department is allowed / permitted to employ any citizen of Pakistan on a fix pay against a regular / permanent cadre post. It is important to mention here that the Advertisement was for Contract employment but thereafter no sanction / permission for changing the nomenclature / status of the post to fix pay was obtained from the competent authority.
- E. That, according to the NWFP Employees (Regularization of Services) Act, 2009 the employees who were appointed on Adhoc or Contract Basis by the Government even in Shift / Night Shift and have continued till 31.12.2008 are deem to have been validly appointed on Regular Basis, as such Petitioners also falls in the same category, being qualified, eligible and competent for the said Regular Post have acquired the status of Permanent Employees, even otherwise.
- F. That, it is in the Appointment order that the Petitioners will continue till the arrival of selectees by Public Service Commission, which means that the posts against which Petitioners are working / appointed are that of the Government of NWFP and the Government / Civil Servant Rules are applicable.
- G. That, the department is violating all the basic Fundamental Rights and protections given in the Constitution of Islamic Republic of Pakistan, 1973.
- H. That, there is no complaint against the Petitioners performance since their initial Appointment and in near future there is no apprehension that these posts will be abolished / abandoned because the students who have got the admissions will complete their session at every cost.

LEP...
...
01 APR 2010

ATTESTED
EXAMINER
Peshawar High Court
24 FEB 2010

6

13

16

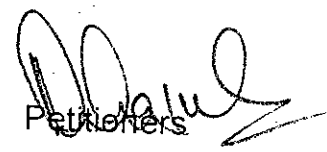
1. That, the doctrine of legitimate expectancy also demand that after such a long time and continuous good performance of the Petitioners, they will be treated at par with the other employees of the Province, who were appointed on Contract / Adhoc basis and some legislation was done for them and Petitioners were discriminated.


It is, therefore, requested that on acceptance of this Writ Petition a Writ be issued to the effect that: -

- i. That, Petitioners are regular and permanent employees of the Respondent No.1 & 2 Department.
- ii. That, till the closure of the sanctioned Government Colleges of Management Sciences and Government Technical Institutes (FATA) their services are required by the Department and under the Regularization Act they have acquired the status of permanent employees.
- iii. That, the Petitioners are entitled to the monthly salary in Basic Pay Scale 17, 16 & 14 as per the Advertisement, with such other relief as may deem fit in the circumstances of the case may also be granted in the interest of justice & fairness.

Interim Relief

As the Petitioners have got the prima-facie case in their favor, therefore, the Respondents be directed not to engage any one else in place of Petitioners and the Petitioners be allowed to perform their duties till the decision of main Writ Petition.


Petitioners

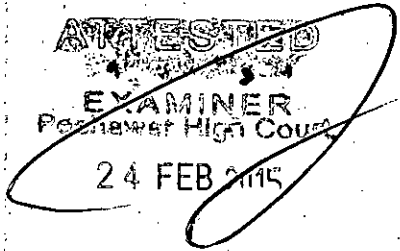
Through,

WAQAR AHMAD SETH
(Advocate, Peshawar)

LAW BOOKS:

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Other Law Books will be produced at the time of arguments.

Certificate:-

Certified that no such Writ Petition has been filed earlier by the Petitioner.


ATTESTED
EXAMINER
Peshawar High Court
24 FEB 2015

11 APR 2010

17 (19)

BEFORE PESHAWAR HIGH COURT,
PESHAWAR.

Writ Petition No. 1289/2010.

Ahmad Shah etc. V/s Govt. of NWFP etc.


AFFIDAVIT

I, Engr. Rehmat Khan S/o Gul Zar Khan, Instructor in Telecom, GTI Bara, Khyber Agency, Petitioner No.9, do hereby on oath affirm and declare that the contents of the Writ Petition are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Court.

Identified by



WAQAR AHMAD SETH
(Advocate, Peshawar)


Deponent.
21406-2367928-5

No. 17/214.....
Certified that the above was verified on solemnly
affirmation before me on the date, this 29th
day of March 2010 at Rehmat Khan
s/o Gul Zar Khan Khyber Agency
who was identified by Waqar Ahmad Seth Adv.
who is personally known to me:
29/3/2010
Oath Commissioner
Peshawar High Court, Peshawar.

ATTESTED
EXAMINER
24 FEB 2010

FILED TODAY
Deputy Registrar
30 MAR 2010

8

15

18

BEFORE PESHAWAR HIGH COURT,
PESHAWAR.

Writ Petition No. 1289/2010.

Ahmad Shah etc. V/s Govt. of NWFP etc.

ADDRESSES OF PARTIES.

PETITIONERS:

1. Ahmad Shah, Instructor in D.P.E.
2. Irfanullah, Lecturer / Instructor
3. Sangeen Khan, Lecturer / Instructor
4. Abdul Qadoos, Lecturer / Instructor
5. Hayatullah, Lecturer / Instructor
6. Muhammad Ilyas, Lecturer / Instructor
7. Muhammad Ibrahim, Lecturer / Instructor
8. Ikhtiar Zada, Lecturer / Instructor

At GCMS Khar, Bajaur Agency.

9. Engr. Rahmat Khan, Instructor in Electronics,
GTI Ekka Ghund.
10. Engr. Muhammad Iqbal, Instructor in Telecom,
GTI Ekka Ghund.
11. Sajid Ullah, Instructor in English
GTI Bara, Khyber Agency.
12. Muhammad Ilyas, Instructor (Business Admn)
GCMS Ghallani, Mohmand Agency.
13. Shahid Alam, Instructor Computer Science
GCMS Ghallani, Mohmand Agency.
14. Irfan Qadir, Instructor Computer Science
GCMS Ghallani, Mohmand Agency.
15. Rehan ud Din, Instructor D.P.E.
GCMS Ghallani, Mohmand Agency.
16. Altaf Hussain, Instructor Computer Science
GCMS Ghallani, Mohmand Agency.

RECEIVED TODAY
City Registrar
11 APR 2010

TESTED
EXAMINER
Peshawar High Court
24 FEB 2015

(9)

(16)

19


17. **Khial Bahadur**, Instructor Business Admn:
GCMS Ghallani, Mohmand Agency.
18. **Sajjad Ahmad**, Instructor Computer Science
GCMS Ghallani, Mohmand Agency.
19. **Zeenat Shah**, Instructor Business Admn:
GCMS Ghallani, Mohmand Agency.
20. **Asif Khan**, Instructor Physics
GCMS Ghallani, Mohmand Agency.
21. **Iftikhar Ali**, Instructor Physics
GCMS Ghallani, Mohmand Agency.
22. **Muhammad Iqbal**, Instructor Business Admn:
GCMS Ghallani, Mohmand Agency.
23. **Sartaj Aziz**, Instructor Business Admn:
GCMS Ghallani, Mohmand Agency.
24. **Inam Khan**, Librarian
GCMS Ghallani, Mohmand Agency.

RESPONDENTS

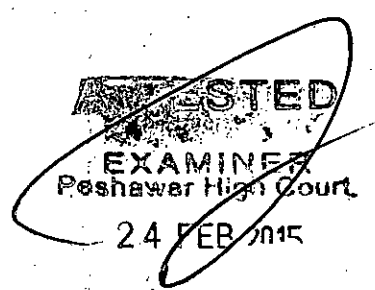
1. **Government of NWFP**,
Through Additional Chief Secretary,
Peshawar (FATA).
2. **Directorate of Technical Education (FATA)**
Through it's Director
FATA Secretariat, Warsak Road, Peshawar.
3. **Secretary**
Industries Commerce, Mineral Deveopment, Labour &
Technical Education Departmnet, Govt. NWFP, Peshawar.
4. **Director Technical Education & Man Power Training**
NWFP Peshawar.


Petitioners

Through,


WAQAR AHMAD SETH
(Advocate, Peshawar)

FILED TODAY
Deputy Registrar
01 APR 2010


REGISTERED
EXAMINER
Peshawar High Court
24 FEB 2015

BEFORE PESHAWAR HIGH COURT,
PESHAWAR.

C.M No. 653 / 2010.

Fixed on 06.2010

In W.P No. 1289 / 2010

Ahmad Shah etc. V/s Govt. of KPK etc.

APPLICATION FOR INTERIM RELIEF

Respectfully Sheweth,

Short facts, giving rise to present Application, are as under: -

1. That, the Applicants / Petitioners filed a Writ Petition for Regularization of their services that they were appointed as Lecturers in BPS-17 on contract basis and after the promulgation of KPK, Employees (Regularization of Services) Act - XVI of 2009 they are to be treated / stood regularized. Comments were called in the said Writ Petition from the Department, copy of the Order dated 13.04.2010 & 08.06.2010 are attached as Annexure-WS/I & WS/II.
2. That, on 30.06.2010 the contract of the Petitioners / Applicants is going to be expired and Respondents are seen to be reluctant for their re-appointment as lecturers.
3. That, the matter in dispute was also under discussion in the Provincial Assembly / Qaima Committee No. 1 on 05.05.2010 in which it was thrashed out from the discussions / meeting that the Lecturers who were appointed by the Government of KPK in different colleges of FATA shall be given benefit of the said Act, copy of the Minutes are attached as Annexure WS/III.

RECEIVED TODAY
h.f
17 JUN 2010

RECEIVED
EXAMINER
Peshawar High Court
24 FEB 2010

4. That, the plain perusal of the Writ Petition makes it clear that the Respondents are in need of Lecturers in different subjects and as such the Applicants / Petitioners who have serve the Department for number of years without any complaint had the preferential right of appointment and fresh recruitment, if any, will create problems for the Government and Department, hence, in the meanwhile, till the decision of the Writ Petition the Applicants / Petitioners may not be annoyed / disturbed.

It is, therefore, requested that on acceptance of this Application, interim relief be granted to the effect that till the decision of main Writ Petition the services of the Petitioners / Applicants shall not be affected / disturbed.

[Signature]
Applicants / Petitioners

Through:

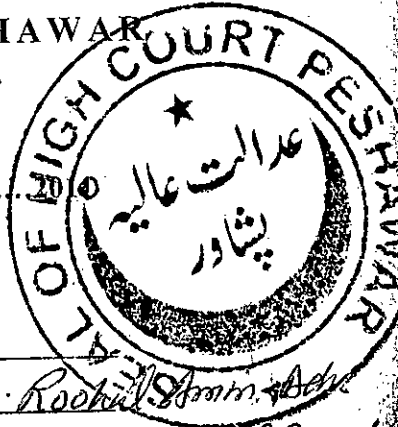
[Signature]
WAQAR AHMAD SETH
(Advocate, Peshawar)

RECEIVED TODAY
17 JUN 2010
17 JUN 2010

ADMITTED
EXAMINEE
Peshawar High Court
24 FEB 2015

JUDGMENT SHEET
PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT.

W.P. No. 1289 of Year 2010



JUDGMENT

Date of hearing: 8-3-2012

Appellant: (Petitioner Ahmad Shah etc) by Mr. Roshid Amin Advocate

Respondent: (Govt of NWFP) by Mr. Nazir Ali DAG and Mr. Mahmood Alesam Advocate 2 respondents.

MIAN FASIHUL MULK, J.- Petitioners, through

instant petition, seek the indulgence of this Court by issuing directions to respondents to treat the petitioners as regularized employees under the NWFP Employees (Regularization of Services) Act, 2009. The petitioners in connected Writ Petitions No. 1145/2010, 1252/2010, 2639/2010, 1870/2011, 2992/2011, 3244/2011, 3285/2011, and 46/2012, have also similar grievances against the respondents, therefore, we propose to dispose of all the writ petitions through this common judgment in W.P. No.1289/2010.

File

2. In these petitions the common point of law involved is whether petitioners' appointment on various posts in the respondents' department in pursuance to the advertisement made in the newspapers was on contract basis so as to attract the provisions of Section 3 of

ATTESTED
EXAMINED
Peshawar
24 FEB

192 (20)

NWFP (Regularization of Services) Act, 2009 for their regularization or not.

3. To understand the position, we would take into account the advertisement made in the press, the appointment orders of petitioners, their salary slips and relevant provisions of the Act, 2009 but before that we may give here a brief resume of the facts and circumstances leading to filing of instant petitions.

4. The Director Technical Education & Man Power Training, Peshawar (respondent No.4) advertised certain posts of Instructors, Junior Instructors, Librarians etc. in BPS 14, 16 and 17 lying vacant in various Government Colleges of Management Sciences Ghalani, Khar Bajaur, Parachinar, Miranshah and Government Technical Institutes Bara, Yakka Ghund, Sadda Miranshah and Ghaljai on contract basis for one year extendable to a further period. Petitioners having requisite qualification for the respective posts applied for appointment.

5. A Recruitment Committee was constituted comprising of Deputy Secretary (P&D), Deputy Secretary (Admn), Director Technical Education, NWFP and Deputy Director Technical Education FATA assisted by subject specialists/experts. Merit list of the candidates for each category was prepared and submitted for

APPROVED
EXAMINER
Peshawar High Court
24 FEB 2015

193 (21)

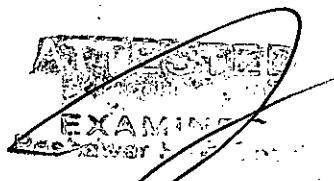
approval of Governor, which was accordingly approved and petitioners were issued the appointment orders.

6. On completion of one year term, the contract was extended from time to time without any break till the year 2009, when the NWFP (Regularization of Services) Act, 2009 was promulgated where under the employees appointed on adhoc or contract basis by the Government were given the status of regular employees. Petitioners represented against before respondent No.1 for their regularization but the same was denied to them on the ground that they were not appointed on contract basis rather their appointment was on fixed pay against the project posts; hence they were not qualifying the conditions as contained in the Act *ibid*.

7. We have heard learned counsel for the parties and have also gone through the record appended with these petitions.

8. A look at the advertisement at Annexure:A would disclose that the posts were on contract basis. The appointment orders issued to petitioners would reveal that though their appointments were made on fixed pay but Para-2 of the terms and conditions contained in the said appointment letters was to the effect that, *"their period of selection was for one year or till the creation*

Am



194 (22)

of regular posts/arrival of NWFP Public Service Commission nominee which ever is earlier."

From the above, no doubt remains that although appointment of petitioners was on fixed pay but the posts on which petitioners were appointed were not temporary posts rather regular one liable to be filled through regular appointment.

9. Except the bald allegation of respondents that petitioners were project employees and daily wages, nothing has been brought on record to show that their appointments were made on the posts meant for a Project. Annexure:E at Page-43 is the Summary for Governor. According to it, the Governor was pleased to upgrade the existing five Government Commercial Training Institutes in FATA to the level of College of Management Sciences so as to offer Bachelor's degree in Business Administration and Information Technology to the students. For the purpose, Schedule for New Expenditure (SNE) was prepared to recruit the regular staff and forwarded to SAFRON Division for sanction. It further reveals that recruitment of staff being a lengthy process, it was proposed that for the purpose of starting the classes staff may be recruited on contract basis till appointment of regular staff and their salaries may be paid from ADP. From the above summary, which is duly

The

EXAMINER
Peshawar Court.

24 FEB 2015

195 (23)

approved by the Governor, it is very much evident that neither the posts to be filled in were temporary nor the same were meant for any Project except that their salaries were to be paid from ADP.

10. A similar question had arisen before the august Supreme Court of Pakistan in the case of Ali Akbar vs. The Government of NWFP (C.P. No.462-P of 2006) decided on 05.05.2009, wherein it was held as under:-

"The petitioner's appointment by office order dated 04.02.1985 was as Research Officer in BPS-16 and according to Para-7 of the said order, it was a stop gap arrangement and on ad-hoc basis till the regular appointee. The petitioner's appointment order mentions three different terms as regard his status, namely, "on temporary basis", "stop gap arrangement" and "one ad-hoc basis". However, Para-7 of the order mentions his appointment on ad-hoc basis to continue till the post is filled up through regular appointment. It follows that the post to which the petitioner was appointed was not a temporary post but a regular post liable to be filled through regular appointment. The

Dm

ATTESTED
EXAMINER
 Peshawar High Court
 24 FEB 2015

196

24

order of appointment also does not mention anywhere that the post in question was a temporary one. Furthermore, the petitioner's appointment in a particular pay scale as Assistant Research Officer in the Directorate of Agriculture Research establishes that the petitioner's appointment was on ad-hoc basis on a regular post in the Directorate. By the same office order, the petitioner was posted against a vacancy in the Project Research on the Cultivation of Edible Mashroom in Pakistan. The order, therefore, had made a clear distinction against the petitioner's appointment and posing, whereas he was appointed in the Directorate of Agriculture Research, he was posted in a project against vacancy. It is, therefore, wrong to say that the petitioner was a project employee and termination of his service on that score cannot be maintained."

M

11. The objection of respondents that petitioners were appointed against project posts in view of the advertisement and summary to Governor is not sustainable.

APPROVED
EXAMINED
Peshawar High Court

24 FEB 1966

12. As per Section 3 of the NWFP (Regularization of Services) Act, 2009, all employees appointed on contract or ad-hoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post. Under Section 2(b), the word "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees of project post or appointed on work charge basis or who are paid out of contingencies.

~~13. Admittedly, the posts were advertised on contract basis and petitioners were appointed on the posts having requisite qualification after going through the process of test and interview conducted by a Recruitment Committee. There is no mention in the appointment order that petitioners' appointment is against the project posts except that their appointment was made on fixed pay as against the terms of advertisement wherein the posts were clearly mentioned to be on contract basis. The salary slips of petitioners also indicate that though they were being paid fixed pay but their post is clearly written to be "contract" post. The~~

In

~~ATTESTED~~
EXAMINER
Peshawar High Court.
24 FEB 2015

17-8 (26)

~~petitioners also draw their salaries from the AGPR. The~~
~~other objection of the Department that the petitioners~~
~~were appointed on fixed pay, hence their services could,~~
~~not be regularized is, therefore, also nothing but a trick~~
~~played by the respondents in the appointment orders to~~
~~avoid monetary benefits of the posts to which the~~
~~petitioners under the law were entitled to get. The term~~

“fixed pay” has not been defined in service laws. As stated above, the petitioners’ appointments were made in pursuance to the advertisement published in the press against the posts on contract basis and it can, therefore, be safely inferred that status of petitioners’ was that of contract employees regardless of the words “fixed pay” used in their appointment letters.

Am

14. The respondents, during the course of proceedings in these writ petitions, sought time on so many occasions that the Government has in principles decided to regularize the petitioners by proposing legislation to cater therefore, and even copy of a bill contending to be placed before the Parliament, was also produced but till to-date nothing has been done.

15. The respondents while inviting the attention of this Court to Para-3 of Appointment letters, contended that as the petitioners have accepted the terms and

EXAMINED
 24/11/2019

1987 (27)

conditions of their appointment, wherein it is categorically mentioned that petitioners will not be considered for regularization at any stage, at any time, being employees on fixed pay, therefore, the principle of estoppel would attract to their cases. We have not been impressed by the arguments on two counts; one that there can be no estoppel against Statute and second that an employee at the time of appointment has little choice to enforce any condition of his choice on the employer. In the case of **Ikram Bari and 524 others vs. National Bank of Pakistan through President and another** (2005 SCMR 100) it has been held by their lordships in the following words:-

"It is difficult to countenance the approach of the Bank that the temporary Godown staff and the daily wages employees should be continued to be governed on disgraceful terms and conditions of service for an indefinite period. In view of section 24-A of the General Clauses Act 1897, the National Bank was required to act reasonably, fairly and justly. An employee being jobless and in fear of being shown the door had no option but to accept and continue with the appointment on whatever conditions it was offered by the Bank. In the case of Pakistan v. Public at Large PLD 1987 SC 304, it was contended before the

ATTESTED
EXAMINER
 Peshawar High Court.
 24 FEB 2015

200 (28)

Shariat Appellate Bench of this Court that the provisions of law impugned therein amounted to a contract between the Government and the civil servant and thus they involved his consent. It was observed that in fact it was not in the nature of a free consent between the agents. On one hand, State power was projected in the form of a Statute and on the other; the civil servant had no choice of a bargain on those provisions when joining the service. He could not get it changed. In *Habibullah v. Government of the Punjab and 5 others* PLD 1980 Lah. 37, it was held that the employer being placed in a position of authority and strength could always coerce employees to waive their legal protection and accept contractual terms at the pains of losing his job.

15. We may observe here that firstly the respondents utilized the word "fixed pay" in their appointment letters purely as a means of evading their statutory obligations in terms of the service laws and also to save money by denying them the opportunity of pension/provident fund benefits etc. although their appointments were made in accordance with the prescribed method of recruitment and through a duly constituted Recruitment Committee and secondly, when

APPROVED
EXAMINER
24 FEB 1981

the right of their regularization accrued in view of the promulgation of the Act, 2009, they denied them such benefit and came up with lame excuses before this Court that they were project employees, daily wages and payee out of contingency. The petitioners, as is evident from the record, are neither project employees, nor daily wages nor receiving salary from contingency but were contract employees on regular posts and after promulgation of NWFP (Regularization of Services) Act, 2009, have now assumed the status of regular employees of the Department. The acts of respondents being reprehensible, amounts to exploitation of petitioners at their own expense and are, therefore, liable to be declared as illegal and in excess of lawful jurisdiction.

Jm

16. We, therefore, issue writ in favour of petitioners and against the respondents to the effect that petitioners shall be deemed to be regular and permanent employees of respondents' No.1 and 2 Department within the meaning of NWFP (Regularization of Services) Act, 2009 and the

ATTESTED
 3
 EXAMINER
 Peshawar High Court
 24 FEB 2015

respondents are directed to issue notification of their regularization within a period of one month.

Announced
08.03.2012

[Signature]
JUDGE

5/1/12
14/3/12
5/1/12 *14/3/12* *14/3/12*
Mubtashid Din Khan J

[Signature]

JUDGE

Muhammad Fasihul Mulk J



pl issue

Adopted/Registered
6/4/12

VERIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Under Article 67 of
The Qanun-e-Shahadat Order 1984

24 FEB 2015

[Signature]

No. 14303

Date of Presentation of Application 20-2-15

No of Pages 23

Copying fee _____

Urgent Fee _____

Total 46.00

Date of Preparation of Copy 24-2-15

Date Given For Delivery 24-2-15

Date of Delivery of Copy 24-2-15

Received By *[Signature]*

ANNEX 'C'

ANNEX 'C' SECTION 2
170
(31)

DIRECTORATE OF INDUSTRIES, MINERAL AND TECHNICAL EDUCATION
FATA SECRETARIAT WARSAK ROAD PESHAWAR.

OFFICE ORDER

Mr. Sha Zarin S/O Naurang Khan is hereby appointed as Instructor (Physics) on Fixed Pay @ Rs. 8000/- P.M. in Government Technical Institute, Ekka Ghund (Mohmand Agency) with effect from date of taking over the charge. His appointment is subject to the following terms and conditions:-

TERMS AND CONDITIONS

- 1- His appointment will be on Fixed Pay up to 30-06-2010 or till the arrival of Selectee of the NWFP Public Service Commission which ever is earlier.
- 2- He appointment on fixed pay shall not confer on him any right of appointment on regular basis.
- 3- He will not be entitled for any TA/DA for joining service.
- 4- If he wishes to accept the post on the above terms and conditions he should report for duty to the Principal, Government Technical Institute, Ekka Ghund (Mohmand Agency). Immediately failing which the offer of appointment will be treated as cancelled.
- 5- The offer shall be automatically held cancelled if he fails to join in 07-days of the receipt of this offer.

-Sd/-

DIRECTOR (IMTE) FATA

Endst: No. DIMTE/FATA/Admn/Appt: 12773-78

Dated 7 / 12 / 2009.

Copy forwarded for information and necessary action to:-

1. The AGPR (Sub Office), Peshawar.
2. The Principal, Government Technical Institute, Ekka Ghund (Mohmand Agency).
3. The Political Agent, (Mphmad Agenevy)
4. Mr. Shah Zarin S/O Naurang Khan Instructor (Physics).
5. The Accountant Local Directorate.
6. Personal File of the officer/official concerned.

DEPUTY DIRECTOR (TE) FATA

ATTESTED

32
19

OFFICE ORDER

Mr. Noor Zada S/O Aya Khan is hereby appointed as Instructor (Computer Science) on Fixed Pay @ Rs. 8000/- P.M. in Government Technical Institute, Ekka, Ghund (Mohmand Agency) with effect from date of taking over the charge. His appointment is subject to the following terms and conditions: -

TERMS AND CONDITIONS

- 1- His appointment will be on Fixed Pay up to 30-06-2010 or till the arrival of Selection of the NWFP Public Service Commission which ever is earlier.
- 2- He appointment on fixed pay shall not confer on him any right of appointment on regular basis.
- 3- He will not be entitled for any TA/DA for joining service.
- 4- If he wishes to accept the post on the above terms and conditions he should report for duty to the Principal, Government Technical Institute, Ekka Ghund (Mohmand Agency). Immediately failing which the offer of appointment will be treated as cancelled.
- 5- The offer shall be automatically held cancelled if he fails to join in 07-days of the receipt of this offer.

-Sd/-
DIRECTOR (IMTE) FATA

Dated 7 / 12 / 2009.

Endst: No. DIMTE/FATA/Admin/Appt: 12762-73
Copy forwarded for information and necessary action to: -

1. The AGPR (Sub Office), Peshawar;
2. The Principal, Government Technical Institute, Ekka Ghund (Mohmand Agency).
3. The Political Agent, (Mphmad Agency)
4. Mr. Noor Zada S/O Aya Khan, Instructor (Computer Science).
5. The Accountant Local Directorate.
6. Personal File of the officer/official concerned.

DEPUTY DIRECTOR (TE) FATA

[Handwritten signature]

WRIT Peshawar 13/12/09
Noor Zada
ms
your etc.

[Handwritten signature]

ATTESTED

OFFICE ORDER

Mr. Salah-ud-Din S/O Muhammad Rahim is hereby appointed as Instructor (Business Administration) on Fixed Pay @ Rs. 8000/- P.M. in Government College of Management Sciences Khar (Bajaur Agency) with effect from date of taking over the charge. His appointment is subject to the following terms and conditions: -

TERMS AND CONDITIONS

- 1- His appointment will be on Fixed Pay up to 30-06-2010 or till the arrival of Selectee of the NWFP Public Service Commission whichever is earlier.
- 2- He appointment on fixed pay shall not confer on him any right of appointment on regular basis.
- 3- He will not be entitled for any TA/DA for joining service.
- 4- If he wishes to accept the post on the above terms and conditions he should report for duty to the Principal, Government College of Management Sciences Khar (Bajaur Agency) immediately failing which the offer of appointment will be treated as cancelled.
- 5- The offer shall be automatically held cancelled if he fails to join in 07-days of the receipt of this offer.

-Sd/-

DIRECTOR (IMTE) FATA

Endst: No. DIMTE/FATA/Admn/Apptt: 12569-74
Copy forwarded for information and necessary action to

Dated 28 / 10 / 2009

1. The AGPR (Sub Office), Peshawar.
2. The Principal, Government College of Management Science, Khar (Bajaur Agency)
3. The Political Agent, Khar (Bajaur Agency).
4. Mr. Salah-ud-Din, Instructor Business Administration.
5. The Accountant Local Directorate.
6. Personal File of the officer/official concerned.

ATTESTED
ADVOCATE

[Handwritten signature]

DEPUTY DIRECTOR (TE) FATA

[Handwritten signature]
ATTESTED

OFFICE ORDER

Mr. Muhammad Ayub S/O Abdul Saeed Jan is hereby appointed as Instructor (English) on Fixed Pay @ Rs. 8000/- P.M. in Government College of Management Sciences Khar (Bajaur Agency) with effect from date of taking over the charge. His appointment is subject to the following terms and conditions: -

TERMS AND CONDITIONS

- 1- His appointment will be on Fixed Pay up to 30-06-2010 or till the arrival of Selected of the NWFP Public Service Commission which ever is earlier.
- 2- He appointment on fixed pay shall not confer on him any right of appointment on regular basis.
- 3- He will not be entitled for any TA/DA for joining service.
- 4- If he wishes to accept the post on the above terms and conditions he should report for duty to the Principal, Government College of Management Sciences Khar (Bajaur Agency) Immediately failing which the offer of appointment will be treated as cancelled.
- 5- The offer shall be automatically held cancelled if he fails to join in 07-days of the receipt of this offer.

-Sd/-
DIRECTOR (IMTE) FATA

Dated 28/10/2009.

Indst: No. DIMTE/FATA/Admn/Apptt: 12575-80
Copy forwarded for information and necessary action to: -

1. The AGPR (Sub Office), Peshawar.
2. The Principal, Government College of Management Science, Khar (Bajaur Agency)
3. The Political Agent, Khar (Bajaur Agency).
4. Mr. Muhammad Ayub, Instructor English.
5. The Accountant Local Directorate.
6. Personal File of the officer/official concerned.


DEPUTY DIRECTOR (TE) FATA

ATTESTED
ASSYOCANTE




ATTESTE

19/1/09 34

(34)

DIRECTORATE OF INDUSTRIES, MINERAL AND TECHNICAL EDUCATION
FATA SECRETARIAT WARSAK ROAD PESHAWAR.

OFFICE ORDER

Mr. Saeed Bad Shah S/O Hazrat Bad Shah is hereby appointed as Junior Instructor (Telecommunication) on Fixed Pay @ Rs. 4000/- P.M. in Government Technical Institute, Ekka Ghund (Mohmand Agency) with effect from date of taking over the charge. His appointment is subject to the following terms and conditions: -

TERMS AND CONDITIONS

- 1- His appointment will be on Fixed Pay up to 30-06-2010 or till the arrival of Selectee of the NWFP Public Service Commission which ever is earlier.
- 2- He appointment on fixed pay shall not confer on him any right of appointment on regular basis.
- 3- He will not be entitled for any TADA for joining service.
- 4- If he wishes to accept the post on the above terms and conditions he should report for duty to the Principal, Government Technical Institute, Ekka Ghund (Mohmand Agency). Immediately failing which the offer of appointment will be treated as cancelled.
- 5- The offer shall be automatically held cancelled if he fails to join in 07-days of the receipt of this offer.

-Sd/-

DIRECTOR (IMTE) FATA

Dated 07/1/2009.

Endst: No. DIMTE/FATA/Admin/Appnt: 12779-54
Copy forwarded for information and necessary action to: -

1. The AGPR (Sub Office), Peshawar.
2. The Principal, Government Technical Institute, Ekka Ghund (Mohmand Agency).
3. The Political Agent, (Mphmad Agency)
4. Mr. Saeed Bad Shah S/O Hazrat Bad Shah, Junior Instructor (Telecommunication).
5. The Accountant Local Directorate.
6. Personal File of the officer/official concerned.

DEPUTY DIRECTOR (TE) FATA

ATTESTED



Dated Peshawar, the _____

NOTIFICATION

No. SOIII(IND)TE/3-9/2012. In pursuance of the Peshawar High Court, Peshawar judgment dated 08-03-2012 announced in Writ Petition No.1289/2010 the Competent Authority has been pleased to regularize the services of the following employees of Technical Education under the NWFP (Regularization of Services) Act 2009 with immediate effect:-

| SR# | NAME & FATHER NAME |
|-----|---|
| 1 | Mr. Shahid Khan Masood S/o Sarfraz |
| 2 | Mr. Shahid Alam S/o Mohammad Nisar |
| 3 | Mr. Irfanullah S/o Amanullah |
| 4 | Mr. Asif Khan S/o Noor Rahim |
| 5 | Mr. Rahmat Khan S/o Gulzar Khan |
| 6 | Mr. Mohammad Iqbal S/o Ali Rehman |
| 7 | Mr. Inam Khan S/o Fazal Manan |
| 8 | Mr. Mohammad Iqbal S/o Gul Sai |
| 9 | Mr. Ahmed Shah S/o Niaz Amin |
| 10 | Mr. Altaf Hussain S/o Maqbool Khan |
| 11 | Mr. Irfan Qadir S/o Fazal Qadir |
| 12 | Mr. Khail Bahadar S/o Bahadar Khan |
| 13 | Mr. Rehman Din S/o Shabud Din |
| 14 | Mr. Sajjad Ahmad S/o Abdul Ghafar |
| 15 | Mr. Sartaj Aziz S/o Zarabat Khan |
| 16 | Mr. Zeenat Shah S/o Mehraban Shan |
| 17 | Mr. Iftikhar Ali S/o Mohammad Akbar |
| 18 | Mr. Ikhtiar Zada S/o Habibul Haq |
| 19 | Mr. Hayat Ullah S/o Wahid Ullah |
| 20 | Mr. Abdul Qadoos S/o Mohammad Hazrat |
| 21 | Mr. Mohammad Ilyas S/o Khanozada |
| 22 | Mr. Mohammad Ibrahim S/o Kabir Khan |
| 23 | Muhammad Ilyas S/o Mohammad Arif |
| 24 | Mr. Sangeen Khan S/o Khair Mohammad |
| 25 | Mr. Sajid Ullah S/o Sher Azam Khan |
| 26 | Mr. Jaffar Ali S/o Kashmir Khan |
| 27 | Mr. Jamshid Alam S/o Shah Salam |
| 28 | Mr. Shafiqur Rehman S/o Qandahari Khan |
| 29 | Mohammad Tahir Shah S/o Mohammad Subhan |

| | |
|------|---|
| 30 | Mr.Noor Hassan Khan S/o Gul Sher Khan |
| 31 | Mr. Waqar Ahmed S/o Afzar Shah |
| 32 | Mr. Saadat Khan S/o Khairan Khan |
| 33 | Mr. Raheem Dad Khan S/o Waris Khan |
| 34 | Mr. Mohammad Fayaz Afridi S/o Shad Mohammad |
| 35 | Mr. Amjad Ali S/o Shaban Ali |
| 36 | Mr. Mohammad Iqbal S/o Mohammad Hazrat |
| 37 | Mr. Shoukat Hussain S/o Gulab Hussain |
| 38 | Mr. Tahir Ayub S/o Mohammad Usman |
| 39 ✓ | Mr. Amjad Ali S/o Hussain Ali |
| 40 | Mr. Muhammad Iqbal S/o Fazal Rahim |
| → 41 | Mr. Sallah Ud Din S/o Mohammad Rehman |
| → 42 | Mr. Mohammad Ayub S/o Abdul Saeed Jan |
| 43 | Mr. Abdul Aziz S/o Rahim Badshah |
| 44 | Mr. Mumtaz Khan S/o Zahir Shah |
| 45 | Mr. Shahan Zeb S/o Sher Bahadar |
| 46 | Mr. Fareed Ullah S/o Essar Khan |
| 47 | Mr. Ikramullah S/o Noor Nawaz |
| 48 | Mr. Mohammad Hamayun S/o Ibrahim Ali |
| → 49 | Mr. Said Badshah S/o Hazrat Badshah |
| → 50 | Mr. Shah Zarin Khan S/o Naurang Khan |
| → 51 | Mr. Noor Zada S/o Haya Khan |
| 52 | Mr. Kashif Amin S/o Amin Ul Haq |
| 53 | Syed Athar Ali Shah S/o Syed Munavar Ali Shah |
| 54 | Syed Hussain Ali Shah S/o Kamal Ali Shah |
| 55 | Mr. Asif Ali S/o Ghulam Abbas |

2. Consequent upon their regularization the following posting are hereby made as under:-

| SR# | NAME & FATHER NAME | POSTING |
|-----|------------------------------------|--|
| 1 | Mr. Shahid Khan Masood S/o Sarfraz | As Lecturer (Computer Science), BPS-17 GCMS, D.I.Khan. |
| 2 | Mr. Shahid Alam S/o Mohammad Nisar | As Lecturer (Computer Science) BPS-17, GCMS Charsadda. |
| 3 | Mr. Irfanullah S/o Amanullah | As Lecturer (Commerce) BPS-17, GCMS Bannu. |
| 4 | Mr. Asif Khan S/o Noor Rahim | As Lecturer (Physics), BPS-17, GCT Swabi. |
| 5 | Mr. Rahmat Khan S/o Gulzar Khan | As Lecturer(Telecom), BPS-17, GTI Khair B/Agency. |
| 6 | Mr. Mohammad Iqbal S/o Ali Rehman | As Lecturer(Telecom), BPS-17, GTI Khar(B/Agency) |
| 7 | Mr. Inam Khan S/o Fazal Manan | As Librarian, BPS-17, GCT Kohat. |
| 8 | Mr. Mohammad Iqbal S/o Gul Said | As Lecturer(Commerce), BPS-17, GCMS Charsadda |
| 9 | Mr. Ahmed Shah S/o Niaz Amin | As Director Physical Education BPS-17, GCMS Chitral. |



| | | |
|------|---|---|
| 10 | Mr. Altaf Hussain S/o Maqbool Khan | As Lecturer(Computer Science), BPS-17, GCMS Nowshera |
| 11 | Mr. Irfan Qadir S/o Fazal Qadir | As Lecturer(Computer Science), BPS-17, GCMS Mardan. |
| 12 | Mr. Khial Bahadar S/o Bahadar Khan | As Lecturer(Commerce), BPS-17, GCC No.02 Mardan. |
| 13 | Mr. Rehanud Din S/o Shabud Din | As Director Physical Education(DPE) BPS-17, GTI Bara Khyber Agency. |
| 14 | Mr. Sajjad Ahmad S/o Abdul Ghafar | As Lecturer(Computer Science), BPS-17, GCMS Sangota Swat. |
| 15 | Mr. Sartaj Aziz S/o Zarabat Khan | As Lecturer(Commerce), BPS-17, GCMS Thana |
| 16 | Mr. Zeenat Shah S/o Mehraban Shan | As Lecturer(Commerce), BPS-17, GCMS Kohat |
| 17 | Mr. Htikhar Ali S/o Mohammad Akbar | As Lecturer(Physies), BPS-17, GPT Takht Blai. |
| 18 | Mr. Ikhtiar Zada S/o Habibud Hassan | As Lecturer(Commerce), BPS-17, GCMS Sangota Swat. |
| 19 | Mr. Hayat Ullah S/o Wahid Ullah | As Lecturer(Physies), BPS-17, GCT Nowshera. |
| 20 | Mr. Abdul Qadoos S/o Mohammad Hazrat | As Lecturer(Computer Science), BPS-17, GCMS Chitral. |
| 21 | Mr. Mohammad Ilyas S/o Khanzada | As Lecturer(Physies), BPS-17, GTI Miranshsh(NWA) |
| 22 | Mr. Mohamnad Ibrahim S/o Kabal Khan | As Lecturer(English), BPS-17, GCMS Khar B/Agency. |
| 23 | Mr. Mohammad Ilyas S/o Mohammad Akram | As Lecturer(Commerce), BPS-17, GCMS Charsadda. |
| 24 | Mr. Sangeen Khan S/o Khair Mohammad | As Lecturer(Commerce).BPS-17, GCMS Charsadda. |
| 25 | Mr. Sajid Ullah S/o Sher Azam Khan | As Lecturer(English), BPS-17, GCT Peshawar |
| 26 | Mr. Jaffar Ali S/o Kashmir Khan | As Lecturer(Commerce), BPS-17,GCMS(NWA) |
| 27 | Mr. Jamshid Alam S/o Shah Salam | As Director Physical Education BPS-17, GCMS Parachinar (K/Agency). |
| 28 | Mr. Shafiur Rehman S/o Qandahar Khan | As Lecturer(Economics), BPS-17, GCMS Lakki |
| 29 | Mr. Mohammad Tahir Shah S/o Mohammad Subhan | As Lecturer(English), BPS-17, GCMS Kohat |
| 30 | Mr. Noor Hassan Khan S/o Gul Sher Khan | As Lecturer(Computer Science), BPS-17,GCMS Bannu. |
| 31 | Mr. Waqar Ahmed S/o Afsar Shah | As Lecturer(Computer Science), BPS-17, GCMS Charsadda |
| 32 | Mr. Saadat Khan S/o Khanan Khan | As Lecturer(English), BPS-17, GCMS Kohat |
| 33 | Mr. Raheem Dad Khan S/o Waris Khan | As Lecturer(Computer Science), BPS-17, GCMS Thana |
| 34 | Mr. Mohammad Fayaz Afridi S/o Shad Mohammad | As Lecturer(Computer Science), BPS-17, GCC Jangu. |
| 35 | Mr. Amjad Ali S/o Shaban Ali | As Lecturer(Commerce), BPS-17,GCMS Parachinar |
| 36 | Mr. Mohammad Iqbal S/o Mohammad Hazrat | As Lecturer(English), BPS-17, GCT Timergara (Lower Dir) |
| 37 | Mr. Shoukat Hussain S/o Gulab Hussain | As Lecturer(Commerce), BPS-17, GCMS Parachinar |
| 38 | Mr. Tahir Ayub S/o Mohammad Usman | As Lecturer(English), BPS-17, GTI Sadda K/Agency |
| 39 ✓ | Mr. Amjad Ali S/o Hussain Ali | As Librarian, BPS-17, GCMS Karak |
| 40 | Mr. Muhammad iqbal S/o Fazal Rahim | As Lecturer(Commerce), BPS-17,GCMS Chitral. |

Handwritten signature

| | | |
|----|---|---|
| 41 | Mr. Sallah Ud Din S/o Mohammad Rehman | As Lecturer(Commerece), BPS-17, GCTI, Wari(Dir Upper) |
| 42 | Mr. Mohammad Ayub S/o Abdul Saeed Jan | As Lecturer(English), BPS-17, GCMS Nowshera. |
| 43 | Mr. Abdul Aziz S/o Rahim Badshah | As Lecturer(Commerece), BPS-17, GCMS Chitral |
| 44 | Mr. Mumtaz Khan S/o Zahir Shah | As Lecturer(Computer Science), BPS-17, GCMS Larki |
| 45 | Mr. Shahan Zeb S/o Sher Bahadar | As Lecturer(Commerece), BPS-17, GCMS Khar (B/Agency) |
| 46 | Mr. Fareed Ullah S/o Essar Khan | As Lecturer(Computer Science), BPS-17, GCMS D.I.Khan |
| 47 | Mr. Ikramullah S/o Noor Nawaz | As Lecturer(Computer Science), BPS-17, GCMS Larki |
| 48 | Mr. Mohammad Hamayun S/o Ibrahim Ali | As Lecturer(Physics), BPS-17, GCMS Parachinar. |
| 49 | Mr. Said Badshah S/o Hazrat Badshah | As Junior Instructor DALE(Telecom), BPS-14 GTI El kaghund |
| 50 | Mr. Shah Zarin Khan S/o Naurang Khan | As Lecturer(Physics), GCT Tangi |
| 51 | Mr. Noor Zada S/o Haya Khan | As Lecturer(Computer Science), BPS-17, GCT Tangi |
| 52 | Mr. Kashif Amin S/o Amin Ul Haq | As Lecturer(Computer Science), GCMS Parachinar |
| 53 | ✓ Syed Athar Ali Shah S/o Syed Munawar Ali Shah | As Lecturer(Commerece), BPS-17, GCMS Parachinar |
| 54 | ✓ Syed Hussain Ali Shah S/o Kamal Ali Shah | As Lecturer(Commerece), BPS-17, GCMS Parachinar |
| 55 | Mr. Asif Ali S/o Ghulam Abbas | As Lecturer(Computer Science), BPS-17 GCMS Parachinar. |

Terms and conditions of their Regular Appointment will be as under:-

- a. They will get pay at the minimum of BPS-17 including usual allowances as admissible under the rules. They will also be entitled to annual increments as per existing policy.
- b. They shall be governed by the Khyber Pakhtunkhwa, Civil Servants Act, 1973, all the laws applicable to the Civil Servants and rules made there-under.
- c. They shall for all intents and purposes, be Civil Servants except for purpose of pension & gratuity. In lieu of pension and gratuity, they shall be entitled to receive such amount as would be contributed by them towards Contributory Provident Fund(CPF) alongwith the contributions made by Government to their account in the said fund in the prescribed manner.
- d. Their employments in the department in purely temporary and their services are liable to be terminated without assigning any reason at thirty(30) days notice or on the payment of 30-days salary in lieu thereof. In case they wish to resign at any time, 30-days notice will be necessary or in lieu thereof 30-days pay will be forfeited.
- e. They shall, initially, be on probation for a period of two years extendable upto 3-years.
- f. Their seniority shall be determined in accordance with relevant rules but subject to section-4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009.

-Sd-
Secretary to Govt. of Khyber Pakhtunkhwa,
Industries, Commerce & Technical Education
Department

Copy of the above is forwarded to the:-

1. Additional Chief Secretary(FATA), FATA Secretariat, Worsak Road Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
5. Secretary to Governor, Khyber Pakhtunkhwa
6. Accountant General, Khyber Pakhtunkhwa, Peshawar.
7. The Director General, Technical Education & Manpower Training, Khyber Pakhtunkhwa, Peshawar.
8. Director Technical Education, FATA, Khyber Pakhtunkhwa, Warsak Road Peshawar.
9. Director Information Khyber Pakhtunkhwa for wide publicity through media.
10. Agency/Districts Accounts Officers concerned.
11. Registrar Peshawar High Court, Peshawar.
12. Director Recruitment, Khyber Pakhtunkhwa, Public Service Commission Peshawar.
13. Section Officer(FATA), Education Wing, Governor Secretariat(FATA) Worsak Road Peshawar.
14. PS to Secretary, IC&TE Department.
15. P.A to Additional Secretary-I, IC&TE Department.
16. The Officer concerned.
17. O/O file.

(ANWAR-UL-HAQ)
DEPUTY SECRETARY-I

Before The Peshawar High Court, Peshawar

ANNEX 1E

(41)

~~ANNEX~~
27

Writ Petition No 865-P /2014

1. Shaban Ali S/o Israr Hussain,
Instructor (Business Administration),
Government College of Management Sciences, Parachinar,
Kurram Agency.
2. Asghar Abbass S/o Muhammad Ghulam,
Instructor (Computer Science),
Government College of Management Sciences, Parachinar,
Kurram Agency.
3. Asmat Ali S/o Wahab Ali,
Instructor (Business Administration),
Government College of Management Sciences, Parachinar,
Kurram Agency.
4. Altaf Hussain,
Instructor (Business Administration),
Government College of Management Sciences, Parachinar,
Kurram Agency.

....Petitioners

Versus

1. Government of Khyber Pakhtunkhwa,
through Additional Chief Secretary, Peshawar (FATA).
2. Directorate of Technical Education (FATA),
through its Director, FATA Secretariat, Warsak Road, Peshawar.
3. Government of Khyber Pakhtunkhwa,
through Secretary, Industries, Commerce, Mineral Development, Labour and
Technical Education Department, Peshawar.
4. Director Technical Education and Man Power Training, KPK, Peshawar.

.....Respondents

42
28

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

Writ Petition No.865-P of 2014.

Shaban Ali & others.....Vs.....Govt: of KPK etc



JUDGMENT.

Date of hearing 31-3-2015

Appellant/Petitioner by M. Ayub Khattak - Advocate.

Respondent by F.M. (Rabir Ahmad) - Ex-Rab Nawaz etc
AAK.

WAQAR AHMAD SETH, J:- Shaban Ali and

four others petitioners have invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan 1973 "to declared the termination Order of the Petitioners as illegal, unlawful, void and ineffective and direct the respondents to treat the Petitioners as regular employees".

2- Briefly stated the facts of the case are that the Director Technical Education & Man Power Training, Peshawar (respondent No.4) advertised certain posts of Instructors, Junior Instructors etc in BPS 14,16 & 17 on contract basis. The petitioners having requisite qualifications for the respective posts applied for appointment and after the recommendation of

[Handwritten signature]

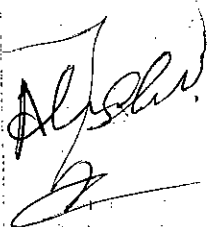
[Handwritten signature]

ATTESTED
EXAMINER
Peshawar High Court.
APR 2015

43

29

Departmental Selection Committee comprising of Deputy Secretary (P & D), Deputy Secretary (Admn:), Director (Technical Education) and Deputy Director (Technical Education FATA) assisted by subject Specialists/Experts, the petitioners were appointed vide office orders dated 12/02/2009 in which one of the condition was that their appointment will be on Fixed Pay up to 30/06/2010 or till the arrival of Selectee of NWFP Public Service Commission which ever is earlier; that the petitioners were performing their duties when in the meanwhile Khyber Pakhtunkhwa (Regularization of Services) Act, 2009 (ACT XVI OF 2009) was promulgated where under all the employees appointed on contract or adhoc basis and holding that post on 31/12/2008 or till the commencement of the said Act were deemed to be validly appointed on regular basis. It is further averred in the petition that vide letter dated 30/12/2009 respondent No.2 made a request to respondent No.3 for regularization of technical education staff in FATA and before that a summary to this effect was also prepared vide dated 15/09/2009. That other colleagues of the petitioners filed Writ Petition Nos.1145, 1252, 2639 of 2010, Nos.1870,2992,3244,3285 of 2011 and No.46 of 2012 whereby directions were issued to the respondents to treat the petitioner therein as regularized employees.

h.


ATTESTED

ATTESTED

BY
 Deputy Secretary
 Technical Education
 FATA

30

under ACT NO.XVI of 2009 and all the writ petitions were allowed by this Court vide judgment dated 08/03/2012 passed in Writ Petition No.1289 of 2010 but the petitioners were not given the same treatment and vide impugned orders the services of the petitioners were terminated and that they have approached the respondents to regularize their services and treat them at par with their other colleagues whose services were regularized through order dated 31/12/2012 but in vain, hence having no other efficacious remedy available to the petitioners, they have approached this Court through the instant constitutional petition.

3- Respondent No.2 furnished comments wherein besides other objections, also raised an objection regarding the jurisdiction of this Court under Article 247(7) of the Constitution as the matter relates to FATA. Further stated that the petitioners are not eligible for regularization under the aforesaid Act as they are project employees and the said Act has not been extended to FATA. So far as the petitioner No.5 is concerned, he was neither appointed nor terminated by the Department (IM & TE) rather he was appointed by the Political Agent, North Waziristan Agency.

4- Arguments heard and record perused.

[Handwritten signature]

ATTESTED *[Handwritten signature]*

3/

5- The plea of the respondents that Khyber Pakhtunkhwa (Regularization of Services) Act, 2009 has not been extended to the FATA and as such not applicable to the petitioner is not correct as they themselves vide notification No. SO.III (IND) TE/3-9/2012 dated 31st December 2012, regularized the services of the colleagues / batch-mate of the petitioners while applying the said Act, 2009.

6- Record is suggestive that alongwith petitioners Noor Zada, Saeed Badshah, Salahuddin, Muhammad Ayub, Shan Zeb & Shah Zarin were also appointed and they have been regularized vide the above referred notification, whose names appear at serial No.51, 49, 41, 42, 45 & 50, hence, the petitioners are, on the face of it being discriminated and as such Articles 4 & 27 of the Constitution have been violated.

7- In view of the above this writ petition is allowed, as prayed for.

sd/ Wazir Ahmad Sethi - J
sd/ Jashad Daisee - J



ATTESTED
JUDGE

JUDGE

CERTIFIED TO BE TRUE COPY

Examiner,
 Peshawar High Court, Peshawar
 Authorized Under Article 87 of
 The Constitution of Pakistan Order 198

11 APR 2015

10/4

[Handwritten signature]

IN THE PESHAWAR HIGH COURT, PESHAWAR



Writ Petition No. 1301/2015

1. Syed Zahid Hussain

Son of Syed Zulfiqar Hussain
Resident of *Village Gharbina Kirman*,
Parachinar Kurram Agency
Presently House No. 1003, Street No. 16, Sector F-10, Phase VI
Hayatabad, Peshawar

2. Yasir Ali

Son of Sher Muhammad Khan
Resident of *Maan Singh Gate, Muhallah Husseni*,
House No. 1, Parachinar, Tehsil Upper Kurram,
District Kurram Agency

.....PETITIONERS

VERSUS

1. Government of Khyber Pakhtunkhwa

Through Additional Chief Secretary
FATA Secretariat, Peshawar

2. Government of Khyber Pakhtunkhwa

Through Secretary Industries, Mineral, Technical Education
FATA Secretariat, Peshawar

3. Directorate of Technical Education (FATA)

Through Director
FATA Secretariat, Peshawar

.....RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF
ISLAMIC REPUBLIC OF PAKISTAN, 1973

[Handwritten signature]

ATTESTED
EXAMINER
Peshawar High Court

31 OCT 2015

Respectfully Sheweth;

1. That the petitioners were appointed as instructors (BPS-17) on fixed pay in Government College of Management Sciences, Parachinar (Kurram Agency) for being fit, eligible and competent on the recommendations of the Departmental Selection Committee. (Copies of the appointment orders are hereby annexed as **Annexure 'A' & 'A1'**).
2. That as per terms and conditions of the appointment orders, the said appointments were for a fixed period or till the arrival of selectee of the KPK Public Service Commission which makes it clear that the posts were of permanent nature and regular posts against which the petitioners are appointed.
3. That some of the colleagues of the petitioners filed writ petitions seeking the regularizations of their services whereby all such writ petitions were allowed *vide* common judgment dated 08.03.2012 passed in W.P No 1289/2010 and the services of the petitioners were then regularized by the respondents. (Copy of the judgment is hereby annexed as **Annexure 'B'**).
4. That after the judgment dated 08.03.2012, some other colleagues of the petitioner whose date of appointments are the same as that of the petitioner filed a writ petition No 865-P/2014 for the purpose of regularization of their services which writ petition was then allowed *vide* judgment dated 31.03.2015. (Copy of the judgment is hereby annexed as **Annexure 'C'**).
5. That the petitioner after having the knowledge of his colleagues regularization of services *vide* judgment dated 31.03.2015 thereby approached the competent authorities requesting for the regularization of services and to treat him at par with his colleagues as the date of appointment of the petitioner and his colleagues are the same but to no effect. (Copy of the application is hereby annexed as **Annexure 'D'**).
6. That the petitioner finding no other efficacious remedy thereby seeks the constitutional jurisdiction of this court under article 199 of the Constitution of Islamic Republic of Pakistan, 1973 on the following grounds;

ATTESTED
EXAMINER
Peshawar High Court

31 OCT 2015

GROUNDS:

A. That it is now a settled principle of law that if a court decides a point of law relating to the terms and conditions of an employee which covers not only the case of employee who litigated but also of those who did not litigate, then the benefit of such judgment should also be extended to those employees who did not have recourse to legal proceedings. This principle of law in fact covers the petitioner's case on all fours.

B. That on the basis of the principle highlighted above the respondents should have extended the benefit of the judgment dated 31.03.2015 to the petitioner without compelling him to have recourse to the August court. And even otherwise his case becomes further strengthened by the earlier consolidated judgment dated 08.03.2012 whereby the services of the petitioners were then regularized by the respondents. However till date the petitioner is not meted out the same treatment and compelled to knock the door of the august court for justice.

C. That it is the inalienable right of the petitioner to enjoy the protection of law and to be treated in accordance with law. However by not treating the petitioner at par with others is violation of fundamental right since the date of appointment petitioner and his colleagues are the same.

D. That Article 4 embodies the concept of dignity, equality of law and save citizens from arbitrary/ discriminatory laws and actions by the Governmental Authorities and therefore the petitioner is entitled to invoke the constitutional jurisdiction of this court for the purpose of securing his fundamental right.

E. That moreover regularization of the services of the colleagues of the petitioner having same date of appointments but no that of petitioner is a clear violation of Article 27 of the Constitution of Islamic Republic of Pakistan, 1973 that safeguards against all kind of discrimination in services. Thus

ATTESTED

EXAMINER
Punjab High Court

31 OCT 2015



just

by not regularizing the services of the petitioner in the circumstances with the others colleagues amounts to discrimination in services and so is the violation of the said article of Constitution.

F. That this august court is possessed of every jurisdiction and power to issue an appropriate writ of mandamus in the present case by implementing and executing the judgment of this August court given in the cases of the other colleagues of the petitioner.

G. Any other ground that may be raised at the time of hearing of this petition.

It is, therefore, most respectfully prayed that on acceptance of this writ petition, the august court may be pleased to order regularization of services of the petitioners on the post of Instructor by ordering implementation and execution of the judgment of this august court in the cases of colleagues of the petitioners.

The court may further be pleased to extend any other appropriate relief in the given circumstances of the case.

Dated: _____, 2015

PETITIONERS

Through

MUHAMMAD ADNAN SHER
Advocate High Court, Peshawar

List of Books:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. Relevant case law shall be produced at the time of arguments.

COUNSEL

CERTIFIED that no such petition has earlier been filed by the petitioner in this august court or in any other court in Pakistan.

COUNSEL

(10)

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

Writ Petition No. 1601-P/2015

JUDGMENT

Date of hearing.....27.10.2015.....

Petitioner(s) *Syed Zahid Hussain* by *Muhammad Adnan*

Respondent(s) *Mian Arshad Khan - ADG*

WAQAR AHMAD SETH, J.- Syed Zahid Hussain and

another, petitioners herein, through the instant constitutional petition, seek issuance of an appropriate writ with the following prayer:-

"It is, therefore, most respectfully prayed that on acceptance of this writ petition, the august court may be pleased to order regularization of services of the petitioners on the post of Instructor by ordering implementation and execution of the judgment of this august court in the cases of colleagues of the petitioners".

2. At the very outset, learned counsel for the petitioners stated that the issue involved herein has

h. already been decided by this Court on 8.3.2012 in

W. S. Seth

ATTESTED

EXAMINER
Peshawar High Court

3 OCT 2015

Ahmad Shah's case (Writ Petition No. 1289/2010).

(51)

The relevant portion of the said judgment is as under:

"We may observe here that firstly the respondents utilized the word "fixed pay" in their appointment letters purely as a means of evading their statutory obligations in terms of the service laws and also to save money by denying them the opportunity of pension/provident fund benefits etc. although their appointments were made in accordance with the prescribed method of recruitment and through a duly constituted Recruitment Committee and secondly, when the right of their regularization accrued in view of the promulgation of the Act, 2009, they denied them such benefit and came up with lame excuses before this Court that they were project employees, daily wages and payee out of contingency. The petitioners, as is evident from the record, are neither project employees, nor daily wages nor receiving salary from contingency but were contract employees on regular posts and after promulgation of NWFP (Regularization of Services) Act, 2009, have now assumed the status of regular employees of the Department. The acts of respondents being reprehensible, amounts to exploitation of petitioners at their own expense and are, therefore, liable to be declared as illegal and in excess of lawful jurisdiction.

We, therefore, issue writ in favour of petitioners and against the respondents to the effect that petitioners shall be deemed to be regular and permanent employees of respondents No. 1 and 2

[Handwritten signature]

ATTESTED
EXAMINER
[Signature]

12 OCT 2015

52

department within the meaning of NWFP (Regularization of Services) Act, 2009 and the respondents are directed to issue notification of their regularization within a period of one month".

3. Besides, similar Writ Petition No. 865-P/2014 was also allowed by this Court on 31.3.2015, hence, in view of the above clear findings, this Court also follows the same.

4. The learned Additional Advocate General has also got no objection on acceptance of instant Writ Petition in light of judgments passed by this Court in Writ Petitions

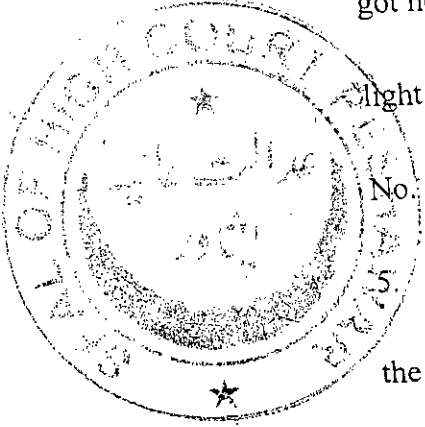
No. 1289/2010 & 865-P/2014.

Accordingly, we allow this Writ Petition and issue

the writ asked for.

Dt.27.10.2015

Justice Waseer Ahmad Sethi
Justice M. Younis Tahaem



JUDGE

JUDGE

8423
Date of Presentation of Application 31-10-15
No of Pages 7P
Copying fee
Urgent Fee *Nawab Shah*
Total 14.00
Date of Preparation of Copy 31-10-15
Date Given to Registry 31-10-15
Date of Delivery of Copy 31-10-15
Received By

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of Pakistan, Order 1984

31 OCT 2015

ANNEX '61'

53

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE GULZAR AHMED
MR. JUSTICE DOST MUHAMMAD KHAN
MR. JUSTICE TARIQ PARVEZ

Civil Petition No. 251-P of 2015

(On appeal from the judgment dated 31.03.2015 passed by the Peshawar High Court, Peshawar in W.P. No. 865-P of 2014)

Government of KPK thr. Additional Chief Secretary, Peshawar (FATA) and others

Petitioners

Versus

Shaban Ali and others

..Respondents

For the petitioners: Mian Arshad Jan, Addl. A.G. KPK

For the respondents: N.R.

Date of hearing: 8.3.2016

JUDGMENT

Dost Muhammad Khan, J.— The Government of KPK through Additional Chief Secretary, Peshawar (FATA) and others have impugned the judgment of the learned Division Bench of the Peshawar High Court, Peshawar dated 31.3.2015, seeking leave to appeal there-against.

We have heard Mian Arshad Jan, learned Additional Advocate General, KPK and have gone through the record.

2. The sole plea raised in this petition, which was argued before us, was that the KPK (Regularization of Services) Act, 2009, has not been extended to FATA therefore, the impugned judgment is not tenable in law by applying the provisions of the said Act to the case of the respondents.

[Handwritten signature]

ATTESTED

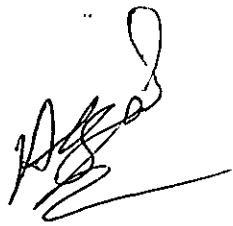
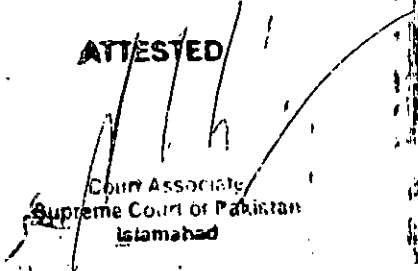
[Handwritten signature]
Clerk Associate
Supreme Court of Pakistan
Islamabad

54

3. In the impugned judgment, the learned Judges of the High Court have referred to the selection process of the respondents, which was made by the Departmental Selection Committee, comprising of Deputy Secretary (P & D), Deputy Secretary (Admin), Director (Technical Education) and Deputy Director (Technical Education) assisted by Subject Specialists/experts. There is no mention in their appointment order that the respondents were project employees.

4. The learned Judges of the High Court have also referred to the regularization of services of the batch-mates of the respondents, duly recommended by the Departmental competent authority and because in the cases of other similarly placed employees, the Peshawar High Court in Writ Petitions No. 1145, 1252, 2639/2010, 1870, 2992, 3244, 3285/2011 and 46/2012 has issued writ to the respondents to treat the petitioners of those petitions as regular employees in view of the Act of 2009, *ibid*. The judgment dated 8.3.2012 was given full effect, while the petitioners were given a discriminatory treatment and their services were terminated whereas their colleagues who were appointed through the same notification/office order, their services were regularized.

5. When the learned Additional Advocate General was confronted with the above fact that how the petitioner could make pick and choose at their whims and wishes by extending the benefit of the Act to the maximum batch-mates of the respondents and how the respondents could be denied the same benefit and would it not be hit by the provision of Article 25 of the Constitution of Pakistan, he was unable to convince us in any manner.

**ATTESTED**
Coun Associate
Supreme Court of Pakistan
Islamabad

55

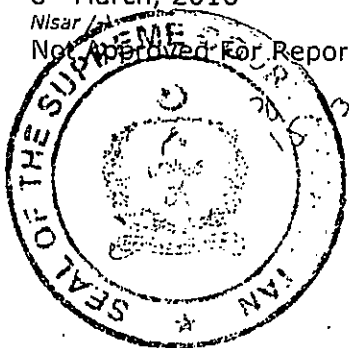
6. Accordingly, we have found this petition devoid of all legal merits, thus, the same is dismissed and leave to appeal is declined.

Sd/- Gulzar Ahmed, J
Sd/- Dost Muhammad Khan, J
Sd/- Tariq Parvez, J

Certified to be True Copy

Court Associate
Supreme Court of Pakistan
Islamabad

B-I
Islamabad, the
8th March, 2016
Nisar
Not Approved for Reporting.



CR No: 6484/16 Civil/Criminal
 Date of Presentation: 4-4-16
 No of Words: 900
 No of Pages: 9
 Requisition Fee Rs. 5.00
 Copy Fee in: 5.50
 Court Fee Stamps: 10.00
 Date of Completion of Work: 5-4-16
 Date of delivery of Copy: 8/3/16
 Prepared by: _____
 Approved by: _____



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT

Arves 'H'

56

Dated Peshawar, 04/04/2016.

NOTIFICATION

No.SO(CE&MS)HE/1-11/179(1-22)

In pursuance of the Peshawar High Court, Peshawar judgment dated 31-03-2015 and judgment dated 27-10-2015 announced in writ petition No. 865-P/2014 and writ petition No. 1601-P/2015 the Competent Authority has been pleased to regularize the services of the following employees of Commerce Education and Management Sciences of Higher Education Department Khyber Pakhtunkhwa, subject to the final decision of the Supreme Court of Pakistan, with immediate effect.

| Sr.No. | Name & Father Name |
|--------|--|
| 1 | Muhammad Qasim S/O Rehman Rasul |
| 2 | Mr. Shaban Ali S/O Israr Hussain |
| 3 | Mr. Asghar Abbas S/O Muhammad Ghulam |
| 4 | Mr. Asmat Ali S/O Wahab Ali |
| 5 | Mr. Altaf Hussain S/O Ishaq Hussain |
| 6 | Syed Zahid Hussain S/O Syed Zulfiqar Hussain |
| 7 | Mr. Yasir Ali S/O Sher Muhammad Khan |

2- Consequent upon their regularization the following posting are hereby made:-

| S# No | Name & Father Name | Posting |
|-------|--|---|
| 1 | Muhammad Qasim S/O Rehman Rasul | As Lecturer (Commerce) Government College of Management Sciences, Lakki against the vacant post. |
| 2 | Mr. Shaban Ali S/O Israr Hussain | As Lecturer (Commerce) Government College of Management Sciences, Hangu against the vacant post. |
| 3 | Mr. Asghar Abbas S/O Muhammad Ghulam | As Lecturer (Computer Science) Government College of Management Sciences, Chitral against the vacant post. |
| 4 | Mr. Asmat Ali S/O Wahab Ali | As Lecturer (Commerce) Government College of Management Sciences, Hangu against the vacant post. |
| 5 | Mr. Altaf Hussain S/O Ishaq Hussain | As Lecturer (Commerce) Government College of Management Sciences, Hangu against the vacant post. |
| 6 | Syed Zahid Hussain S/O Syed Zulfiqar Hussain | As Lecturer (Commerce) Government College of Management Sciences, Parachinar (Kurram Agency) against the vacant post. |
| 7 | Mr. Yasir Ali S/O Sher Muhammad Khan | As Lecturer (Commerce) Government Commercial Training Institute, Wari against the vacant post. |

[Handwritten signature]

TERMS AND CONDITION

59

They will have all rights/privileges contained in Khyber Pakhtunkhwa Civil Servants Act, 1973 with all amendments made therein including Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2013 and Rules made there under.

- ii- In case of resignation, they will have to give one-month prior notice. In lieu of such notice, their one month pay shall be forfeited to Government.
- iii- In case of disciplinary matters, Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline Rules), 2011 shall be applicable.
- iv- They will get pay in BPS-17 including usual allowances as admissible under the rules. They will be entitled to annual increment like other Civil Servants.
- v- Their seniority shall be determined in accordance with relevant rules but subject to section-4 of the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009.

SECRETARY TO GOVT:
OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, DEPARTMENT

Endst: No. SO(CE&MS)/HE/1-11/179(1-22)

Dated 04-04-2016

Copy forwarded to:-

- 1- Additional Chief Secretary (FATA), FATA Secretariat, Warsak Road Peshawar.
- 2- Secretary to Govt. of Khyber Pakhtunkhwa Establishment Department.
- 3- Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
- 4- Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 5- Secretary to Governor, Khyber Pakhtunkhwa.
- 6- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 7- The Director General, Commerce, Education, and Management Sciences, Chamkani Mure, near Government Polytechnic Institute, Rano Ghari Peshawar.
- 8- The Director Technical Education, FATA, Khyber Pakhtunkhwa, Warsak Road Peshawar.
- 9- Agency/Districts Accounts Officers concerned.
- 10- Registrar Peshawar High Court, Peshawar.
- 11- The Director Recruitment, Khyber Pakhtunkhwa Public Service Commission Peshawar.
- 12- PS to Secretary, Higher Education Department.
- 13- PA to Special Secretary, Higher Education Department.
- 14- The officers concerned.




(Jehangir Khan)
SECTION OFFICER (CE&MS)

To

The Secretary
Higher Education Department
Government of Khyber Pakhtunkhwa

(S)

Amexus I

Amexus I
(S)

Sub: Departmental Appeal Against Notification Dated 04.04.2016 Bearing No. SO(CE & MS)HE/1-11/179(1-22)

Respectfully Sheweth;

1. That the applicant had been serving as Instructor/ Business administration in the institute of Government College of Management Sciences (GCMS), Parachinar.
2. That the services of the petitioner were terminated on 30.06.2010 along with other colleagues who thereby challenged the said termination of their services before the Hon'ble Peshawar High Court, Peshawar in different writ petitions which were decided in favor of colleagues of applicant whereby they have been ordered to be regularized *vide* common judgment dated 08.03.2012 in W.P No. 1289/2010.
3. That in pursuance to the above referred judgment, the services of the colleagues of the applicant were then regularized by the department/ respondents with effect from 31.12.2012 with immediate effect.
4. That thereafter some other colleagues of the applicant filed writ petition 865-P/2015 in pursuance of judgment dated 08.03.2012 seeking regularization and the same was allowed *vide* judgment dated 31.03.2015.
5. That the applicant filed W.P No. 1601-P/2015 for regularization of his services and the same was also allowed/ admitted by the High Court *vide* judgment dated 27.10.2015.
6. That in pursuance to the judgment of hon'ble High Court, the service of the applicant has been regularized *vide* Notification dated 04.04.2016 but with immediate effect rather than the date of regularization of colleagues of the applicant since 31.12.2012.

It is, therefore, requested that Notification dated 04.04.2016 regarding my regularization of services may be modified to the effect that my services may kindly be regularized with effect from 31.12.2012 with all back benefits.

Sincerely Yours

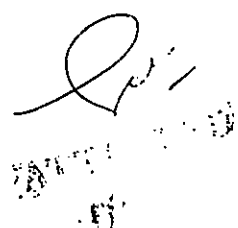


SYED ZAHID HUSSAIN
CNIC: 21303-2258691-9
Cell: 0308-8080551

Dated: 29.04.216

Copy to;

1. ASC (FATA), FATA SERETARIAT, PESHAWAR



BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Appeal No. 369 / 2017

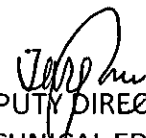
Syed Zahid Hussain

Versus

Govt. of KP & Others

INDEX

| S.NO | DESCRIPTION OF DOCUMENTS | ANNEX | PAGES |
|------|---|-------|-------|
| 1 | Para wise Comments | - | 1-4 |
| 2 | Affidavit | - | 5 |
| 3 | Termination from service | - | 6-7 |
| 4 | Recommendation of Committee and Order of Appointment. | R-1 | 8-9 |


DEPUTY DIRECTOR
TECHNICAL EDUCATION
FDA FATA.

11201-0400244-5

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

A. No. 369 / 2017

Sayed Zahid Hussain

versus

Govt. of KP & Others

**WRITTEN STATEMENT ON BEHALF OF
RESPONDENTS NO. 02 & 04**

Respectfully Sheweth:

Preliminary Objection:-

1. That appellant has no cause of action and locus standi in filing of the appeal in hand in the hon'ble Tribunal.
2. That judgment of the hon'ble Peshawar High Court, Peshawar was implemented in letter and spirit and nothing has been left for further litigation.
3. That appellant was adjusted on regular basis against other regular post in the light of the judgment dated 31-03-2015 of hon'ble Peshawar High Court Peshawar as the Project / ADP life was up to 30-06-2010.
4. That the appellant was not appointed on contract basis but on fixed pay of Rs. 8000/-PM under ADP/project, so the Regularization Act, 2009 was not applicable at all to the case in hand.
5. That appellant never performed any duty after 30-06-2010 till the assumption of charge in January, 2013 of the fresh assignment.
6. That appellant is estopped to file the appeal as he voluntarily accepted the terms and conditions of his service.
7. That the appeal is badly time barred.

8. That on 11-06-2009, services of the incumbents now appellants mentioned therein were terminated due to expiry of contract period and non further recommendation by the Principal of the college. Against these posts, S. Zahid Hussain, Asghar Abbas, Asmat Ali, Altaf Hussain, Shahban Ali were appointed on fixed pay for a fixed period but the hon'ble High Court regularized their services against these terminated posts. The terminated and newly appointed incumbents now appellants, their services were regularized by the hon'ble High Court against the same posts, so double incumbents are getting salaries against a single post and in such a situation, they are not entitled to get back benefits.

ON FACTS:-

1. In response to this para of the appeal, appellant was appointed as Instructor (Business Administration) on fixed pay per month till 30-06-2010. This appointment shall not confer any right of regularization to him.

More so, he was not recommended by the Committee mentioned in the para of the appeal but by the Committee comprising of Principal Government Degree College, Para Chinar, Principal Government College of Commerce, Management Sciences Para Chinar and Political Agent Kurram Agency at Para Chinar.

2. Correct to the extent of office order of appointment with terms and conditions stated above for a period of six (06) months up to 30-06-2010. The posts were meant for Contract / Fixed pay employees
3. Correct to the extent of Writ Petitions but these Writ Petitions were not at par with Writ Petition of appellant because the appeal of appellant does not come within the purview of the Act of Regularization, 2009 because their appointments were made later on.
4. Not correct. As stated earlier, the case of appellant viz-a-viz of the aforesaid mentioned Writ Petition were not at par with each other. Services of appellant were terminated on 30-06-2010 as per condition No. 01 of the appointment order.

5-6. Needs no comments. However, on 11-06-2009 services of the incumbents now appellants mentioned therein were terminated due to expiry of contract period and non further recommendation by the Principal of the college. Against these posts, S. Zahid Hussain, Asghar Abbas, Asmat Ali, Altaf Hussain, Shahban Ali were appointed on fixed pay for a fixed period but the hon'ble High Court regularized their services against these terminated posts. The terminated and newly appointed incumbents now appellants, their services were regularized by the hon'ble High Court against the same posts, so double incumbents are getting salaries against a single post and in such a situation, they are not entitled to get back benefits. (Copy of termination order and fresh appointment orders as annex "R" & "R/1")

7. Pertains to the judgment of the apex Court, hence needs no reply.
8. In response to para No. 08 of the appeal, it is submitted and as admitted by appellant, that service of the employees mentioned in the earlier appeal were regularized with immediate effect, i.e 31-12-2012 while services of appellant were regularized w.e.f. i.e., 04-04-2016
9. Correct to the extent of filing of departmental appeal for regularization of his services with effect from 12-12-2009 but at the same time, services of appellant were on fixed pay. No retrospective effect could be given to order of regularization.

GROUND:-

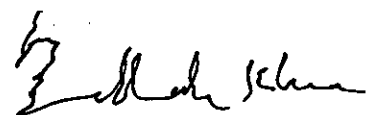
- a. Not correct. The act of the replying respondents is in accordance with Law was legal, lawful and with lawful authority. The same was legal and no right of appellant was ever infringed, so no interference is required
- b. Not correct. Appellant was treated in accordance with Law, Rules and Policy. No law is ever violated.
- c. Not correct. No discrimination was made. The case of appellant and colleagues were not at far with each others. His services were regularized with immediate effect which order was quite legal and per the mandate of law.

- d. Not correct. The act of the replying respondents is per the mandate of justice and law.
- e. Not correct. No basic / fundamental right of appellant was ever violated. The position has been explained in para No. 08 in preliminary objection as well as in para No. 05 & 06, above.
- f. Not correct. Doctrine of legitimate expectancy no where demand to travel beyond the law. Appellant was treated as per the mandate of the judgment. No retrospective effect was ordered. The case of appellant viz-a-viz others was not at par with each other.
- g. Not correct. Appellant was treated in accordance with law and the dictum of the apex Supreme Court of Pakistan.
- h. Allowed.

It is, therefore, most humbly requested that the appeal of appellant, being devoid of merit, without substance, time barred and not per the mandate of Law, be dismissed with cost.

R. No. 2 & 5

Through



Saadullah Khan Marwat
Advocate

Dated -06-2018

5

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 369/2016

Syed Zahid Hussain VERSUS

Govt. Of KPk & Others

COUNTER AFFIDAVIT

I, Mr. Zarghun Shah Assistant Director, Technical Education FATA, Development Authority Peshawar, do hereby solemnly affirm and declare that contents of the written statement are true and correct to the best of my knowledge and belief while that the appeal of appellant are illegal and incorrect.

I reaffirm the same on oath once again to be again to be true and correct as per the available record.



DEPONENT
CNIC NO. 11201-0400244-5

DIRECTORATE OF TECHNICAL EDUCATION (FATA)
FATA SECRETARIAT WARSAK ROAD PESHAWAR

OFFICE ORDER.

On the recommendation of Principal, Government College of Management Science, Parachinar (Kurram Agency) the Services of the following fixed pay staff working at Government College of Management Science, Parachinar (Kurram Agency) are hereby terminated w.e.f. 30-6-2009 due to Expiry of contract period.

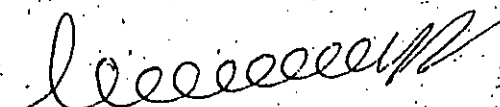
| S.No. | Name of Fixed Pay Staff | Subject |
|-------|-------------------------|------------------|
| 01- | Asif Ali | Computer Science |
| 02- | Syed Ather Ali Shah | Bus: Admn: |
| 03- | Syed Hussain Ali Shah | Bus: Admn: |
| 04- | Sajid Ali | English |
| 05- | Muhammad Hamayoun | Physics |
| 06- | Amjad Ali | Librarian |

sd/
DEPUTY DIRECTOR
TECHNICAL EDUCATION (FATA)

Endst: No. DTE/FATA/Admn/ 929-32(1-4)
Copy to:-

Dated 11/6/2009

- 1) The AGPR (Sub Office), Peshawar.
- 2) The Principal, GCMS, Parachinar (Kurram Agency), with reference to his letter No.GCMS/PCR/S:Post/2805, dated 29-5-2009.
- 3) The Officer concerned.
- 4) The Accountant local Directorate.


Assistant Director (TE) FATA

7

29 30

GOVERNMENT COLLEGE OF MANAGEMENT
SCIENCES PARACHINAR (QUIRAM AGENCY)

No. G.M.B. 2805

29/5/2009

To: The Director,
Technical Education (FATA)
Chief Secretariat
Peshawar.

9/10
2-6-09

Subject: EXTENSION OF FIXED PAY STAFF.

Reference your letter No: DTE/FATA/Admn/Audi/681-88 dated 23/5/2009 on the
above subject.

The following fixed pay staff of this College is recommended for extension please.
They are obedient, hard worker and punctual in their duties.

1. Mr. Shoukat Hussain Instructor (Bus: Admn).

2. Mr. Amjad Ali Instructor (Bus: Admn).

The remaining following fixed pay staff are habitual of absence and not punctual in
their duties. Kindly substitute them and honest, hard worker staff may be appointed
to run this College smoothly.

Mr. Asif Ali Instructor (Computer Science)

Mr. N. Ather Ali Shah Instructor (Bus: Admn)

Mr. S. Hussain Ali Shah Instructor (Bus: Admn)

Mr. Hafid Ali Instructor (English)

Mr. Muhammad Hamayun Instructor (Physics)

Mr. Amjad Ali Librarian

Immediate

Plan discuss

11/6

ADTE

sch/10/10/09

Prin
PRINCIPAL

TRUE COPY

GOVERNMENT COLLEGE OF MANAGEMENT
SCIENCE PARACHINAR (KURRAM AGENCY)

No.GCMS/PCR/2908
To

Dated. 17-11-2009.

The Director,
Technical Education,
(FATA) Secretariat
Peshawar.

Subject: **RECRUITMENT OF FIXED PAY STAFF FOR GCMS PARACHINAR.**

Reference your office letter No.D/MTE/FATA /ADMN/2445-47 dated 19-10-2009 on the subject cited above.

Enclosed please find herewith a list of local qualified candidates interviewed by selection committee on 03-04/11-2009 under the Chairmanship of worthy Political Agent Kurram.

The Interview was conducted in Govt. College of Management Science Parachinar and the following Seven Candidates are selected and recommended for appointment please.

| Sr.No | Name's | Father's Name | Date of Birth | Qualification's |
|-------|--------------------|--------------------|---------------|-----------------|
| 01 | Mr.S.Zahid Hussain | S.Zulfiqar Hussain | 03/02/1982 | M.Com |
| 02 | Mr.Asmat Ali | Wahab Ali | 23/04/1983 | M.Com |
| 03 | Mr.Altaf Hussain | Ishaq Hussain | 08/02/1981 | M.Com |
| 04 | Mr.Shahban Ali | Israr Hussain | 04/07/1987 | M.B.A |
| 05 | Mr.Asghar Abbas | Muhammad Ghulam | 02/04/1980 | M.S (IT) |
| 06 | Mr.Yasir Ali | Sher Muhammad Khan | 20/03/1984 | M.C.S |
| 07 | Mr.S.Sabir Hussain | S.Shabir Hussain | 05/03/1983 | B.L.S |

Member

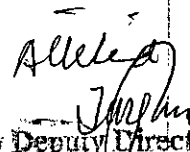
Member

Chairman

Principal
Govt. College of Management
Science Parachinar.

Principal
Govt. Degree College
Peshawar.

Political Agent
Kurram Agency
Parachinar.


Deputy Director
TECH. Education FDA
Peshawar

9 Annex 'A' 7

DIRECTORATE OF INDUSTRIES, MINERAL AND TECHNICAL EDUCATION
FATA SECRETARIAT WARSAK ROAD PESHAWAR.

OFFICE ORDER

Mr. S.Zahid Hussain S/O S. Zulfiqar Hussain is hereby appointed as **Instructor (Business Administration)** on Fixed Pay @ Rs. 8000/- P.M. in Government College of Management Sciences, Parachinar (Kurram Agency) with effect from date of taking over the charge. His appointment is subject to the following terms and conditions: -

TERMS AND CONDITIONS

- 1- His appointment will be on Fixed Pay up to 30-06-2010 or till the arrival of Selectee of the NWFP Public Service Commission which ever is earlier.
- 2- He appointment on fixed pay shall not confer on him any right of appointment on regular basis.
- 3- He will not be entitled for any TA/DA for joining service.
- 4- If he wishes to accept the post on the above terms and conditions he should report for duty to the Principal, Government College of Management Sciences, Parachinar (Kurram Agency), immediately failing which the offer of appointment will be treated as cancelled.
- 5- The offer shall be automatically held cancelled if he fails to join in 07-days of the receipt of this offer.

-Sd/-
DIRECTOR (IMTE) FATA

Endst: No. DIMTE/FATA/Admn/Apptt/ 2828 (1-6) Dated 12 / 12 / 2009.
Copy forwarded for information and necessary action to: -

1. The AGPR (Sub Office), Peshawar.
2. The Principal, Government College of Management Sciences, Parachinar (Kurram Agency).
3. The Political Agent, (Kurram Agency).
4. Mr. S.Zahid Hussain S/O S.Zulfiqar Hussain, (Business Administration).
5. The Accountant Local Directorate.
6. Personal File of the officer/official concerned.

DEPUTY DIRECTOR (TE) FATA

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No: / 2017

Syed Zahid Hussain

Son of Syed Zulfikar Hussain
Lecturer, Government College of Management Sciences,
Parachinar, Kurram Agency

..... APPELLANT

VERSUS

1. **Government of Khyber Pakhtunkhwa**
Through Chief Secretary KP
Peshawar
2. **Government of Khyber Pakhtunkhwa**
Through Additional Chief Secretary
FATA Secretariat, Peshawar
3. **Government of Khyber Pakhtunkhwa**
Through Secretary Industries, Mineral, Technical Education
Department, Peshawar
4. **Directorate of Technical Education (FATA)**
Through Director/ Assistant Director
FDA Building, Near Rehman Hospital
Phase-V, Hayatabad, Peshawar
5. **Director General**
Technical Education and Manpower Training
Khyber Pakhtunkhwa, Peshawar
6. *Secretary Higher Education* RESPONDENTS
KPK.

SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHAWA
SERVICE TRIBUNAL ACT, 1974

Respectfully Sheweth;

1. That the Appellant has been appointed as instructor (BPS-17) on fixed pay in Government College of Management Sciences, Parachinar (Kurram Agency) for being fit, eligible and competent on the recommendations of the Departmental Selection Committee. (Copy of the appointment order is hereby annexed as **Annexure 'A'**).
2. That as per terms and conditions of the appointment orders, the said appointment was for a fixed period or till the arrival of selectee of the KPK Public Service Commission which makes it clear that the posts were of permanent nature and regular posts against which the appellant was appointed.
3. That some of the colleagues of the appellant filed writ petitions seeking the regularizations of their services whereby all such writ petitions were allowed *vide* common judgment dated 08.03.2012 passed in W.P No 1289/2010 and the services of the petitioners were then regularized by the respondents in pursuance to the said judgment. (Copy of the judgment dated 08.03.2012 is hereby annexed as **Annexures 'B'**).
4. That in pursuance to judgment dated 08.03.2012, the services of the colleagues of the appellant were regularized while the appellant was not given the same treatment. That thereafter the appellant approached several times to the respondents for regularization of services of the appellant but all efforts proved futile. (Copy of order of appointments and Notification of regularization are hereby annexed as **Annexure 'C'** & **'D'** respectively).
5. *Without prejudice to the above and in addition thereto*, some other colleagues of the petitioner whose date of appointments are the same as that of the appellant filed a writ petition No 865-P/2014 for the purpose of regularization of their services in pursuance to judgment dated 08.03.2012 and the above referred writ petition was then

allowed *vide* judgment dated 31.03.2015. (Copy of the judgment is hereby annexed as Annexure 'E').

6. *Without prejudice to the above and in addition thereto*, the appellant filed writ petition No. 1601-P/ 2015 for his regularization of services and the same was allowed on 27.10.2015 in the light of judgments dated 08.03.2012 in W.P No. 1289/2010 and dated 31.03.2015 in W.P No 865-P/2014. (Copy of the judgment dated 27.10.2015 is hereby annexed as Annexure 'F').
7. That it is pertinent to mention at this juncture that respondents have assailed the judgment dated 31.03.2015 before the Apex Court in CPLA NO. 251-P/ 2015 but the same was dismissed on 08.03.2016 and upheld the judgment dated 31.03.2015. Besides the respondents have also filed CPLA before the Apex Court against the judgment dated 27.10.2015 the fate of which is yet to be decided. (Copy of the judgment dated 08.03.2016 is hereby annexed as Annexure 'G').
8. That in pursuance to judgment dated 31.03.2015, on the basis of which appellant writ petition No. 1601-P/ 2015 was also allowed/ admitted, the respondents issued Notification No. SO(CE&MS)II/1-11/179(1-22) dated 04.04.2016 whereby service of the appellant was regularized with immediate effect while the services of the colleagues of the appellant were regularized *vide* Notification dated 31.12.2012 with immediate effect. (Copy of the Notification dated 04.04.2016 is hereby annexed as Annexure 'H').
9. That the appellant being aggrieved by the Notification dated 04.04.2016 filed Departmental Appeal with request for regularization of services with effect from 31.12.2012 with all back benefits but the same has not been decided within the statutory period. (Copy of the Departmental Appeal is hereby annexed as Annexure 'I').
10. That the appellant being aggrieved by the act of the respondents, approached the hon'ble Tribunal on the following grounds;

ROUNDS:

- A. That the act of the respondents is absolutely illegal, void and ineffective upon the rights of the appellant.
- B. That it is the inalienable right of the appellant to enjoy the protection of law and to be treated in accordance with law. However by not treating the appellant at par with other colleagues is violation of fundamental right.
- C. That moreover regularization of the services of the colleagues of the appellant having same date of appointments but not that of appellant is a clear violation of Article 27 of the Constitution of Islamic Republic of Pakistan, 1973 that safeguards against all sorts of discrimination in services.
- D. That even otherwise, the act of the respondents is also in negation to the settled principles of law and natural justice by not meting out the same treatment to the appellant as that to his colleagues.
- E. That when the colleagues of the appellant enjoy the benefits to which the appellant is also entitled to enjoy in the light of judgments of hon'ble High Court, Peshawar then restraining him from enjoyment of the same is in absolute disregard to fundamental rights so enshrined in the Constitution of 1973.
- F. Moreover, the performance of the appellant has been satisfactory and up-to the mark but even then the respondents are adopting delaying tactics not to let the appellant be on equal footings with his colleagues who have been regularized *vide* Notification dated 31.12.2012.
- G. That the respondents otherwise should have regularized the appellant after the judgment dated 31.12.2012 as per law of the land and demands of natural justice without compelling the appellant to go into litigations however the respondents were reluctant to do and so

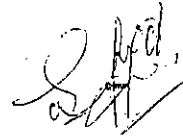
the appellant has to knock the doors of the hon'ble courts for justice.

H. That the appellant also seeks permission to raise any other ground at the time of hearing of this appeal.

It is, therefore, most respectfully prayed that on acceptance of this service appeal, the hon'ble Tribunal may be pleased to direct the respondents to treat the appellant at par with his colleagues as a regular employee with effect from 31.12.2012 with all the back benefits.

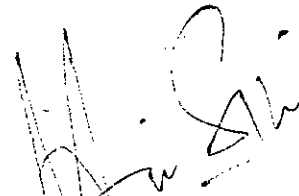
The hon'ble Tribunal may further be pleased to extend any other appropriate relief in the given circumstances of the case.

Dated: _____, 2017



APPELLANT

Through



MUHAMMAD ADNAN SHER
Advocate High Court, Peshawar

BEFORE THE KHYBER PAKHTUYNKHTWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.369/2017

Syed Zahid Hussain

Lecturer in Commerce, Government College of Management Sciences,
Parachinar Kurram Agency.....**Appellant**

VERSUS

1-Province of Khyber Pakhtunkhwa through Chief Secretary Peshawar and
others.....**Respondents.**

Affidavit

I, Naeem Gul, Assistant Director (Litigation), Commerce Education
and Management Sciences Department as per instructions of the respondents do
hereby solemnly affirm and declare that contents of the accompanying para wise
comments are correct to the best of my knowledge and belief and nothing has been
concealed therein from this Hon'ble Court.


Deponent 11/10/18
17301-5007645-1

BEFORE THE KHYBER PAKHTUYNKHWASERVICE TRIBUNAL PESHAWAR

Service Appeal No.369/2017

Syed Zahid Hussain,

Lecturer in Commerce, Government College of Management Sciences, Parachinar
Kurram Agency.....Appellant

VERSUS

- 1) Province of Khyber Pakhtunkhwa through Chief Secretary Peshawar.
- 2) Additional Chief Secretary FATA, FATA Secretariat Warsak Road Peshawar.
- 3) Secretary, Industries, Commerce & Technical Education Govt: of Khyber Pakhtunkhwa, Peshawar.
- 4) Director, Technical Education FATA Through Director/Assistant Director FD Building, Near RMI Phase-V, Hayatabad, Peshawar
- 5) Director General Technical Education & Manpower Training, Khyber Pakhtunkhwa, Peshawar.
- 6) Secretary Government of Khyber Pakhtunkhwa, Higher Education Department, Civil Secretariat Peshawar.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS No.1, & 6

PRELIMINARY OBJECTIONS:

1. That the appellant has neither cause of action nor locus standi to file this Service Appeal.
2. That Judgment of the honorable Peshawar High Court, Peshawar was implemented in letter and spirit and nothing has been left for further litigation.
3. That the appellant was adjusted on regular basis against other regular post in the light of judgment dated 31-03-2015 of honorable Peshawar high court Peshawar as the project/ADP life was up to 30-06-2010.
4. That the appellant was not appointed on contract basis but on fixed pay of Rs.8000/-PM under ADP/project, so the regularization Act, 2009 was not applicable at all to the case in hand.
5. That the appellant never performed any duty after 30-06-2010 till the assumption of charge on 04-04-2016.
6. That the appellant is estopped to file the appeal as he voluntary accepted the terms and condition of his service.
7. That the appeal is badly time barred.

8. The appeal in hand is exaggerated and filed with gross misconceptions and is liable to be dismissed

ON FACTS:-

1. It is incorrect with further clarification that the appellant along with others were appointed on fixed pay per month on 12/12/2009 till 30-06-2010 by the committee comprising of Political Agent Parachinar Kurram Agency, Principal Govt: Degree College Parachinar and Principal Govt: College of Management Sciences, Parachinar (**Copy attached as Annexure-A**) and not by the Departmental Selection Committee of the Department. Furthermore they were not allowed any regular scale of pay and were paid only 8000/- per month on fix pay. This appointment shall not confer any right of regularization to him from the date of his fixed pay period.
2. It is incorrect, their posts were project posts and as per terms and conditions, they were appointed for a period of six (06) months up to 30-06-2010 or till the arrival of commission selectee whichever is earlier. Further it is one of the main condition of his appointment that his appointment on fixed pay shall not confer on him any right of appointment on regular basis.(**Annexure-B**)
3. Correct to the extent of Writ Petitions but these Writ Petitions were not at par with writ Petitions of appellant because appeal of the appellants do not come within the purview of the Act of Regularization,2009 because their appointments were made after promulgation of Act, of Regularization 2009.
4. It is incorrect. As stated earlier, the case of appellants viz-a-viz of the appellants of Writ Petitions were not at par with each other. Service of appellant was terminated on 30.06.2010 in the light of the condition No.1 of his appointment order.
5. It is correct with further clarification that the department was bound to honour and implement the judgement of the Peshawar High Court. It is further clarified that the Peshawar High Court Peshawar decide the Writ Petition No.865-P/2014 on the ground/point of discrimination and not on Regularization Act, 2009 because the appellant do not come within the purview of the said Act as his appointment was

made after promulgation of Regularization Act, 2009, hence the said Act, is not applicable to the appellant.

6. It is incorrect in view of the aforementioned reply given in the preceding paras.
7. It is incorrect in view of the reply given in the preceding paras.
8. It is incorrect. The service of the employees mentioned in the earlier writ petition were regularized with immediate effect, i.e 31-12-2012 and the service of the appellant is also regularized with immediate effect, i.e 04-04-2016.
9. It is incorrect in view of the reply given in the preceding paras.
10. No comments.

GROUND:-

- A. It is incorrect. The acts of respondents are lawful and legal and no right of appellant was ever infringed, so no interference is required.
- B. It is incorrect. Appellant was treated in accordance with law, Rules and policy on the subject. No law is ever violated.
- C. It is incorrect. No discrimination was made. The case of appellant and his colleagues were not at par with each other. His service was regularized with immediate effect in the light of court direction though he was appointed after promulgation of Regularization Act, 2009.
- D. It is incorrect. The acts of the respondents are at par with principle of justice.
- E. It is incorrect. No basic/fundamental right of the appellant was ever violated. The position has already been explained in the preceding paras.
- F. It is incorrect. Doctrine of legitimate expectancy nowhere demand to travel beyond the law. Appellant was treated as per the mandate of the judgment though the appellant was appointed after the promulgation of Regularization Act, 2009. No retrospective effect was ordered. The case of appellant viz-a-viz others were not at par with each other.
- G. It is incorrect. Appellant was treated in accordance with law and the dictum of the apex Supreme Court of Pakistan.
- H. The respondents also seek permission of this Honourable Tribunal to rely on other grounds at the time of arguments and produce any additional documents if required in support of our reply.

It is therefore, most humbly requested that the appeal of appellant, being devoid of merit, without substance, time barred and not per the mandate of law, be dismissed with cost.

RESPONDENT No-1 

Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.

RESPONDENT No-6 

Secretary, Higher Education Khyber Pakhtunkhwa, Civil Secretariat Peshawar.

GOVERNMENT COLLEGE OF MANAGEMENT
SCIENCES PARACHINAR KURRAM AGENCY.

No. GCMS/PCR/Performance Report/ 295 (1-2)

Dated: 25/3/2010

The Director,
Industries, Mineral & Technical Education
FATA Secretariat
Peshawar.

Subject: - FIXED PAY STAFF SALARIES.

An enclose application in respect of Fixed Pay staff of this College is self-explanatory.

The following Fixed Pay staff were appointed on fixed pay basis and they are regularly performing their duties, but I regret to say that their salaries are still awaited.

| S.No | Name of staff | Designation | Date of Appointment |
|------|-----------------|------------------------|---------------------|
| 1 | Asmat Ali | Instructor (Bus: Admn) | 18/12/2009 |
| 2 | Shaban Ali | -do- | 18/12/2009 |
| 3 | S.Zahid Hussain | -do- | 18/12/2009 |
| 4 | Altal Hussain | -do- | 18/12/2009 |
| 5 | Yasir Ali | Instructor (Computer) | 18/12/2009 |
| 6 | Asghar Abbas | Instructor (Computer) | 18/12/2009 |
| 7 | Amjad Ali | Librarian | 18/1/2010 |

It is requested to kindly release their salaries, as they are pressing us for the same very hard.

Encl: Application

B. Adhikari
PRINCIPAL

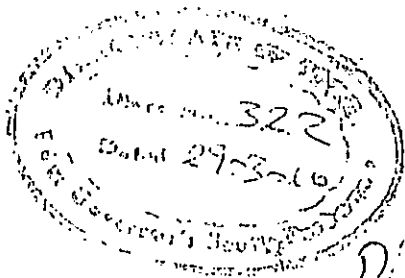
Encl: No. GCMS/PCR/
Copy forwarded for information please.

Dated 7 / /2010

The Political Agent, Kurram Agency Parachinar.

Abdullah

PRINCIPAL



DD Techs
DD Techs
Accountant

Assistant Director
Technical Education (FATA)
FATA Secretariat Peshawar

PA to Director (IMTE) FATA

D.No. 322

Date 29-3-10

27/3/10
7/3/10

DIRECTORATE OF INDUSTRIES, MINERAL AND TECHNICAL EDUCATION
FATA SECRETARIAT WARSAK ROAD PESHAWAR.

OFFICE ORDER

Mr. Shaban Ali S/O Israr Hussain is hereby appointed as Instructor (Business Administration) on Fixed Pay @ Rs. 3000/- P.M. in Government College of Management Sciences, Parachinar (Kurram Agency) with effect from date of taking over the charge. His appointment is subject to the following terms and conditions: -

TERMS AND CONDITIONS

- 1- His appointment will be on Fixed Pay up to 30-06-2010 or till the arrival of Selectee of the NWFP Public Service Commission which ever is earlier.
- 2- He appointment on fixed pay shall not confer on him any right of appointment on regular basis.
- 3- He will not be entitled for any TA/DA for joining service.
- 4- If he wishes to accept the post on the above terms and conditions he should report for duty to the Principal, Government College of Management Sciences, Parachinar (Kurram Agency), immediately failing which the offer of appointment will be treated as cancelled.
- 5- The offer shall be automatically held cancelled if he fails to join in 07-days of the receipt of this offer.

-Sd/-

DIRECTOR (IMTE) FATA

Ends: No. DIMTE/FATA/Admn/Appt: 12832 (1-6)

Dated 12/12/2009.

Copy forwarded for information and necessary action to: -

1. The AGPR (Sub-Office), Peshawar.
2. The Principal, Government College of Management Sciences, Parachinar (Kurram Agency).
3. The Political Agent, (Kurram Agency)
4. Mr. Shaban Ali S/O Israr Hussain, (Business Administration).
5. The Accountant Local Directorate.
6. Personal File of the officer/official concerned.

Deputy Director
Education (FATA)
FATA Secretariat Peshawar

DEPUTY DIRECTOR (TE) FATA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 369/2017

VAKALATNAMA

Syed Zahid Hussain

V/s

Govt. of KPK & Others

I, Mr. Arshad Parooji Director Tech. Edu. / Mansoor Saib, F.D.A hereby appoint, Saadullah Khan Marwat Advocates, in the above mentioned case, to do all or any of the following acts, deeds and things:-

- 1- To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
- 2- To sign and verify and file or withdraw all proceeding, cases, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3- To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.

AND

hereby agree:-

- a- **That** the Advocate shall be entitled to with draw from the prosecution of the said case if the whole or any part of the agreed fees remain unpaid.

In witness whereof I/We have signed this Vakalatnama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____ day of **March 2018**.

Signature of Executant

DIRECTOR

Technical Education

(A) Secretariat Peshawar

Attested & Accepted by: