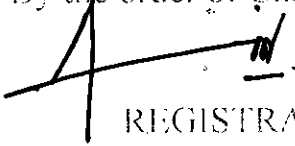


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

2214 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26/10/2023	<p>The appeal of Mr. Aqib Zaman presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshai is given to the counsel for the appellant.</p> <p>By the order of Chairman,</p>  <p>REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 2214 /2023

**AAQIB ZAMAN VS THE DIRECTOR ELEMENTARY &
SECONDARY EDUCATION
& OTHERS**

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4.	Copy of judgment of august Supreme Court dated 06/10/2022	C	10-11
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7.	Vakalatnama	15

APPELLANT

THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 2214 /2023

Mr. Aaqib Zaman, C.T (BPS-15),
Govt: High School Makhizai, Lower Kurram

..... **APPELLANT**

VERSUS

- 1- The Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 2- The District Education Officer (M), District Kurram
- 3- The District Accounts Officer, District Kurram.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 22/11/2018 WHEREBY THE APPELLANT WAS RE-INSTATED, BUT WITH IMMEDIATE EFFECT INSTEAD OF WITH EFFECT FROM 31/05/2018 I.E. FROM THE DATE OF PASSING OF JUDGMENT AND NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD OF 90 DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 22/11/2018 may very kindly be modified/rectified to the extent that appellant may kindly be re-instated into service with effect from 31/05/2018 i.e. from the date of passing of judgment of this Honourable Tribunal, whereby the appellant was re-instated into service. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

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

- 1- That the appellant was initially appointed as C.T Teacher (BPS-15) after fulfilling all the legal and codal formalities.
- 2- That after appointment, the appellant started performing his duties in the concerned school with zeal and zest.

- 3- That the service book of the appellant is also been prepared by the respondents and proper entry regarding the appointment of the appellant has been made by the respondents in the said service book of the appellant. That astonishingly right from appointment the salaries of the appellant has been with held by the respondents without assigning any reason and clear justification.
- 4- That the appellant while performing his duties, the respondents astonishingly issued the termination order dated 11/12/2015 whereby the services of the appellant has been terminated with retrospective effect without conducting regular inquiry and without assigning any reason/clear justification, that feeling aggrieved from the said impugned order, the appellant filed departmental appeal followed by Service Appeal No 298/2016 before this Honourable Tribunal, which was allowed in favour of the appellant and the termination order dated 11/12/2015 was set aside through judgment dated 31/05/2018 and the appellant was re-instated with immediate effect. Copy of the judgment dated 31/05/2018 of this Honourable Tribunal is attached as annexure.....**A**
- 5- That in pursuance to the ibid judgment, the respondents issued the impugned order dated 22/11/2018, whereby the appellant has been re-instated, but with the immediate effect instead of with effect from 31/05/2018 from the date when the service appeal of the appellant was allowed. Copy of the order dated 22/11/2018 is attached as annexure.....**B**
- 6- That the respondent department filed CPLA No 692-P/2018 before the august Supreme Court of Pakistan, challenging the judgment dated 22/11/2018 of this Honourable Tribunal, but the same has been dismissed vide order dated 06/10/2022. Copy of the judgment of Supreme Court is attached as annexure.....**C**
- 7- That whereafter the respondent department through a corrigendum order dated 23/06/2023, the conditional order of the appellant has declared as permanent and the unconditional re-instatement order of the appellant was withdrawn by the respondents. Copy of corrigendum is attached as annexure.....**D**
- 8- That the appellant feeling aggrieved from the impugned order dated 22/11/2018 filed Departmental appeal before the respondent No.2 but no reply has been received so far.

Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure..... E

GROUND:

- A- That the impugned order dated 22/11/2018 issued by the respondents is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be rectified/modified.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondent Department acted in arbitrary and malafide manner while issuing the impugned order dated 22/11/2018.
- D- That the appellant has been re-instated in the light of the judgment of this Honourable Tribunal dated 31/05/2018, but the respondents issued the impugned re-instatement order dated 22/11/2018 with immediate effect instead with effect from the date of the judgment.
- E- That the impugned order dated 22/11/2018 is also violative of the Article 38 (e) of the Constitution of Islamic Republic of Pakistan, 1973.
- F- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 23-10-23

APPELLANT

AAQIB ZAMAN

THROUGH:

**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

-4-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. _____/2023

AAQIB ZAMAN

**VS THE DIRECTOR ELEMENTARY &
SECONDARY EDUCATION
& OTHERS**

AFFIDAVIT

I, Mr. Aaqib Zaman, C.T (BPS-15), Govt: High School Makhizai, District Lower Kurram, do hereby solemnly affirm that the contents of this Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.


DEPONENT

"A" -5-

Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 298/2016

Date of Institution ... 28.03.2016

Date of Decision ... 31.05.2018 ✓

Mr. Wahid Zaman Ex: CT, Kurram Agency.

Appellant

Versus

1. The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Peshawar.
2. The Director of Education FATA, FATA Secretariat Warsak Road Peshawar.
3. The Additional Agency Education Officer, Lower and Central Kurram Agency at Sadda.
4. The Agency Account Officer, Kurram Agency.

Respondents

JUDGMENT

31.05.2018

MUHAMMAD HAMID MUGHAL, MEMBER: - Learned

counsel for the appellants and Mr. Kabir Ullah Khattak, Additional Advocate General for the respondents present.

2. This single/common judgment shall dispose of the above captioned Appeal filed by (1) Wahid Zaman (Ex. CT) as well as (2) Service appeal No.294/2016 filed by Muhammad Siddique (Ex. CT), (3) Service appeal bearing No.299/2016 filed by Muhammad Saeed (Ex. CT), (4) Service appeal bearing No. 300/2016 filed by Aqib Zaman (Ex. CT), (5) Service appeal bearing No.302/2016 filed by Latcef Hussain (Ex. CT), being identical in nature.

ATTESTED

DEAN
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

3. The appellants (Ex-CTs), have filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 11.12.2015 whereby the appellants were terminated w.c.f the date of their appointments.

4. Learned counsel for the appellants argued that the respondent No.3 through advertisement published in the newspaper advertised various posts in Education Department Kurram Agency including the posts of CT and the appellant having the requisite qualification for the posts of CT applied for the same; that after participation in the test and interview the appellants were declared successful in the selection process and consequently the appellants were offered the said post through issuance of appointment order. Further argued that in response to the appointment of the appellants they started performing their duties at the stations/schools concerned. Further argued that astonishingly the respondent No. 3 issued the impugned order dated 11.12.2015 whereby the services of the appellants were terminated with retrospective effect. Further argued that the appellants have not been treated in accordance with law. Further argued that the appellants were appointed in the light of Appointment, Promotion & Transfer Rules. Further argued that the appellants were terminated without any regular inquiry and issuance of show cause notice. Further argued that no chance of personal hearing was given to the appellants before the issuance of impugned order. Learned counsel for the appellants strenuously argued that the impugned order is against the law, facts and norms of natural justice.

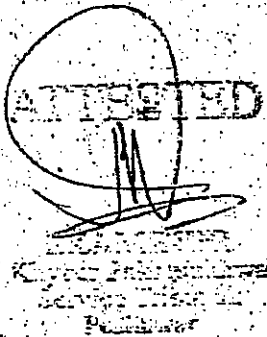
ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

hence liable to be set aside.

5. As against that learned Additional Advocate General while opposing the present appeal argued that the respondent department inquired the anomalies carried out in the recruitment process in Kurram Agency and for that purpose constituted oversight committee to trace out illegal appointees; that the committee submitted its report and thereby clearly picked out those candidates who had applied through fake and bogus degrees and were appointed illegally.

6. Arguments heard. File perused.

7. It is not disputed that the posts of C.T were advertised through advertisement in the newspaper and that the appellants having been fully qualified and eligible to apply for the same, participated in the recruitment process. Perusal of the impugned order dated 11.12.2015 would show that the appellants were terminated not for the reason that they were not eligible or duly qualified for posts of C.T rather their services were terminated simply on the ground that appointments of appellants Wahid Zaman (Ex. CT), Muhammad Siddique (Ex. CT), Muhammad Saeed (Ex. CT) and Aqib Zaman (Ex. CT) were found in excess to Sub Divisional quota and appellant Lateef Hussain (Ex. CT) is domicile holder of upper Kurram. In the written reply submitted by the respondent department it has not been explained that indeed for the posts of C.T there was a Sub Divisional quota, similarly in the written reply there is no mention of number of vacant posts of C.T



in each Sub Division neither the total number of candidates posted against the posts of C.T in each Sub Division was given. It may also be mentioned that in the advertisement available on file it was simply mentioned that the candidate should be the permanent resident of Kurram Agency hence no distinction of upper Kurram or lower Kurram was there in the advertisement. Similarly the respondent department has not furnished any report of the committee declaring the appointments of the appellants as illegal. During the course of arguments learned Additional Advocate General failed to bring to the notice of this Tribunal any record/report justifying the issuance of the impugned order.

78-
-8-

8. In the light of above discussion this Tribunal is constrained to issue direction to the respondent department to adjust/reinstate the appellants at the posts C.T with immediate effect without back benefits. The present service appeals bearing No.298/2016, 294/2016, 299/2016, 300/2016 and 302/2016 are accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room after its completion.

Certified true copy
 Signature
 Additional Advocate General
 Kurram Agency

Signature
 Ahmed Hassan
 Member

Signature
 Muhammad Hamid Mughal
 Member

Date of Presentation of Petition 7-6-18
 Number of Pages 2400
 Copying Fee 14
 Urgent 2
 Total 16
 Name of Copyist Haris
 Date of Completion 7-6-18
 Date of Delivery of Copy 7-6-18



"B"

- 1 -

- 9 -

Add: District Education Office
Lower & Central Kurram Sadda
Phone No 0926-520674
No. _____/Edu. Dated ____/____/2018
Email: educationssadda@gmail.com

NOTIFICATION.

Consequent upon the approval of Director Elementary & Secondary Education of Khyber Pakhtunkhwa, Peshawar No 10024/Lit:II dated Peshawar the 29-10-2018 and Judgment of Khyber Pakhtunkhwa Service Tribunal, Peshawar Judicial Complex in Execution No 294/18 in Service Appeal No 300/2016 MR. Aqib Zaman CT is hereby conditionally reinstated without back benefit at GIS Makhzal Lower Kurram with immediate effect subject to final decision filed against the impugned in supreme Court of Pakistan subject to provision of his providing surety on judicial stamp paper in case the CPLA turned out to be in favour of the department the amount if any paid to the petitioner will be recovered in cash or coin.

Terms Conditions.

1. The reinstatement order and release of running pay will only be effective on furnishing surety on judicial stamp papers by petitioner.
2. If they failed to take over charge within 15 days, his appointment will automatically be considered as cancelled.
3. Charge report should be submitted to this office.

Add: District Education Officer
Lower & Central Kurram Sadda

No. 6626-30/Edu Dated 22/11/2018

Copy for information to the -

1. Director of Education NMD Districts Peshawar
2. Deputy Commissioner Kurram.
3. Asstt: DEO Local Office.
4. Official Concerned.
5. Office file.

Add: District Education Officer
Lower & Central Kurram Sadda

Attested
Jafar
Head Master
G.H.S. Ehsan Ibrahim
Distt: Kurram

"C" -10-

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE GULZAR AHMED, H.C.J.
MR. JUSTICE FAISAL ARAB
MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITION NO 689-P TO 693-P OF 2018

(Against the judgment dated 31.05.2018 of the
KPK Service Tribunal, Peshawar passed in
Service Appeal No.298/2016, 299/2016,
300/2016 & 302/2016)

Additional Chief Secretary FATA, FATA Secretariat, Warsat Road,
Peshawar and others

...Petitioner(s)
(In all cases)

VERSUS

Muhammad Siddique	-	In C.P.689-P/2018
Wahid Zaman		In C.P.690-P/2018
Muhammad Saeed		In C.P.691-P/2018
Aaqib Zaman		In C.P.692-P/2018
Lateef Hussain		In C.P.693-P/2018

...Respondent(s)

For the Petitioner(s): Barrister Qasim Wadood, Addl.A.G. KPK
Mian Saadullah Jandoli, AOR

For the Respondents: Not represented

Date of hearing: 06.10.2020

ORDER

GULZAR AHMED, C.J.- Civil Petitions No.689-P to
691-P/2018 are barred by 35 and Civil Petitions No.692-P and
693 P/2018 are barred by 61 days. The applications for
condonation of delay have been filed. The reasons assigned in the
same are late supply of documents, process of completion of
attested copies of the impugned judgment and lengthy
correspondence. Such reasons are not accepted by this Court as
sufficient cause for condoning the delay. Further, each day's delay
has not been explained in the applications and no affidavit of

ATTESTED

Assistant Registrar
Supreme Court of Pakistan
Peshawar

IN THE SUPREME COURT OF PAKISTAN

(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE GULZAR AHMED, HCJ

MR. JUSTICE FAISAL ARAB

MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITION NO.689-P TO 693-P OF 2018

(Against the judgment dated 31.05.2018 of the KPK Service Tribunal, Peshawar passed in Service Appeal No.298/2016, 299/2016, 300/2016 & 302/2016)

Additional Chief Secretary FATA, FATA Secretariat, Warsak Road,
Peshawar and others **...Petitioners)**
(in all cases)

VERSUS

Muhammad Siddique	In C.P.689-P/2018
Wahid Zaman	In C.P.690-P/2018
Muhammad Saeed	In CP. 691-P/2018
Aqib Zaman	In C.P.692-P/2018
Lateef Hussain	In C.P.693-P/2018

...Respondents)

For the Petitioner(s) Barrister Qasim Wadud, Addl AG KPK
Mian Saadullah Jandoli, AOR

For the Respondents Not represented

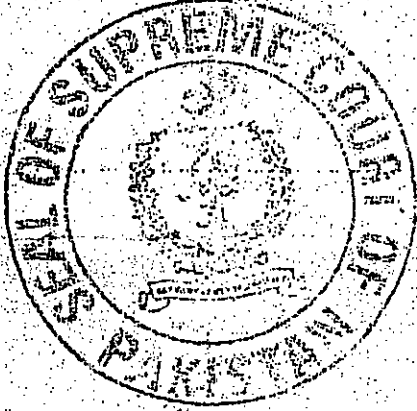
Date of hearing: 06.10.2020

ORDER

GULZAR AHMED, CJ:- Civil Petitions No.689-P/2018 to 591-P/2018 are barred by 35 and Civil Petition No.692-P and 693 P/2018 are barred by 61 days. The applications for condonation of delay have been filed. The reasons assigned in the same are late supply of documents, process of completion of attested copies of the impugned judgment and lengthy correspondence. Such reasons are not accepted by this Court an sufficient casus condoning the delay. Further each day's delay has not been explained in the applications and no affidavit of

official of petitioners has been filed except that of an AOR. The applications thus merit no consideration. The same are, therefore, dismissed with the result that the main petitions are dismissed as time barred.

Sd- Gulzar Ahmed, HCJ
Sd- Faisal Arab, J
Sd- Ijaz ul Ahsan, J



Certified to be a true copy

Assistant Registrar
Supreme Court of Pakistan
Peshawar.

15/10/20

Peshawar, the
6th of October, 2020
Not Approved For Reporting
Waqas Naseer

Waqas Naseer
7/10/20

Official of petitioners has been filed except that an AOR. The applications thus merit no consideration. The same are therefore, dismissed with the result that the main petitions are dismissed as time barred.

Sd- Gulzar Ahmed, HCJ
Sd- Faisal Arab, J
Sd- Ijaz Ul Ahsan, J

Peshawar, the
6th of October, 2020
Not Approved for Reporting.



OFFICE OF THE DISTRICT EDUCATION OFFICER

KURRAM SADDA

Email Address: dydc@kksadda@gmail.com

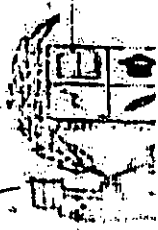
Phone No. 0926-520674

File No. 1979-87

Dated Sudd. 23, 6, 17023

"D"

-12-



CORRIGENDUM

In pursuance of this office Additional Agency Education Officer Lowe and Central Kurram No. 6621-25 and Endst No. 6626-30 dated 22/11/2018. Mr Muhammad Saeed CT and Mr. Aqib Zaman CT were reinstated conditionally in light of Service Tribunal appeal No. 300/2016.

Now in light of Khyber Pakhtunkhawa service Peshawar in execution petition No 1212/2023 case titled Muhammad Aqib Zaman CT Kurram vs Govt of Khyber Pakhtunkhawa, the conditional of the above mentioned teachers are hereby withdrawn, and declared as unconditional i.e permanent *permanents*

~~District Education Officer
Kurram at Sadda~~

Endst: Even No. & Date

Copy of the above is forwarded to the: -

1. Director, Elementary & Secondary Education Department, G-1 Road, Peshawar
2. Assistant Director (Lit-II) Khyber Pakhtunkhawa, Peshawar.
3. Section Officer (Lit-II) E&SED Khyber Pakhtunkhawa, Peshawar.
4. PA to Director (E&SED) Peshawar.
5. Deputy Commissioner District Kurram.
6. District Account Officer, District Kurram.
7. Master file.

~~District Education Officer
Kurram at Sadda~~

NEC -13-

To

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Through Proper Channel

Subject:- DEPARTMENTAL APPEAL

Respected Sir,

- 1- That the appellant was initially appointed as C.T Teacher (BPS-15) after fulfilling all the legal and codal formalities and after appointment, the appellant started performing his duties in the concerned school with zeal and zest.
- 2- That the service book of the appellant is also been prepared by the department and proper entry regarding the appointment of the appellant has been made by the department in the said service book of the appellant. That astonishingly right from appointment the salaries of the appellant has been with held by the department without assigning any reason and clear justification.
- 3- That the appellant while performing his duties, the department astonishingly issued the termination order dated 11/12/2015 whereby the services of the appellant has been terminated with retrospective effect without conducting regular inquiry and without assigning any reason/clear justification.
- 4- That feeling aggrieved form the said impugned order, the appellant filed departmental appeal followed by Service Appeal No 298/2016 before this Honourable Tribunal, which was allowed in favour of the appellant and the termination order dated 11/12/2015 was set aside through judgment dated 31/05/2018 and the appellant was re-instated with immediate effect.
- 5- That in pursuance to the ibid judgment, the department issued the impugned order dated 22/11/2018, whereby the appellant has been re-instated, but with the immediate effect instead of with effect from 31/05/2018 from the date when the service appeal of the appellant was allowed.
- 6- That the respondent department filed CPLA No 692-P/2018 before the august Supreme Court of Pakistan, challenging the judgment dated 22/11/2018 of this Honourable Tribunal, but the same has been dismissed vide order dated 06/10/2022.

- 7- That whereafter the respondent department through a corrigendum order dated 23/06/2023, the conditional order of the appellant has declared as permanent and the unconditional re-instatement order of the appellant was withdrawn by the respondents.
- 8- That the impugned order dated 22/11/2018 issued by the department is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- 9- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- 10- That the respondent Department acted in arbitrary and mala fide manner while issuing the impugned order dated 22/11/2018 against the appellant.
- 11- That the appellant has been re-instated in the light of the judgment of this Honourable Tribunal dated 31/05/2018, but the respondents issued the impugned re-instatement order dated 22/11/2018 with immediate effect instead with effect from the date of the judgment.
- 12- That the impugned order dated 22/11/2018 is also violative of the Article 38 (e) of the Constitution of Islamic Republic of Pakistan, 1973.

It is therefore most humbly prayed that the appeal of the appellant may be accepted.

Dated 18.07.2023

APPELLANT

AAQIB ZAMAN
CT (BPS-15)

Govt: High School Makhizai,
Lower Kurram

15-
AB-

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL No /2023

Aqib Zaman

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Director of roads.

(RESPONDENT)
(DEFENDANT)

I/we Aqib Zaman

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

Dated. / /202



CLIENT

ACCEPTED


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT


WALEED ADNAN


UMAR FAROOQ MOHMAND


MUHAMMAD AYUB


MAHMOOD JAN
ADVOCATES

&

OFFICE:

Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)