


16.08.2016

Counsel for the appellant and Mr. Zahoor Alam, Assistant
alongwith Mr. Muhammad Siddique Sr.GP for the respondents
present. Rejoinder submitted. Counsel for the appellant seeks
adjournment. Adjourned for final hearing before D.B on
16.1.2017 at camp court, Abbottabad.



Member

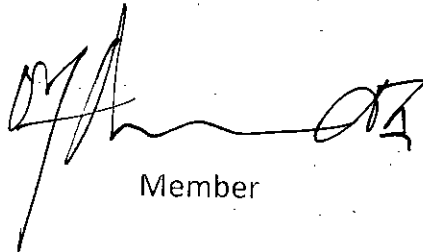


Chairman
Camp court, A/Abad

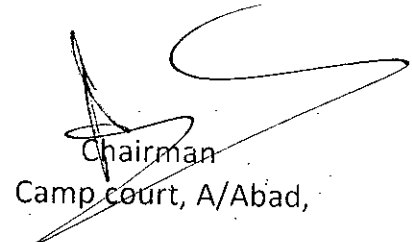
17.01.2017

Appellant with counsel and Ms. Shazia Mughal,
Government Pleader alongwith Zahoor Alam, Assistant for the
respondents present. Arguments heard. Record perused.

Vide our detailed judgment of to-day placed in
connected service appeal No. 1151/2014 titled Shahid Akram
Khan Versus Government of Khyber Pakhtunkhwa through
Secretary, E&SE Peshawar and others, we accept the instant
appeal also as per detailed judgment. Parties are left to bear
their own costs. File be consigned to the record room.



Member



Chairman
Camp court, A/Abad,

ANNOUNCED
17.01.2017

20.1.2016

Appellant in person, Mr.Zahoor Alam, Assistant alongwith Mr. Muhammad Saddique, Sr.G.P for official respondents No.1 to 3 and private respondents No.27, 37, 41, 50, 55 and 70 in person present. Written reply on behalf of official respondents No.1 to 3 submitted. Undertaking by private respondents present in Court today submitted according to which they rely on the written statement submitted by the official respondents. Remaining private respondents are not in attendance despite notice. Proceeded ex-parte. The appeal is assigned to D.B for rejoinder and final hearing for 18.7.2016 at Camp Court A/Abad.


Chairman
Camp Court A/Abad

18.07.2016

Counsel for the appellant and Mr. Muhammad Siddique, Sr.GP for the official respondents present. Learned counsel for the appellant seeks adjournment as identical appeal No. 821/2014 has been fixed for arguments on 16.08.2016.

Mr. Faridullah private respondent No. 31 has also submitted application for setting aside ex-parte proceedings against him and relies on the written reply already submitted by the official respondents. Mr. Waliur Rahman Private respondent No. 43 also appeared before the court and requested for setting aside ex-parte proceedings against him. He also relies on the written reply of the official respondents. As such ex-parte proceedings against both private respondents No. 31 and 43 are set aside. They are also allowed to rely on the written statement submitted by official respondents.

To come up for rejoinder and final hearing before the D.B on 16.08.2016 alongwith the afore-stated connected appeal at camp court, Abbottabad.


Member


Chairman
Camp court, A/Abad,

BEFORE THE INSPECTOR GENERAL OF POLICE KPK PESHAWAR.

- 1:-Sajjad Anwar S/o Safeer Ahmed (Senior Clark DPO office Kohat)
- 2:-Shafaqat Hayat S/o Mohammad Hayat (Senior Clark DIG office Kohat)
- 3.Shah Farooq S/o Ameer ud Din(Senior Clark SP ,Office FRP Kohat.)
- 4:-Dildar Hassan S/o Noor Akbar (Senior Clark DIG office Kohat)
- 5:-Muhammad Nasir S/o Nazir Ahmed (Senior Clark CTD HQ Peshawar)
- 6:- Illahm ullah S/o Wazir Muhammad (Senior Clark DPO Office Charsada)
- 7:-Javed Alii S/o Sharif Gul (Senior Clark DPO office Charsada)
- 8:-Ishtiaq Hussan S/o Hassan Gul (Senior Clark DPO office Charsada)
- 9:-Tehsin ullah S/o Ameer Khan (Senior Clark DIG office Charsada)
- 10:-Taj Muhammad S/o Mehar Mohammad (Senior Clark SP Investigation office Nowshera)
- 11:-Muqrab Alam S/o Abdul Khaliq (Senior Clark DPO office Swabi)
- 12:- Muhammad Naeem S/o Asmat ullah (Senior Clark DPO office Mardan)
- 13:-Muhammad Humayoun S/o (Senior Clark DIG Office Mardan)
- 14:-Ali Asghar (CPO) office Peshawar.

(Appellant)

Sub:- DEPARTMENTAL APPEAL AGAINST THE IMPUGNED LETTER /ORDER DATED 26-07-2016 VIDE No 4979/E-V PESHAWAR IN WHICH A LETTER TO SECRETARY PSC FOR THE RECRUITMENT OF ASSISTANT THROUGH PUBLIC SERVICE COMMISSION KPK PESHAWAR WITHOUT ANY LAWFUL AUTHORITY.THE APPELLANT WHO ARE SERVING AND ON SENIORITY BASIS THEY HAVE TO BE PROMOTED ON THE ADVERTISED POST ADVERTISEMENT No 04/2016 AT SERIAL NO 44-45-&46.

Pray:

In view of above submission it is requested, by accepting of instant appeal the impugned order/letter and advertisement for the posts at serial No-44-45-&46 may be set aside and the present appellant may please promoted on the vacant advertised post as per their 50% promotion quota .

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellants on the following grounds:-

P-19

SC to

Asst. 16 BPS

Revised P 6

11.2.2015

Waqar Ali


S.No 3 while
APPL at S.No.5

20.10.2015

Counsel for the appellant and Mr.Zahoor Alam, Assistant alongwith Mr.Muhammad Tahir Aurangzeb, G.P for respondents present. Learned counsel for the appellant argued that the appellant was initially appointed as Projectionist (BPS-8) in Education Department in the year 1994. That he became surplus and later on adjusted as Senior Clerk in Education Department vide notification dated 1.7.2001. That vide impugned order dated 28.5.2014 other employees serving as Senior Clerks were promoted as Assistant while appellant ignored and as such constrained to prefer departmental appeal on 26.6.2015 which was not responded and hence the instant service appeal on 2.10.2014.

Learned G.P argued that the appellant was not entitled to promotion as his adjustment was to the extent of protection of his pay.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 20.01.2016 before S.B at Camp Court A/Abad.


Chairman
Camp Court A/Abad

Appellant Deposited
Security & Process Fee




19.08.2015

Appellant in person and Mr. Muhammad Aurangzeb, GP for official respondents present. Counsel for the appellant is not in attendance. Requested for adjournment. Adjourned to 15.09.2015 for preliminary hearing before S.B at camp court A/Abad.


Chairman
Camp Court Abbottabad

15.9.2015

Counsel for the appellant and Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Learned counsel for the appellant requested for adjournment as he has not prepared the case for arguments. Adjourned to 20.10.2015 for preliminary hearing before S.B at Camp Court A/Abad.


Chairman
Camp Court A/Abad

4 18.3.2015

Appellant in person present. Due to strike of the Bar requested for adjournment. Allowed. To come up for preliminary hearing on 20.4.2015 before S.B at camp court A/Abad.


Chairman
Camp Court A/Abad

5 20.4.2015

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was to be placed at the top of the seniority list meant for Senior Clerks (BPS-7) as per approved policy but he was not placed in the said seniority list when the posts were upgraded to BPS-9 and junior to him were promoted to the post of Assistant in BPS-14 vide Notification dated 28.5.2014. That the appellant preferred departmental appeal against the same on 26.6.2014 whereafter the service appeal was preferred on 19.8.2014 which was returned and then resubmitted on 2.10.2014.

Let pre-admission notice be issued to the official respondents for 18.6.2015 at camp court A/Abad.


Chairman
Camp Court A/Abad

6 18.6.2015




Appellant in person and Mr. Zahoor Alam, Assistant for official respondents No. 1 to 3 alongwith Mr. Muhammad Tahir Aurangzeb, GP present. Appellant submitted application for deletion the name of respondent No. 4 from the panel of respondents. Application is accepted. The name of respondent No. 4 is deleted from the panel of respondents. Entry be made accordingly. To come up for preliminary hearing on 19.8.2015 before S.B at Camp Court A/Abad.


Chairman
Camp Court Abbottabad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1210 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02/10/2014	<p>The appeal of Mr. Shahid Akram Khan resubmitted today by Mr. Muhammad Ali Khan Jadoon Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	17-10-14	<p>This case is entrusted to Touring Bench Abbottabad for preliminary hearing to be put up there on <u>16-3-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	16.3.2015	<p>Counsel for the appellant present.</p> <p>Learned counsel for the appellant requested for adjournment which is granted. to come up for preliminary hearing on 18.3.2015.</p> <p style="text-align: right;"> Chairman Camp Court A/Abad</p>


Appellant has impugned two separate orders dated 31.3.2014 & 28.5.2014 against different cause of actions. He also preferred two separate departmental appeals against the said orders.

Therefore, the appeal is returned to the counsel for the appellant with the observations that the appellant is required to file two separate service appeals against each order ^{under the law} and also to remove the following deficiencies.

- 1- Addresses of respondents No. 4 to 70 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Annexures of the appeal may be attested.
- 3- 72 more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1230 /S.T,


Dt. 20/8 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Ali Khan Jadoon Adv.
High Court Abbottabad.

Respected Registrar (sb)

Undersigned received registered envelope on dated 28/08/2014. Hence, as per direction objection pass, two separate appeals, ~~72~~ 71 sets copies of appeal, along with attested annexures are resubmitted as desired. Please.


Muhammad Ali Khan Jadoon
ADVOCATE HIGH COURT
EX. CIVIL JUDGE CUM JUDICIAL
MAGISTRATE 1ST CLASS
OFFICE NO: 53 NEW LAWYERS
PLAZA, ABBOTTABAD.

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA, PESHAWAR

Service Appeal No. 12/10 /2014

Shahid Akram Khan Senior Clerk District Education Officer (Female),
Abbottabad.

...APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary
Education Civil Secretariat, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

INDEX

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3.	Copy of appointment order	14	"A"
4.	Copy of notification No. 3901-3920	15	"B"
5.	Copy of notification	16	"C"
6.	Copy of the notification	17 to 21	"D"
7.	Copy of the Departmental appeals, receipts	22-25	"E" & "E-1"
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Through

Dated: _____/2014

...APPELLANT

(Muhammad Ali Khan Jadoon)
Advocate High Court, Abbottabad

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA, PESHAWAR.

Service Appeal No. 1210 /2014

Shahid Akram Khan Senior Clerk District Education Officer (Female),
Abbottabad.

...APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Civil Secretariat, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. Director Curriculum & Teacher Education, Abbottabad.
- ④ 4. Director RITE, Peshawar.
5. Amir Muhammad, presently Assistant office of the DEO (M) Swat.
6. Altaf Hussain, presently Assistant office of the DEO (F) Swat.
7. Muhammad Rashad presently Assistant office of the DEO (F) Swat.
8. Umar Khitab presently Assistant office of the DEO (F) Shangla.
9. Abdur Rab presently Assistant office of the DEO (F) Swat.
10. Banaras Khan presently Assistant office of the DEO (F) Chd.
11. Nisar Ahmad presently Assistant office of the DEO (M) Swat.
12. Rahim Bakhsh presently Assistant office of the DEO (M) Peshawar.
13. Inayat ur Rahman presently Assistant office of the DEO (M) Malakand.
14. Ghulam Muhammad presently Assistant office of the DEO (M) Lakki Marwat.
15. Shah Ramand presently Assistant office of the DEO (M) Dir Lower.
16. Amir Zada presently Assistant office of the DEO (M) Malakand
17. Ali Gohar Khan presently Assistant office of the SDEO (M) Nowshera.
18. Nawaz Khan presently Assistant office of the DEO (F) Nowshera.
19. Fazli Qadeem presently office of the SDEO (M) Buner.
20. Shehzad Gul presently Assistant office of the SDEO (F) Dargai.
21. Hazrat Amin presently Assistant office of the SDEO (M) Swat.
22. Hamid presently Assistant office of the SDEO (F) Lahor Swabi.
23. Rahimullah presently Assistant office of the SDEO (F) Swat.
24. Khush Dil Khan presently Assistant office of the DEO (M) Nowshera.
25. Liaquat Ali presently Assistant office of the DEO (M) Buner.

Report No-4
deleted vide
order sheet No-6
dt: 18-6-15.

Respondent
No- 5 to 26,
28 to 36, 38, 39,
40, 42 to 49,
51 to 54 & 56 to
placed in pubg

19/8/14
placed in pubg
vide order dt:
21-1-16

submitted to the
and filed

22/10/14
Ex-part order against privat respondent No.
31 & 43 set aside vide order dt: 18-2-16.

26. Amir Badshah presently Assistant office of the SDEO (F) Samar Bagh.
27. Fida Hussain presently Assistant office of the DEO (M) Abbottabad.
28. Gul Rehan presently Assistant office of the DEO (F) Swabi.
29. Shehzad Hamayun presently Assistant office of the DE&SE K.P, Peshawar.
30. Jalal ud Din, presently Assistant office of the DEO (M) Shangla.
31. Faridullah Khan, presently Assistant office of the DEO (M) Lakki Marwat
32. Muhammad Tariq, presently Assistant DEO (F) Abbottabad.
33. Naeem Akhtar, presently Assistant office of the SDEO (M) Swabi
34. Sher Bahadur Khan, presently Assistant office of the SDEO (F) Bannu
35. Jahangir Khan, presently Assistant office of the DEO (F) Lakki
36. Fazli Yazdan, presently Assistant office of the GHSS Ghalanai Mohmand Agency (FATA).
37. Muhammad Sarwar, presently Assistant office of the DEO (M) Abbottabad.
38. Zahid Hussain, presently office of the DEO (F) Malakand.
39. Abdur Rahim, presently Assistant.
40. Shazad Akhtar, presently Assistant office of the DEO (F) Abbottabad.
41. Khan Gul Khan, presently Assistant office of the SDEO (F) Abbottabad.
42. Usman Ghani, presently Assistant office of the DEO (F) Shangla .
43. Wali Rehman, presently Assistant office of the GEC (M) Ghoriwala.
44. Zar Khitab, presently Assistant office of the DEO (M) Swabi.
45. Maqbali Khan, presently Assistant office of the DE&SE K.P, Peshawar.
46. Muhammad Zubair, presently Assistant office of the DC&TE, Abbottabad.
47. Mumtaz Hassan, presently Assistant office of the DE&SE K.P, Peshawar.
48. Muhammad Ajmal, presently Assistant office of the SDEO (M) Mansehra.
49. Mohammad Wali, presently Assistant office of the DEO (M) Chitral.
50. Malik Aman, presently Assistant office of the DEO (M) Mansehra.
51. Sawar Khan, presently office of the DEO (M) Swabi.
52. Ismail, presently Assistant office of the DEO (F) Nowshera.
53. Rais Khan, presently Assistant office of the DEO (F) Karak.
54. Dar Ali Khan, presently Assistant office of the DEO (M) Bannu.
55. Muhammad Rafique, presently office of the DC&TE K.P, Abbottabad.
56. Gul Shahin Shah, presently Assistant office of the DEO (M) Karak.
57. Muhammad Anwar, presently Assistant office of the DEO (F) Shangla.
58. Muhammad Ishaq, presently Assistant office of the DE&SE K.P, Peshawar.
59. Shaukat Ali, presently Assistant office of the SDEO (F) Swabi.
60. Lal Zaman, presently Assistant DEO (M) Chitral.
61. Muhammad Pervesh, presently Assistant office of the DEO (F) Shangla.
62. Mohammad Kamil, presently Assistant office of the DEO (M) Swabi.
63. Muhammad Nawaz, presently Assistant office of the SDEO (M) Topi.
64. Ghulam Sabir, presently Assistant office of the SDEO (M) Peshawar.
65. Muhammad Shair, presently Assistant office of the SDEO Dir L
66. Muhammad Razzaq, presently Assistant office of the SDEO (F) Takhti Nasrati Karak.
67. Ghulam Qadir, presently Assistant office of the DEO (M) Kohat.
68. Abdur Rahim, presently Assistant office of the DEO (F) Swabi.
69. Shams ud Din, presently Assistant office of the DEO (F) Chitral.
70. Muhammad Mubarik, presently Assistant office of the DEO (F), Mansehra.

...RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974 TO THE EFFECT THAT DESPITE OF ADJUSTMENT/ ABSORPTION IN ELEMENTARY AND SECONDARY EDUCATION DIRECTORATE OF KHYBER PAKHTUNKHWA AS A SENIOR CLERK ISSUANCE OF IMPUGNED NOTIFICATION NO. 3940 DATED 28/05/2014 ISSUED BY THE RESPONDENT NO. 2 VIDE WHICH THE APPELLANT WAS MADE JUNIOR FROM RESPONDENTS NOS. 5 TO 70 IS ILLEGAL, VOID, AB-INITIO, WITHOUT LAWFUL AUTHORITY AND JUSTIFICATION, MALAFIDE, AGAINST THE RULES AND REGULATION, SURPLUS POOL POLICY OF GOVT. OF KPK AND PRINCIPLES OF NATURAL JUSTICE, HENCE LIABLE TO BE SET ASIDE.

PRAYER: ON ACCEPTANCE OF THE INSTANT APPEAL, IMPUGNED NOTIFICATION NO. 3940-404 DATED 28/05/2014 MAY PLEASE BE DECLARED AS ILLEGAL AND SET ASIDE AND APPELLANT MAY PLEASE BE DIRECTED FOR CORRECTION OF SENIORITY LIST OF SENIOR CLERKS AND APPELLANTS MAY PLEASE BE DECLARED SENIOR FROM RESPONDENTS NOS. 5 TO 70 WITH ALL SERVICE BACK BENEFITS.

Respectfully Sheweth:-

Brief facts giving rise to the instant service appeal are arrayed as under:

1. That, appellants was appointed as a projectionist in BPS-08 and posted at Govt. Elementary College Male Abbottabad vide order No. 1735-40 dated 13/12/1994 by the Directorate of Bureau of Curriculum Development Education Extension Service NWFP, Abbottabad. Copy of appointment order is annexed as Annexure "A".
2. That, in 2001 consequent upon the devolution of the Offices Elementary Colleges and abolition of posts of projectionist, appellant was declared surplus and adjusted as a senior clerk in BPS-08 in Elementary and Secondary Education Department being already serving in original scale of projectionist at that time as per policy in the office of EDO, Kohistan vide notification No. 3901-3920 dated 29/06/2001 by the Director Secondary Education NWFP, Peshawar. Copy of notification No. 3901-3920 is annexed as Annexure "B".

3. That, appellant was transferred to EDO Office Haripur as a Senior Clerk by respondent No. 2 where the pay of the appellant was fixed in BPS-07 instead of BPS-08, however subsequently the posts of the senior clerk were upgraded from BPS-07 to BPS-09 w.e.f. 01/07/2007 and appellant is serving as a senior clerk uptill now.
4. That, later on the appellant was transferred to EDO office Abbottabad as senior clerk vide notification No. 532-36 dated 05/03/2011. Copy of notification is annexed as Annexure "C".
5. That respondent No. 2 with the collusion of respondents No. 5 to 70 each other issued notification No. 3990-4014 dated 28/05/2014 vide which the other senior clerks respondents Nos. 5 to 70 which were junior in service and grade from the appellants were promoted in BPS-16, despite of the fact that at the time of adjustment by the respondent No. 2 appellant was in BPS-08 senior from all those respondents No. 5 to 70, who were in BPS-07 which are promoted vide impugned notification No. 3990 dated 28/05/2014. Copy of the notification is annexed as Annexure "D".

6. That feeling aggrieved from the above said illegal, arbitrary, unlawful notification appellants filed departmental appeal which was not responded till toady. Thereafter appellant also filed the reminder of the departmental appeal which was also not yet responded. Copies of the Departmental appeals, receipts are annexed as Annexure "E" & "E-1".
7. That, feeling aggrieved from promotion order dated 28/05/2014 are illegal, unlawful, against the rules and regulations and principle of natural justice which are liable to be set aside. Hence the appeal is filed before the Honourable Service Tribunal inter-alia on the following grounds;-

GROUND:-

- a. That, once the service of the appellants were adjusted/ absorbed in Elementary and Secondary Education department in 2001 about 14 years ago and upgraded in on the posts of senior clerk cannot be repatriated to the post of projectionist as per the provisions of surplus pool policy of the Govt. of KPK.
- b. That, for all practical purposes appellants are permanently absorbed/ adjusted in the ESE Department and receiving the salary as a senior

clerk. Copy of the pay roll and service book is annexed as Annexure "F".

- c. That, before issuance of the impugned notification neither the appellant was summoned nor any notice was issued to the appellants. Hence, appellants were condemned unheard.
- d. That, after adjustment and absorption of the appellants services in 2001 declaring him as a surplus is illegal, unlawful, and not including in seniority list of senior clerks, against the rules and regulations and principles of natural justice as valuable rights in favour of the appellants accrued, hence impugned notification is illegal and liable to be cancelled.
- e. That, impugned notification against the appellants was issued with malafide just for awarding the seniority to the respondents Nos. 5 to 70.
- f. That, appellant is serving to the best satisfaction of his higher ups and there is no reason to repatriate the appellants services in this respect

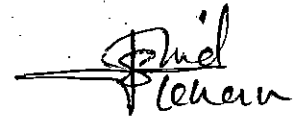
the endorsement, recommendation on the departmental appeal by the Director Education Office, Abbottabad is sufficient for setting aside the impugned notification.

g. That, once services of the appellants converted from projectionist into the services as senior clerk in ESE department on 28/06/2001, and service in this respect is verified on the service book of the appellants, appellants cannot be repatriated back to junior post after lapse of fourteen years.

h. That respondents are bound by the provisions of surplus pool adjustment policy, rules 6(d) of the policy is as under *"In case of adjustment against his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from of being rendered surplus again and becoming junior to his juniors"*.

According to the above mentioned provision neither respondents No. 2 is competent to rendered the services of appellant again surplus which were one adjusted (absorbed) nor can gave seniority to respondents No. 5 to 70 from the appellants. Copy of the surplus policy of the Govt. is annexed as Annexure "G"

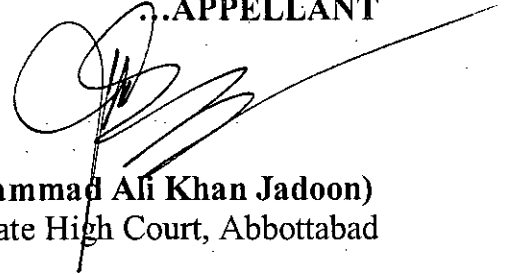
It is, therefore, humbly prayed that on acceptance of the instant appeal, impugned Notification No. 3940-404 dated 28/05/2014 may please be declared as illegal and set aside and appellant may please be directed for correction of seniority list of senior clerks and appellants may please be notified and declared senior from respondents Nos. 5 to 70 with all service back benefits.



...APPELLANT

Through

Dated: _____/2014



(Muhammad Ali Khan Jadoon)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



...APPELLANT

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA, PESHAWAR

Service Appeal No. _____/2014

Shahid Akram Khan Senior Clerk District Education Officer (Female),
Abbottabad.

...APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary
Education Civil Secretariat, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

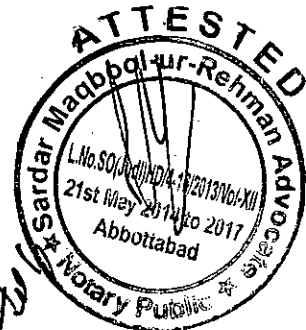
AFFIDAVIT

*I, Shahid Akram Khan Senior Clerk District Education Officer (Female),
Abbottabad., do hereby solemnly affirm and declare on oath that the contents of
forgoing appeal are true and correct to the best of my knowledge and belief and
nothing has been concealed therein from this Honourable Court.*

Shahid Akram Khan
DEPONENT

Identified By:-

(Muhammad Ali Khan Jadoon)
Advocate High Court, Abbottabad



BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA, PESHAWAR

Service Appeal No. _____/2014

Shahid Akram Khan Senior Clerk District Education Officer (Female),
Abbottabad.

...APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary
Education Civil Secretariat, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

ADDRESSES OF THE PARTIES

Respectfully Sheweth: -

Addresses of the parties are as under: -

Shahid Akram Khan Senior Clerk District Education Officer (Female),
Abbottabad.

...APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Civil Secretariat, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. Director Curriculum & Teacher Education, Abbottabad.
4. Director RITE, Peshawar.
5. Amir Muhammad, presently Assistant DEO (M) Swat.
6. Altaf Hussain, presently Assistant DEO (F) Swat.
7. Muhammad Rashad presently Assistant DEO (F) Swat.
8. Umar Khitab presently Assistant DEO (F) Shangla.

9. Abdur Rab presently Assistant DEO (F) Swat.
10. Banaras Khan presently Assistant DEO (F) Chd.
11. Nisar Ahmad presently Assistant DEO (M) Swat.
12. Rahim Bakhsh presently Assistant DEO (M) Peshawar.
13. Inayat ur Rahman presently Assistant DEO (M) Malakand.
14. Ghulam Muhammad presently Assistant DEO (M) Lakki Marwat.
15. Shah Ramand presently Assistant DEO (M) Dir Lower.
16. Amir Zada presently Assistant DEO (M) Malakand
17. Ali Gohar Khan presently Assistant SDEO (M) Nowshera.
18. Nawaz Khan presently Assistant DEO (F) Nowshera.
19. Fazli Qadeem presently SDEO (M) Buner.
20. Shehzad Gul presently Assistant SDEO (F) Dargai.
21. Hazrat Amin presently Assistant SDEO (M) Swat.
22. Hamid presently Assistant SDEO (F) Lahor Swabi.
23. Rahimullah presently Assistant SDEO (F) Swat.
24. Khush Dil Khan presently Assistant DEO (M) Nowshera.
25. Liaqat Ali presently Assistant DEO (M) Buner.
26. Amir Badshah presently Assistant SDEO (F) Samar Bagh.
27. Fida Hussain presently Assistant DEO (M) Abbottabad.
28. Gul Rehan presently Assistant DEO (F) Swabi.
29. Shehzad Hamayun presently Assistant DE&SE K.P, Peshawar.
30. Jalal ud Din, presently Assistant DEO (M) Shangla.
31. Faridullah Khan, presently Assistant DEO (M) Lakki Marwat
32. Muhammad Tariq, presently Assistant DEO (F) Abbottabad.
33. Naeem Akhtar, presently Assistant SDEO (M) Swabi
34. Sher Bahadur Khan, presently Assistant SDEO (F) Bannu
35. Jahangir Khan, presently Assistant DEO (F) Lakki
36. Fazli Yazdan, presently Assistant GHSS Ghalanai Mohmand Agency (FATA).
37. Muhammad Sarwar, presently Assistant DEO (M) Abbottabad.
38. Zahid Hussain, presently DEO (F) Malakand.
39. Abdur Rahim, presently Assistant.
40. Shazad Akhtar, presently Assistant DEO (F) Abbottabad.
41. Khan Gul Khan, presently Assistant SDEO (F) Abbottabad.
42. Usman Ghani, presently Assistant DEO (F) Shangla .
43. Wali Rehman, presently Assistant GEC (M) Ghoriwala.
44. Zar Khitab, presently Assistant DEO (M) Swabi.
45. Maqbal Khan, presently Assistant DE&SE K.P, Peshawar.
46. Muhammad Zubair, presently Assistant DC&TE, Abbottabad.
47. Mumtaz Hassan, presently Assistant DE&SE K.P, Peshawar.
48. Muhammad Ajmal, presently Assistant SDEO (M) Mansehra.
49. Mohammad Wali, presently Assistant DEO (M) Chitral.
50. Malik Aman, presently Assistant DEO (M) Mansehra.
51. Sawar Khan, presently DEO (M) Swabi.
52. Ismail, presently Assistant DEO (F) Nowshehra.
53. Rais Khan, presently Assistant DEO (F) Karak.
54. Dar Ali Khan, presently Assistant DEO (M) Bannu.
55. Muhammad Rafique, presently DC&TE K.P, Abbottabad.
56. Gul Shahin Shah, presently Assistant DEO (M) Karak.
57. Muhammad Anwar, presently Assistant DEO (F) Shangla.
58. Muhammad Ishaq, presently Assistant DE&SE K.P, Peshawar.
59. Shaukat Ali, presently Assistant SDEO (F) Swabi.

60. Lal Zaman, presently Assistant DEO (M) Chitral.
61. Muhammad Pervesh, presently Assistant DEO (F) Shangla.
62. Mohammad Kamil, presently Assistant DEO (M) Swabi.
63. Muhammad Nawaz, presently Assistant SDEO (M) Topi.
64. Ghulam Sabir, presently Assistant SDEO (M) Peshawar.
65. Muhammad Shair, presently Assistant SDEO Dir L
66. Muhammad Razzaq, presently Assistant SDEO (F) Takhti Nasrati Karak.
67. Ghulam Qadir, presently Assistant DEO (M) Kohat.
68. Abdur Rahim, presently Assistant DEO (F) Swabi.
69. Shams ud Din, presently Assistant DEO (F) Chitral.
70. Muhammad Mubarik, presently Assistant DEO (F), Mansehra.

...RESPONDENTS

Qadir Pervash

...APPELLANT

Through

Dated: _____/2014

(Signature)

(Muhammad Ali Khan Jadoon)
Advocate High Court, Abbottabad



FOR:-

1. The Principal, Govt. Elementary College (M) Abbottabad.
2. The District Accounts Officer, Abbottabad.
3. P/S to Minister for Education, WARD, with reference to the order of the Minister dated 8.12.1994.
4. P/S to Minister for Social & Population Welfare, WARD, with reference to his order dated 28.11.1994.
5. P/S to Secretary to Govt. of Punjab, Education Department, with reference to the order dated 28.11.1994.
6. Candidate concerned.

Copy to this:-
 Subject: No. 13735-46/Estt: Punjab/11-AM/11-Engd: Dated 13/12/1994.
 DIRECTOR
 (MINIMUM VARIOUS STAFFS)

1. Principal will check original certificates about examination passed, two years experience certificates and certificates handed over the charge. Entry to this effect will be made on proper page of service book.
 2. Appointment is purely temporary and liable to cancellation at any time without assigning any reason/note.
 3. He will have to produce health and age certificate from the Medical Superintendent concerned.
 4. He will not be given charge of the post if age is below 18 years or exceeds 37 years.
 5. He should take over charge of the post within 14 days of the receipt of the order otherwise appointment order will be considered as cancelled.
 6. If he wishes to resign he will have to serve one month notice or forfeit one month's pay to the Government in lieu of notice.
- In addition to his own work being done he will perform the work as instructed for the time being.

NOTE:-

On the basis of selection by Departmental selection Committee, the candidate has been appointed as Deputy Assistant in charge of the National Institute of Health Services, Abbottabad at Govt. Elementary College (M) Abbottabad.

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL WELFARE, GOVT. OF PUNJAB, LUDHIANA
 DIRECTOR GENERAL OF HEALTH SERVICES
 (M) AM
 14

15

Ann "B" 10

OFFICE OF THE DIRECTOR SECONDARY EDUCATION, N.W.F.P., PESHAWAR.

NOTIFICATION.

Consequent upon the abolition of posts and devolution of powers to the District level, the competent authority in consultation with the Departmental Transitional Team of the Directorate of Secondary Education, N.W.F.P., is pleased to order the adjustment of the following Hostel Supdt, Projectionist & ASK, in their own pay & scales, with their salary protection as admissible under the rules with effect from the 1.7.2001, in the interest of Public Service :-

S.No.	Name & Designation.	Where adjusted as.	Remarks.
1.	M.Rashid Ahmad Hostel Supdt; GEC (H) Barikot (B-9)	O/O S/Clerk EDO Malakand.	A.V.P
2.	Liaqat Ali, Projectionist (B-8) GEC(M)Karak.	S/Clerk EDO Karak.	-do-
3.	Amjad Khan, Projectionist (B-8) GEC (M)Barikot.	S/Clerk O/O EDO Malakand.	-do-
4.	Khudaz Khan, Projectionist B-8 GEC(M)Inservice Peshawar.	S/Clerk O/O EDO Kohat.	-do-
5.	Shahid Akram Projectionist B-8, GEC(M) A.Abad.	S/Clerk O/O EDO Kohistan.	-do-
6.	Abdul Jamil, Projectionist B-8, GEC(M)Mansehra.	S/Clerk O/O EDO Kohistan.	-do-
7.	Shaukat Ali ASK B-5 GEC(M)Barikot.	Jr./Clerk O/O EDO Dir Upper.	-do-
8.	M.Bashir ASK B-5 GEC(M)Mansehra.	J/C O/O EDO Kohistan.	

Note: Charge reports should be sent to all concerned. All the heads of offices concerned are requested to check their documents (S/Book & other relevant papers) and if any irregularity found, be reported to this office, before handing over charge.

(HAFIZ BAHADUR IQIAB)
DIRECTOR SECONDARY EDUCATION, PESHAWAR.
Dt. Peshawar the 22/6/01.

Enlist. No. 3901-3/20

- 1. P.S. to Minister for Education, N.W.F.P., Peshawar.
- 2. P.S. to Secretary Education, N.W.F.P., Peshawar.
- 3. D.Os concerned.
- 4. D.Os concerned.



Attested by
Budget & Accounts Officer
Curriculum & Teacher Edu:
N.W.F.P. Abbottabad

16

Am-C

Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.

Notification:

Consequent upon the approval of the competent authority, Mr. Shahid Akram Senior Clerk office of the FDO (E&SE) Haripur, on return from earned leave (surplus) is hereby adjusted as Senior Clerk at FDO (E&SE) Abbottabad against vacant post on his own pay and BPS in the interest of public service with immediate effect.

Note:

1. Charge report should be submitted to all concerned.
2. No TA/DA etc. is allowed.
3. His seniority will be determined at the bottom of respective seniority list as per rules.

DIRECTRESS
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

532-36

Endst. No. _____ /A-23/MS/Haripur/A-II. Dated Peshawar the 5/3 /2011.

Copy forwarded to the:-

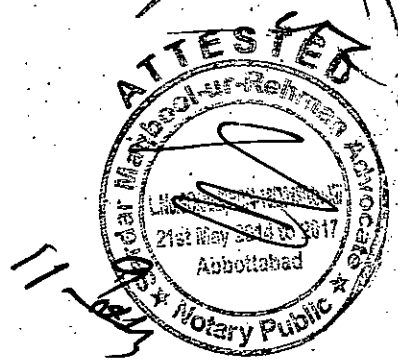
1. Executive District Officer (E&SE) Haripur.
2. Executive District Officer (E&SE) Abbottabad.
3. District Accounts Officers concerned
4. Official concerned.
5. PA to Directress Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

Concerned D/Aesit:

Pl: keep it on record.

[Handwritten signature]

[Handwritten signature]
Director (E&A)



17 Ann "D" (30)

**DIRECTORATE OF ELEMENTARY & SECONDARY EDU: KHYBER PAKHTUNKHWA PESHAWAR.
NOTIFICATION.**

In pursuance of minutes of the appeal scrutiny committee meeting held on 12-03-2014 and consequent upon segregation of powers with effect from 01-01-2013, the services of the following (surplus) Hostel Superintendents/Projectionists/ASK (previously working in the GEC (M&F) now renamed as RITE (M&F) and adjusted in the DEOs offices by the then Director Secondary Education NWFP, Peshawar vide Notification No. 3901-3920 dated 29-06-2001 as a result of devolution of powers in 2001) are placed at the disposal Director Curriculum & Teachers Education (DC&TE) Abbottabad and Director PITE Peshawar respectively for further adjustment against their original posts in the respective RITE (M&F) Colleges in Khyber Pakhtunkhwa with immediate effect:-

S.No	Name & Designation	Adjusted against the post being surplus	Office where adjusted
1.	M. Rashid Ahmad Hostel Supt: GEC (M) Barikot (B-9)	Senior Clerk	DEO Malakand
2.	Liaqat Ali, Projectionist (B-8) GEC (M) Karak.	Senior Clerk	DEO Karak
3.	Amjad Khan, Projectionist (B-8) GEC (M) Barikot.	Senior Clerk	DEO Malakand
4.	Dil Hobaz Khan, Projectionist (B-8) GEC (M) In-service Peshawar.	Senior Clerk	DEO Kohat
5.	Shahid Akram Projectionist (B-8),GEC (M) A.Abad.	Senior Clerk	DEO Kohistan
6.	Abdul Jamil, Projectionist (B-8),GEC (M) Mansehra.	Senior Clerk	DEO Kohistan
7.	Shaukat Ali ASK B-5 GEC (M) Barikot.	Junior Clerk	DEO Dir Upper
8.	M.Bashir ASK B-5 GEC (M) Mansehra.	Junior Clerk	DEO Kohistan

DIRECTOR
ELEMENTARY & SECONDARY EDUCATION,
KHYBER PAKHTUNKHWA, PESHAWAR.

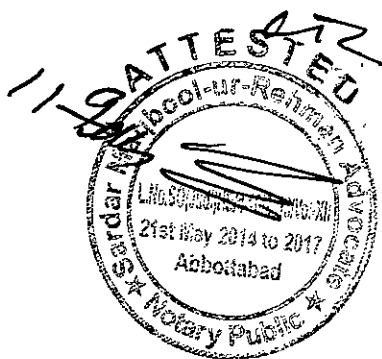
Endst: No. 6026-35/A23/Appeals/Projectionists/DD (F&A)

Dated Peshawar the 31/3/2014

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

1. Director Curriculum & Teachers Education (DC&TE) Abbottabad.
2. Director PITE Peshawar.
3. All DEOs (M&F) in Khyber Pakhtunkhwa with the remarks to intimate the names of other such like Ex-Cadre /surplus staff to this office working against the ministerial posts in their respective office/District for adjustment against their original posts. Moreover, present posting of aforesaid Projectionists shown above if found in correct may be reported to this office immediately for correction accordingly.
4. RITE (M&F) concerned
5. District Account Officers concerned.
6. Section Officer (Primary) Government of Khyber Pakhtunkhwa E&SE Department Peshawar.
7. Mr. Dil Hobaz Khan Projectionist working against S/C post at DEO (M) Kohat w/r to his appeal dated 03-12-2013
8. Officials concerned.
9. PA Director E&SE Khyber Pakhtunkhwa Peshawar.
10. PA Additional Director E&SE Khyber Pakhtunkhwa Peshawar.

Projectionist



Deputy Director (F&A) / 3
(E&SE) Khyber Pakhtunkhwa Peshawar

31/3/14

AD (P&D) DE&SE NWFP

20 18

~~SECRET~~

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA PESHAWAR.

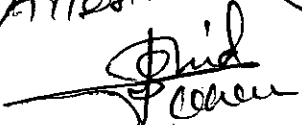
NOTIFICATION

Consequent upon the recommendations of the Departmental Promotion Committee (DPC) in its meeting held on 20-05-2014, the following Senior Clerks (B-09) working in and under the E&SE Deptt: Khyber Pakhtunkhwa /FATA/DCT&E/PITE are hereby promoted/adjusted as Assistant BPS-14 on regular basis in the interest of public service with immediate effect:-

S.#	Name	Address	Adjusted at	Remarks
1	Amir Muhammad S/Clerk	GHSS Shamoza Swat	Assistant DEO (M) Swat	Against vacant post
2	Altaf Hussain S/Clerk	GHSS Fatehpur Swat	Assistant DEO (F) Swat	Against vacant post
3	Muhammad Rashad S/Clerk	GHSS Sijbanr Swat	Assistant DEO (F) Swat	Against vacant post
4	Umar Khitab S/Clerk	DEO (M) Swat	Assistant DEO (F) Shangla	Against vacant post
5	Abdur Rab S/Clerk	GHS No.1 mingora Swat	Assistant DEO (F) Swat	Against vacant post
6	Banaras Khan S/Clerk	GHSS Utmanzai Chd	Assistant DEO (F) Chd	Against vacant post
7	Nisar Ahmad S/Clerk	DEO (M) Swat	Assistant DEO (M) Swat	Against vacant post
8	Rahim Bakhsh S/Clerk	DEO (M) Pesh against Asstt	Assistant DEO (M) Peshawar	Already occupied
9	Inayatur Rahman S/Clerk	GHS Matta swat	Assistant DEO (M) Malakand	Against vacant post
10	Ghulam Muhammad S/Clerk	GHSS Titar khel Lakki	Assistant DEO (M) Lakki Marwat	Against vacant post
11	Shah Ramand S/Clerk	GHSS Khanpur	Assistant DEO (M) Dir Lower	Against vacant post
12	Amir Zada S/Clerk	GHSS Bedara Swat	Assistant DEO (M) Malakand	Against vacant post
13	Ali Gohar Khan S/Clerk	GHSS No.3 Pesh city	Assistant SDEO (M) Nowshera	Against vacant post
14	NAWAZ KHAN S/Clerk	GHSS T/Bhai MRD	Assistant DEO (F) Nowshera	Against vacant post
15	FAZLI QADEEM S/Clerk	DEO (M) Mardan	SDEO (M) Buner	Against vacant post
16	SHEHZAD GUL S/Clerk	GGHSS Hathian, Mardan	Assistant SDEO (F) Dargai	Against vacant post
17	Hazrat Amin S/Clerk	GHS Shagai Saidu Sh Swat	Assistant SDEO (M) Swat	Against vacant post
18	Hamid S/Clerk	GHS No.1 Tordher Swabi	Assistant SDEO (F) Lahor Swabi	Against vacant post
19	Rahimullah S/Clerk	SDEO (F) Swat	Assistant SDEO (F) Swat	Against vacant post
20	Khusdil Khan S/Clerk	GHSS Sufaid Sung Pesh:	Assistant DEO (M) Nowshera	Against vacant post
21	LIAQATA LI S/Clerk	GHSS Manga Mardan	Assistant DEO (M) Buner	Against vacant post
22	Amir Badshah S/Clerk	GHSS Ziam Dara Dir Lower	Assistant SDEO (F) Samar Bagh	Against vacant post
23	Fida Hussain S/Clerk	GHS No. 3 A/Abad	Assistant DEO (M) A/Abad	Against vacant post
24	Gul-Rehan S/Clerk	GHS Swabi	Assistant DEO (F) Swabi	Against vacant post
25	Shehzad Humayum S/Clerk	GHSS Musazai Pesh	Assistant DE&SE K.P Peshawar	Against vacant post

Attested by
[Signature]
Deputy

26	Jalaludin S/Clerk	GHSS Marwat Swat	Assistant DEO (M) Shangla	Against vacant post
27	Farid Ullah Khan S/Clerk	DEO (M) Lakki	Assistant DEO (M) Lakki Marwat	Against vacant post
✓28	Muhammad Tariq S/Clerk	DEO (M) AAbad	Assistant DEO (F) Abbottabad	Against vacant post
29	Naeem Akhtar S/Clerk	GGHSS Lahor Swabi	Assistant SDEO (M) Swabi	Against vacant post
30	Sher Bahadur Khan S/Clerk	SDEO (F) Bannu	Assistant SDEO (F) Bannu	Against vacant post
31	Jahangir Khan S/Clerk	GCMHS Lakki	Assistant DEO (F) Lakki	Against vacant post
32	Fazli Yazdan S/Clerk	GGHSS Shabqadar fort	Assistant GHSS Ghalanai Mohmand Agency (FATA)	Against vacant post
✓33	Muhammad Sarwar S/Clerk	DEO (M) A/Abad	Assistant DEO (M) Abbottabad	Against vacant post
34	Zahid Hussain S/Clerk	DEO (F) Swat	Assistant DEO (F) Malakand	Against vacant post
35	Abdur Rahim S/Clerk	GHS No.2 Jamroad Khyber Agency	Assistant	Service placed at the disposal of DE (FATA) for further adjustment
36✓	Shazad Akhtar S/Clerk	GHSS Lora AAbad	Assistant DEO (F) Abbottabad	Against vacant post
37✓	Khan Gul S/Clerk	DEO (M) AAbad	Assistant SDEO (F) Abbottabad	Against vacant post
38	Usman Ghani S/Clerk	DEO (M) Swat	Assistant DEO (F) Shangla	Against vacant post
39	Wali Rehman S/Clerk	DEO (M) Bannu	Assistant GEC (M) Ghoriwala	Against vacant post
40	Zar Khitab S/Clerk	GHSS Kalu Khan Swabi	Assistant DEO (M) Swabi	Against vacant post
41	Maqbal Khan S/Clerk	GTHSS Gulbahar Peshawar	Assistant DE&SE K.P. Peshawar	Against vacant post
✓42	Muhammad Zubair S/Clerk	RITE (F) A Abad	Assistant DC&TE A/Abad	Against vacant post
43	Mumtaz Hassan S/Clerk	DE&SE K.P.	Assistant DE&SE K.P. Peshawar	Against vacant post
44	Muhammad Ajmal S/Clerk	SDEO (M) Mansehra	Assistant SDEO (M) Mansehra	Against vacant post
45	Mohammad Wali Khan S/Clerk	GHSS Mori lasht chitral	Assistant DEO (M) Chitral	Against vacant post
46	Malik Aman S/Clerk	GHSS Lassan Nawab Mansehra	Assistant DEO (M) Mansehra	Against vacant post
47	SAWAR KHAN S/Clerk	GHS Gujrat Mardan	Assistant DEO (M) Swabi	Against vacant post
48	Ismail S/Clerk	GHSS Daag Pesh	Assistant DEO (F) Nowshera	Against vacant post
49	Rais Khan S/Clerk	DEO (F) Karak	Assistant DEO (F) Karak	Against vacant post
50	Dar Ali Khan S/Clerk	GHSS Hakim Haveed Bannu	Assistant DEO (M) Bannu	Against vacant post
51✓	Muhammad Rafique S/Clerk	GCMHS AAbad	Assistant DCTE K.P. Abbottabad	Against vacant post
52	Gul Shahin Shah S/Clerk	GHSS jehangiri Karak	Assistant DEO (M) Karak	Against vacant post

Attested by


53	Muhammad Anwar S/Clerk	GHSS Madyan Swat	Assistant DEO (F) Shangla	Against vacant post
54	Muhammad Ishaq S/Clerk	GHSS No.3 Pesh city	Assistant DE&SE K.P. Peshawar	Against vacant post
55	Shaukat Ali S/Clerk	DEO (M) Swabi	Assistant SDEO (F) Swabi	Against vacant post
56	Lal Azam S/Clerk	DEO (F) Chitral	Assistant DEO (M) Chitral	Against vacant post
57	Muhd Pervesh S/Clerk	GHSS Charbagh Swat	Assistant DEO (F) Shangla	Against vacant post
58	Mohammad Kamil S/Clerk	DEO (M) Swabi	Assistant DEO (M) Swabi	Against vacant post
59	Muhammad Nawaz S/Clerk	GHSS Shergarh Mardan.	Assistant SDEO (M) Topi	Against vacant post
60	Ghulam Sabir S/Clerk	SDEO (M) Pesh	Assistant SDEO (M) Peshawar	Already occupied
61	Muhammad Shair S/Clerk	DEO (M) Dir Lower	Assistant SDEO (F) Dir L	Against vacant post
62	Muhammad Razzaq S/Clerk	SDEO (F) Takht Nasrati Karak	Assistant SDEO (F) Takhti Nasrati Karak	Against vacant post
63	Ghulam Qadir S/Clerk	DEO (M) Kohat	Assistant DEO (M) Kohat	Against vacant post
64	Abdur Rahim S/Clerk	DEO (F) Swabi	Assistant DEO (F) Swabi	Against vacant post
65	Shams ud Din S/Clerk	DEO (F) Chitral	Assistant DEO (F) Chitral	Against vacant post
66	Muhammad S/Clerk Mubarik	DEO (F) Mansehra	Assistant DEO (F) Mansehra	Against vacant post

CONSEQUENTIAL TRANSFERS.

In Consequent to above, the posting/transfer in respect of following officials are hereby ordered on their own pay & BPS in the interest of public service with immediate effect:-

S.No	Name/Designation	From	To	Remarks
1	Fazli Ghayas Assistant	DE&SE K.P. Peshawar	DEO (F) Nowshera	Against vacant post
2	Aminullah Assistant	DE&SE K.P. Peshawar	DEO (F) Nowshera	Against vacant post
3	Zahoor Alam Assistant (Working against J/S Stenogpher post)	DCTE K.P. Abbottabad	Assistant at DCTE K.P. Abbottabad	Against vacant post
4	Jehanzeb Assistant	DEO (F) Swabi	Assistant SDEO (F) Topi	Against vacant post
5	Qazi Sirajul Haq S/Clerk	DEO (F) Charsadda (under transfer)	GGHSS Utmanzai Charsadda	Against vacant post

Note: - 1. Charge reports should be submitted to all concerned.


DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

~~21~~ 21

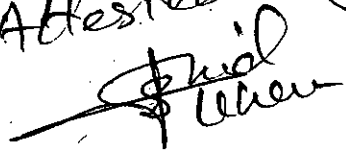
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004

Endst No. 3990-4014/F.No.A-23/MS/Promotion/Asstt:/2014/DD (F&A). Dated Pesh: the 28/05/2014.

1. Copy of the above is forwarded for information and n/action to the:-
2. Accountant General Khyber Pakhtunkhwa Peshawar.
3. Director of Education (FATA) Peshawar.
4. Director Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad.
5. Director PITE Peshawar.
6. Section Officer-I, CM Secretariat Khyber Pakhtunkhwa Peshawar.
7. Section Officer Primary E&SE Department Govt Khyber Pakhtunkhwa.
8. DEOs (M&F) concerned.
9. SDEO (M&F) concerned.
10. Agency Education Officer concerned.
11. District Accounts Officer concerned.
12. Principals concerned.
13. Officers concerned.
14. Cashier (Local Office)
15. M/File.
16. PA to Director (E&SE) Khyber Pakhtunkhwa Peshawar.
17. PA to Additional Director (Estab) Local Directorate


Assistant Director (Admn)
(E&SE) Khyber Pakhtunkhwa Peshawar

28/5/14

Attested by

Abdul Wahid

To

The Director
E&SE Khyber Pakhtunkhwa
Peshawar.

22

Ann "E"

Subject:- NOTIFICATION.

Kindly refer to your Notification bearing Endst:No.3990-4014/F.No.A-23/MS/Promotion/Asstt:/2014/DD (F&A) dated 28-05-2014 (copy attached). I submit my appeal before your good self honor on the following few lines for kind consideration and further necessary action please.

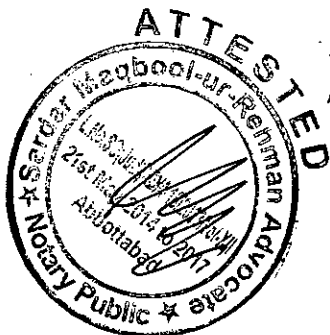
- 1) That I was initially appointed as projectionist and posted at Govt; Elementary College (Male) Abbottabad vide order No.13735 -40 dated 13-12-1994 from Directorate of Bureau of Curriculum Department and Education Extension services NWFP Abbottabad (Copy of the order annexure (A).
- 2) That consequent upon the devaluation of the office of Elementary Colleges & abolition of posts of Projectionist, I was declared/surplus and adjusted as a S/Clerk in BPS-08 being original scale of projectionist at that time as per policy in the office of EDO Kohistan - vide Director Secondary and Education NWFP Peshawar Notification No.3901-3920 dated 29-06-2001 (copy annexure (B)
- 3) According to Sub para (d) of Para-5 "Procedure for adjustment of surplus employees" it has been mentioned that the adjustment against the post lower than the original scale the surplus employee shall be placed at the top of seniority list of that cadre, so as to save the employee being rendered surplus again & becoming junior to his juniors. Since the undersigned down graded from BPS-8 (Projectionist) to BPS-7 as S/Clerk thus should have been included in the Seniority list of S/Clerks for further promotion as Assistant but it has not been done and violated the policy.
- 4) That I had already submitted appeal to your good self in this regard for consideration of my genuine request (copy attached) but no action has so far been taken.

It is therefore requested that my appeal may kindly be consider sympathetically in light of the policy and may be accommodated please.

I shall be very Thank full to you.

Yours sincerely

Shahid Akram Khan
(SHAHID AKRAM KHAN)
S/Clerk Office of the DEO (F)
Abbottabad.



No 4345 dt 26-6-2014

Forwarded in original to the Director (E&SE) Peshawar for kind consideration and further action pl.

26-9-2014

Jamir Akhtar
District Education Officer
(Peshawar) Abbottabad

To

~~23~~ 23
The Director
E&SE Khyber Pakhtunkhwa
Peshawar.

Ann "E" I

Subject:- NOTIFICATION.

Kindly refer to your Notification bearing Endst:No.3990-4014/F.No.A-23/MS/Promotion/Asstt:/2014/DD (F&A) dated 28-05-2014 (copy attached). I submit my appeal before your good self honor on the following few lines for kind consideration and further necessary action please.

- 1) That I was initially appointed as projectionist and posted at Govt; Elementary College (Male) Abbottabad vide order No.13735 -40 dated 13-12-1994 from Directorate of Bureau of Curriculum Department and Education Extension services NWFP Abbottabad (Copy of the order annexure (A).
- 2) That consequent upon the devaluation of the office of Elementary Colleges & abolition of posts of Projectionist, I was declared/surplus and adjusted as a S/Clerk in BPS-08 being original scale of projectionist at that time as per policy in the office of EDO Kohistan vide Director Secondary and Education NWFP Peshawar Notification No.3901-3920 dated 29-06-2001 (copy annexure (B)
- 3) According to Sub para (d) of Para-5 "Procedure for adjustment of surplus employees" it has been mentioned that the adjustment against the post lower than the original scale the surplus employee shall be placed at the top of seniority list of that cadre, so as to save the employee being rendered surplus again & becoming junior to his juniors. Since the undersigned down graded from BPS-8 (Projectionist) to BPS-7 as 'S/Clerk thus should have been included in the Seniority list of S/Clerks for further promotion as Assistant but it has not been done and violated the policy.
- 4) That I had already submitted appeal to your good self in this regard for consideration of my genuine request (copy attached) but no action has so far been taken.

It is therefore requested that my appeal may kindly be consider sympathetically in light of the policy and may be accommodated please.

I shall be very Thank full to you.

Attested by
~~Shahid Akram Khan~~
Shahid Akram Khan

Yours sincerely

~~Shahid Akram Khan~~ 07/8/14
(SHAHID AKRAM KHAN)
S/Clerk Office of the DEO (F)
Abbottabad.

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Small, scattered characters or symbols located at the bottom of the page.

ACCOUNTS PAYROLL REGISTER
For the month of July 2014

0056
Ann-
F
Date: 20.07.2014

AD7173 District Educational Officer (Female) Payroll Section : 003 Section 3

1570 Medical Allowance	1,200.00	4503 MCYC Loan Principal I	685.00-
1577 Housing Subsidy All	300.00	3501 Benevolent Fund	180.00-
1948 Adhoc Allowance 2010	2,150.00	3511 Adtl Group Insurance	7.00-
1970 Adhoc Relief Allow 2	645.00	3604 Group Insurance	67.00-
2138 Adhoc Relief Allow 1	1,548.00	3990 Emp. Edu. Fund KPK	75.00-
2138 5% Adhoc Relief All	1,161.00		
2134 Adhoc Relief Allow-2	774.00		

PAYMENTS 19,467.00 DEDUCTIONS 1,709.00- NET PAY 17,758.00 01.07.2014 31.07.2014
Branch Code: 230301 MAIN BRANCH, ABBOTABAD. National Bank of Pakistan MAIN BRANCH, ABBOTABAD. ABBOTABAD Acctt. No: 6163

00147301 SHAHID AKRAN KHAN Prev Pers No: 12167444793 Desig: SENIOR CLERK (00001273) Grade: 14 NTN: Buckle No.: Gazetted/Non-Gazetted: N
P A Y M E N T S A M O U N T D E D U C T I O N S A M O U N T LOAN/FUND PRINCIPAL REPAID BALANCE

0001 Basic Pay	15,930.00	3609 Income Tax	39.00-
1030 House Rent Allowance	1,476.00		
1110 Convey Allowance 20	2,856.00		
1570 Medical Allowance	1,200.00		
1948 Adhoc Allowance 2010	4,210.00		
1970 Adhoc Relief Allow 2	1,263.00		
2138 Adhoc Relief Allow 1	3,186.00		
2138 5% Adhoc Relief All	2,389.00		
2134 Adhoc Relief Allow-2	1,593.00		
5002 Adjustment House Ren	458.00	3014 GPF Subscription - Rs	1,372.00-
5001 Adj Conveyance Allow	1,221.00	6211 CM KP Fund IDP, S-NW-2	515.00-
5009 Adj. 15% Adhoc Allow	275.00	3501 Benevolent Fund	180.00-
5001 Adj Basic Pay	1,373.00	3604 Group Insurance	115.00-
5998 Adj. Adhoc Relief All	275.00	3990 Emp. Edu. Fund KPK	100.00-

GPF#: EDUAD018303 INCOME TAX 418.32 39.00 42,598.00 380.30

PAYMENTS 37,705.00 DEDUCTIONS 2,321.00- NET PAY 35,384.00 01.07.2014 31.07.2014
Branch Code: 230488 HAWANSHER ATD. National Bank of Pakistan HAWANSHER ATD. ABBOTABAD Acctt. No: SA 00000002528-5

00139715 YASIR ARAFAT Prev Pers No: Desig: SWEEPER (00001416) Grade: 01 NTN: Buckle No.: Gazetted/Non-Gazetted: N
P A Y M E N T S A M O U N T D E D U C T I O N S A M O U N T LOAN/FUND PRINCIPAL REPAID BALANCE

0001 Basic Pay	6,750.00	3001 GPF Subscription - Rs	212.00-
1030 House Rent Allowance	891.00	6211 CM KP Fund IDP, S-NW-2	218.00-
1110 Convey Allowance 20	1,785.00	6501 HBA Loan Principal In	1,040.00-
1570 Medical Allowance	1,200.00	3501 Benevolent Fund	120.00-
1516 Dress/ Uniform Allow	100.00	3511 Adtl Group Insurance	3.00-
1527 Washing Allowance	100.00	3604 Group Insurance	58.00-
1948 Adhoc Allowance 2010	1,935.00	3990 Emp. Edu. Fund KPK	50.00-
1970 Adhoc Relief Allow 2	580.00		
2138 Adhoc Relief Allow 1	1,350.00		
2138 5% Adhoc Relief All	1,012.00		
2134 Adhoc Relief Allow-2	675.00		

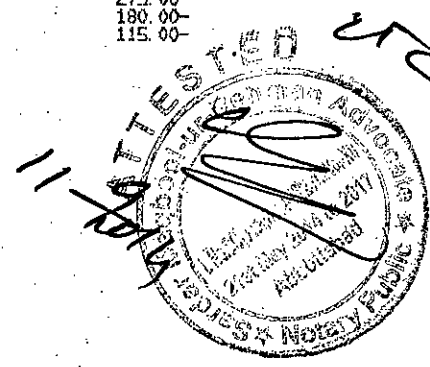
GPF#: House Building Advance 0301 124,800.00 2,080.00 6,200.00 122,720.00

PAYMENTS 16,378.00 DEDUCTIONS 1,701.00- NET PAY 14,677.00 01.07.2014 31.07.2014
Branch Code: 230591 JAMAL BUILDING National Bank of Pakistan JAMAL BUILDING ABBOTABAD Acctt. No: 10148-2

00139944 IFTIKHAR AHMED Prev Pers No: Desig: COMPUTER OPERATOR (00000389) Grade: 12 NTN: Buckle No.: Gazetted/Non-Gazetted: N
P A Y M E N T S A M O U N T D E D U C T I O N S A M O U N T LOAN/FUND PRINCIPAL REPAID BALANCE

0001 Basic Pay	8,500.00	3012 GPF Subscription - Rs	1,160.00-
1030 House Rent Allowance	1,305.00	6211 CM KP Fund IDP, S-NW-2	275.00-
1110 Convey Allowance 20	2,856.00	3501 Benevolent Fund	180.00-
1570 Medical Allowance	1,200.00	3604 Group Insurance	115.00-

GPF#: 24,437.00



1	2	3	4	5	6	7	8
Name of Post	Whether substantive or officiating and whether permanent or temporary	If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive Post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government Servant
		2005				2007	
		OFFICE OF THE ACCOUNTANT GENERAL N.W.F.P. PESHAWAR PAY FIXED IN THE REVISED BASIC PAY SCALES :-				OFFICE OF THE ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA PESHAWAR PAY FIXED IN THE R.B.P.S 2007	
		OF RS. 2555-140-6755(61) AT RS. 2572 P.M.W.E.F. 1-07-2005 With Next Increment on 1-12-2005				OF RS. 3185-190-8859 AT RS. 6225 P.M.W.E.F. 1-07-2007 With Next Increment on 1-12-2007	
		<i>M. Shah</i> Accounts Officer Pay Fixation Party N.W.F.P. Peshawar				<i>M. Shah</i> Accounts Officer Pay Fixation Party Peshawar	
		BPS-7 (2940-160-7740)					
s/clerk							<i>Dr. Taleem</i>
office of BDO	off. / Temp		6140/-			7/2007	
		BPS-9 (3185-190-8895)					
			6225/-			7/2007	<i>Dr. Taleem</i>
Sr. Clerk 50, the EAD Hassan	Sub Post.		6415/-			15/2007	<i>Dr. Taleem</i>
			6415/- 6605			01/2007	
		Attested by <i>Dr. Taleem</i>					
6225/9							
2960/9							
		BPS-9 (3820-230-10720)					
			7730/-			7/2008	<i>Dr. Taleem</i>

Service verified w.e.f 01-07-2002
Roll and other records of this office

9	10	11	12	13		14
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer	Leave		Signature of the head of the office or other attesting officer
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debit, ble to another Government	
				Period	Government to which debit, ble	
2008 OFFICE OF THE ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA PESHAWAR PAY FIXED IN THE ADJ: B.P.S 2008 3820-230-10720 Bp						Service verified w.e.f from 01-12-2000 according to acq: roll & other record kept in this office
Accounts Officer Education Party K Pakhtunkhwa Peshawar						Principal G.B.C (Male) Abbottabad
Next Increment on 1-07-2008 1-12-2008						Consequent upon the abolition of posts & devolution of powers to the Departmental Transition Team of the Directorate of Secy: Educ: NWFP. Mr. Shahid Akbar Khan Project Officer B-8 GELCA Abbottabad is hereby conveyed to the Post of Sr. Clerk on this own pay & grade vide DSE NWFP Peshawar Subst. No. 35 3820-230-29-6-2007
District Officer M. & Edu. & Literacy Haripur						
District Officer M. & Edu. & Literacy Haripur						Service verified w.e.f. 13.4.2002 from The Acq: Roll & other office record.
District Officer M. & Edu. & Literacy Haripur						
District Officer M. & Edu. & Literacy Haripur						T-8: P-53. Drawn by L.S. w.e.f: 1-8-2001 30-4-2002 vide T.No=112 dt: 28-5-2003. Rs=29484/-
District Officer M. & Edu. & Literacy Haripur						
District Officer M. & Edu. & Literacy Haripur						District Officer M. & Edu. & Literacy Haripur
District Officer M. & Edu. & Literacy Haripur						

Consequent upon the abolition of posts & devolution of powers to the Departmental Transition Team of the Directorate of Secy: Educ: NWFP. Mr. Shahid Akbar Khan Project Officer B-8 GELCA Abbottabad is hereby conveyed to the Post of Sr. Clerk on this own pay & grade vide DSE NWFP Peshawar Subst. No. 35 3820-230-29-6-2007

Service verified w.e.f. 13.4.2002 from The Acq: Roll & other office record.

T-8: P-53.
 Drawn by L.S. w.e.f: 1-8-2001
 30-4-2002 vide T.No=112
 dt: 28-5-2003. Rs=29484/-

District Officer
 M. & Edu. & Literacy
 Haripur

~~21~~ 29¹⁰⁰

Ann "G"

Surplus Pool Policy

Policy for declaring government servants as surplus and their subsequent absorption/ adjustment.

I am directed to refer to the subject noted above and to say that the Provincial Government has been pleased to make the following policy for absorption/adjustment of Government Servants declared as surplus in view of the transition of District System and resultant re-structuring of the Government Organizations/Departments etc.

1. POWER WITH REGARD TO THE DECLARATION OF POSTS AS SURPLUS.

The Finance Department in consultation with Department concerned and with the approval of competent authority would decide with regard to the declaration of a particular organization, set up or individual post as redundant or inessential.

2. CREATION OF SURPLUS POOL

There will be a surplus pools cell in the E&AD. After abolition of such posts in the concerned department, duly notified by the Finance Department, equal number of posts in the corresponding basic pay scales would be created in the E&AD for the purpose of drawl of pay and allowances etc by the employees declared surplus as such.

3. IMPLEMENTATION/MONITORING CELL

For the purpose of coordination and to ensure proper and expeditious adjustment/absorption of surplus staff, the Government of NWFP has been pleased to constitute the following committee:-

- a. Additional Secretary(Establishment) E&AD.....Chairman.
- b. Deputy Secretary LG&RD Department.....Member
- c. Deputy Secretary Finance Department.....Member
- d. Deputy Secretary(Establishment) E&AD.....Secretary

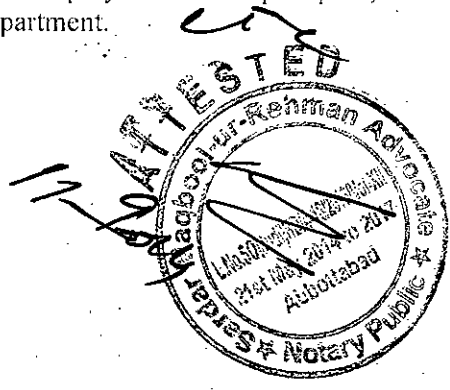
4. CRITERIA FOR DECLARING A GOVERNMENT SERVANT AS SURPLUS AS A RESULT OF ABOLITION OF POST.

Consequent upon the abolition of a post in a particular cadre of a department, the junior most employee in that cadre would be declared as surplus. Such posts should be abolished in the respective departments and created in the surplus pool as indicated in para 2 above for the purpose of drawl of pay and allowances and also for consideration for subsequent adjustment.

5. PROCEDURE FOR ADJUSTMENT OF SURPLUS EMPLOYEES

Notwithstanding anything contained in any other law, rules or regulation to the contrary, for the time being in force, the following procedure for the adjustment of surplus staff would be followed:-

- (a) Before transferring an employee to the surplus pool, he should be given option by the concerned department.



- (i) to proceed on retirement with normal retiring benefits under the existing rules:
- OR
- (ii) to opt for readjustment/absorption against a future vacancy of his status/BPS which may not necessarily be in his original cadre/department.
- (b) Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of the Provincial Government. Those who opt for absorption/re-adjustment, a category-wise seniority list will be caused in the surplus pool for their gradual adjustment against the future vacancies as and when occurred in any of the Government Departments. These adjustments shall be on seniority-cum-fitness basis. For this purpose, the seniority list will be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.
- (c) Adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus pool in the following manner:-
- (i) In case of occurrence of vacancies in their corresponding posts in any Government Department/ Organization, the senior most employee in the surplus pool should be adjusted first.
- (ii) In case of cross cadre adjustment, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.
- (iii) If an employee possesses the basic academic qualification but lacks the professional/technical qualification, he may be adjusted against such post subject to imparting the requisite training.
- (iv) (a) The surplus employees holding such posts which fall to promotion quota in about all the Departments, he shall remain in the surplus pool till the availability of a post in the parent department.
- OR
- (b) Where no equivalent post is available the civil servant may be offered a lower post in such manner, and subject to such conditions, as may be prescribed and where such civil servant is appointed to a lower post the pay being drawn by him in the post immediately preceding his appointment to a lower post shall remain protected.
- (v) ⁸⁴In case an employee already adjusted against a lower post is declared surplus again, he shall regain his original pay scale.
- (vi) ⁸⁵ Surplus employees, who voluntarily opt, may be allowed adjustment in Autonomous/Semi-autonomous bodies with the concurrence of these bodies, where the job is pensionable. The Government will pay pension contribution for the period they rendered regular service under the Government.

*Attested by
Srid
Jahan*

⁸⁴ Sub para c (v) added to para 5 vide circular letter No.SORVI(E&AD)5-1/2005, dated 15.2.2006.

⁸⁵ Sub para c (vi) added to para 5 vide circular letter No.SORVI(E&AD)5-1/2005, dated 31.5.2006.

~~31~~ 31

- (d) If no suitable person is available in the surplus pool to be adjusted against the vacant/revised post, such a post would be filled up by initial recruitment manner after getting clearance from the E&AD.
- (e) ⁸⁶Surplus Staff in BPS-01 to 15 shall not be adjusted in the district other than their district of domicile.
- (f) To facilitate the adjustment of surplus staff, it will be incumbent upon the Administrative Department to take up the case with Finance Department for revival of the essential posts so retrenched as a result of general directive issued by Finance Department from time to time, giving cogent reasons/justification. Against the resultant revival/restoration of the post, the concerned Department will place a requisition on the E&AD for transferring of suitable surplus employee against the said post.
- (g) Unless the surplus employees in Class-IV are fully adjusted/ absorbed against their respective graded posts in various Government Departments/Organizations, the general policy of the Finance Department regarding conversion of BPS-1 & 2 posts to posts in fixed salary @ Rs.2000/- per month for contractual appointed should be restricted to the above extent.

6. FIXATION OF SENIORITY

The inter-se seniority of the surplus employees after their adjustment in various Departments will be determined according to the following principles:-

- (a) In case a surplus employee could be adjusted in the respective cadre of his parent Department he shall regain his original seniority in that cadre.
- (b) In case, however, he is adjusted in his respective cadre but in a Department other than his parent Department, he shall be placed at the bottom of seniority list of that cadre.
- (c) In case of his adjustment against a post in a corresponding basic pay scale with different designation/nomenclature of the post, either in his parent Department or in any other department, he will be placed at the bottom of seniority list.
- (d) ⁸⁷In case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again & becoming junior to his juniors.

✓
✓
Attested by
Prithi
Tikew

⁸⁶ (3) Sub para (c) added to para 5 vide circular letter No.SORVI/E&AD/5-1/2005, dated 19.1.2007.

⁸⁷ Sub para d added to para 6 vide circular letter No. SORVI(E&AD)5-1/2005, dated 15.2.2006

NOTE:

In case the officer/official declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall lose the facility/right of adjustment/absorption and would be required to opt for pre-mature retirement from Government service.

Provided that if he does not fulfill the requisite qualifying service for premature retirement he may be compulsorily retired from service by the competent authority.

7. COMPETENT AUTHORITY TO NOTIFY/ORDER ADJUSTMENT/ABSORPTION.

After the transfer of services of surplus employee to a Department for adjustment/absorption against a vacant/revived post, the Competent Authority to notify/order his absorption/adjustment, shall be the respective appointing authority under the relevant rules for the post.

Provided that the decision of adjustment/absorption of surplus employees by the E&AD shall be binding upon the respective appointing authorities.

(Authority: letter NO.SOR-I(E&AD)I-200/98, Dated 8th June, 2001)

Decision of the meeting of chief secretary with district coordination officers, on the issue of surplus pool.

I am directed to refer to the subject noted above and to say that a meeting was held on 4.8.2001 in the Cabinet Room Civil Secretariat under the Chairman of Chief Secretary, NWFP to discuss the issues relating to adjustment of employees rendered surplus due to restructuring of the Government Departments and Devolution of Power Plan, 2000. The following decisions were taken in the said meeting:-

- i) Administrative Departments may reconsider adjustments already made against the available posts at District level. The guiding principle for reviewing the adjustment would be aimed at avoiding dislocation of the employees to the possible extent.
- ii) The DCOs will maintain the surplus pool of the employees, declared surplus in the District cadres and their subsequent adjustment against the vacant posts (District Cadres). It must be ensured that only the junior most employees in the scale in the cadre be declared surplus. At the stage of adjustment of Class-IV posts, the senior most be adjusted first. However, for the other posts besides seniority, the background of the individual and requisite experience of the posts shall be kept in view. The surplus pool of Divisional cadres be maintained by the DCOs posted at divisional headquarters.

The surplus pool of the employees of the Head Offices be maintained by the Head of the concerned Attached Department. Declaring employees surplus and their subsequent adjustment be made strictly according to the spirit of the policy of the Provincial Government issued vide circular letter No.SORI (S&GAD)1-200/98, dated 8.6.2001.

Attested by

*Prudhviraj
Purwar*

~~33~~ 33

- iv) The surplus pool of the Secretariat be maintained by the Establishment Department in consultation with the Department concerned.
 - v) The salaries of the surplus employees be disbursed through their relevant offices for the time being.
 - vi) It was also felt that the sanctioned staff for the office of DCO and other offices is not sufficient. The ministerial staff has no appropriate tiers for the purpose of control and promotion i.e. Senior Clerk and Superintendent etc. The post of Chowkidar/ Sweeper does not exist in the office of DCOs and other offices. Even the other required staff does not meet the bare minimum. The DCOs will, therefore, forward the required proposal for consideration of Finance Department. The budget for the same can be arranged from the available savings due to phasing away of magistracy etc.
 - vii) The LR&RD Department may reconsider the adjustment of the employees of the Local Council Board, so as to find out whether any such employees have been adjusted against the regular Government posts funded from the Provincial Consolidated Fund.
 - viii) For adjustment of regular Class-IV (BS 1-4) Government Servant in surplus pool, Finance Department may consider conversion of fixed pay/ contract posts into regular.
2. It is requested that decisions taken during the meeting held on 4.8.2001 may kindly be implemented by all concerned in letter and spirit and compliance report be furnished accordingly.

(Authority; letter NO.SOR-I(S&GAD)1-200/98 (Vol.1), Dated 13th August, 2001)

Attested by
Prudhviraj
Joshi

وکالت نامہ

کورٹ فیس

بعدالت سروسز ٹریڈنگ کمپنی علیہ مختص خواہ لیکچرر

عنوان: شاہد اکرم بنام گورنمنٹ K.P.K. وائبرہ

منجانب: پیشہ ور ایڈووکیٹ

نوعیت مقدمہ: سروسز ایڈیل
باعث تحریر آنکہ

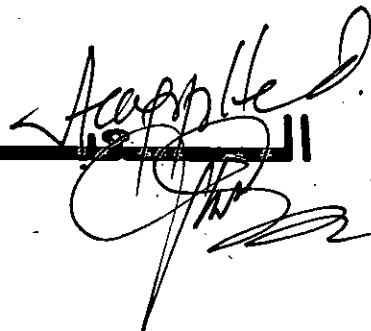
مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آن مقام
لیڈنگ وور ایڈیٹرز آباد محمد علی خان بلوچ ایڈووکیٹ ہائی کورٹ

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب
موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء
وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور
کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار
بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختمہ مجھ کو منظور و
قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔
نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف
پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف
مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالش بصیغہ مفلسی کے دائر کرنے اور اس کی
پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 18 اگست 2014ء

بمقام: لیڈنگ وور ایڈیٹرز آباد



العباد

شاہد اکرم خان

محمد علی خان

BEFORE THE CHAIRMAN SERVICE TRIBUNAL PESHAWAR
CAMP COURT ABBOTTABAD

Shahid Akram Khan

V/s

Govt & others

SERVICE APPEAL No. 1210/14

APPLICATION FOR DELETION OF
NAME OF RESPONDENT NO.4

Respectfully Sheweth:-

1. That, name of respondent No.4 arrayed inadvertently.
2. It is therefore requested that name of respondent No.4 may please be deleted.

Dated: 18/06/2015


.....Shahid Akram Khan

Through


Muhammad Ali Khan Jadoon
Advocate High Court, Abbottabad.

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 1210/2014

Shahid Akram Khan Senior Clerk, O/O the DEO(F) Abbott Abad

.....Appellant.

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & others.

.....Respondents

PARAWISE COMMENTS ON&FOR BEHALF OF RESPONDENTS No: 1-3.

Respectfully Sheweth :-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the appellant is not an aggrieved person within the meaning of Article-212 of the constitution of Islamic Republic of Pakistan 1973.
- 2 That the appellant has concealed material facts from this Honorable Tribunal which are sin-quo non for the just and fair disposal of the case. Since the appellant was adjusted against the Senior Clerk post & not appointed on the regular basis. The August Supreme Court of Pakistan adjudicated upon an identical case vide CP No: 157-P/2010 titled Mumtaz Khan Versus Govt:
- 3 That the appellant has no locus standai / cause of action to file the instant appeal.
- 4 That the appellant has not come to this Honorable Tribunal with clean hands.
- 5 That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
- 6 That the appellant has concealed material facts from this Honorable Tribunal.
- 7 That the appellant has filed this appeal on malafide basis.
- 8 That the instant appeal has been filed just to pressurized the Respondents.
- 9 That the appellant has been estopped by his own conduct to file the instant appeal.
- 10 That the instant appeal is against the facts, prevailing rules & law.
- 11 That the instant appeal is barred by law.
- 12 That the appellant is not entitled for the grant of the relief he has sought from this Honorable Tribunal.
- 13 That the appellant has been treated as per law, rules & policy.
- 14 That the impugned Notification dated 28-5-2014 is legally competent.

ON FACTS

- 1 That Para-1 relates to personal service record of the appellant, hence needs no comments.


- 2 That Para-2 is incorrect. The appellant has concealed material facts from this Honorable Tribunal which are sin-qua non for the just & fair disposal of the case. Since the appellant was adjusted against the S/Clerk post & not appointed on the regular basis. The August Supreme Court adjudicated upon an identical case vide CP No: 157-P/2010 titled Mumtaz Khan Versus Govt: since he was never appointed as S/Clerk on the regular basis but it was a stop gape arrangement /adjustment against the same post which does not create any vested right in a civil servant who is temporary asked to perform his functions in an upper grade. Moreover the appellant has willingly accepted the charge with certain terms & conditions wherein, it was not mentioned anywhere that he can claim permanent induction against the said post. (Copy of the judgment as Annexure-A).
- 3 That Para-3 is incorrect & not admitted, it is stated that due to the devolution of offices in Elementary Colleges & abolition of the post of Projectionists, the appellant was declared surplus & he was adjusted on his own pay & grade against the post of Senior Clerk only & only for his pay/ salary of protection vide this office Notification No: 3901-3920 dated 29-6-2001 on temporary base.
- 4 That Para-4 is correct to the extent that the appellant was adjusted against the post of S/clerk due to the abolition of post of the Projectionists and the appellant was adjusted only for pay protection. The appellant has taken over charge of the said post & performed his duty without any objection at that time. Later on the appeal was adjusted at the then EDO office Abbott Abad on his own request & wish.
- 5 That Para-5 is incorrect & misleading as against the factual position that in pursuance of the minuets of the appeal & scrutiny Committee, a high level meeting was held on 12-3-2014 & consequent upon the segregation of powers wef 01-01-2013 the appellant was adjusted against his original post on the approval of the competent authority.
- 6 That Para-6 is incorrect on the grounds that the appeal of the appellant is badly time barred by time of limitation & while feeling aggrieved from the Notification as issued on 31-3-2014 whereas the appellant has lodged his departmental appeal on 11-9-2014, hence the act of the Respondents is legal, lawful & accordance with the Govt: Policy.
- 7 That Para-7 is incorrect & denied. The appellant has been treated as per law, Rules & accordance with his seniority position against the said post by the Respondents. There fore, the impugned Notification 28-5-2014 is legally competent & liable to be maintained However the Respondent No: 1-3 further submit on the following grounds inter alia:-

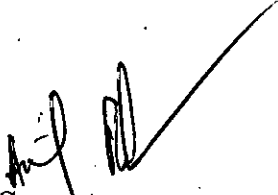
ON GROUNDS


- A That Ground-A is denied. The appellant has concealed material facts from this Honorable Tribunal which are sin-qua non for the just & fair disposal of the case. Since the appellant was adjusted against the S/Clerk post & not appointed on the regular basis. The August Supreme Court adjudicated upon an identical case vide CP No: 157-P/2010 titled Mumtaz Khan Versus Govt: since he was never appointed as S/Clerk on the regular basis but it was a stop gape arrangement /adjustment against the same post which does not create any vested right in a civil servant who is temporary asked to perform his functions in an upper grade. Moreover the appellant has willingly accepted the charge with certain terms & conditions wherein, it was not mentioned anywhere that he can claim permanent induction against the said post.
- B That ground-B, as stated above.
- C That ground-C is denied, the appellant was send back to his original post, hence no vested right of the appellant has been infringed , nor any provisions of the constitutions has been violated by the Respondents.

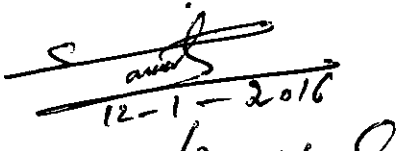
- D That ground-D, as stated in the foregoing paras. However, when he was aggrieved in the year 2001, then the appellant was at liberty to challenged the same within the stipulated period of time. Since there is remarkable difference in their job description & qualification, therefore, the appellant cannot be adjusted against the post deserved by the appellant. (100)
- E That ground-E is incorrect & denied. The impugned Notification dated 28-5-2014 is within legal sphere in accordance with the relevant provisions of law.
- F That ground-F is denied, the Respondent No: 2 is the competent authority to send him to his original post because he was adjusted against senior clerk post and was appointed against the said post.
- G That ground-G is denied. The same matter has already been adjudicated upon by the August Supreme Court of Pakistan in C.A No: 157-P/ 2010.
- H That ground-H is incorrect & denied on the grounds as sated above, however the Respondents seek leave of this Honorable Tribunal to submit additional grounds and case law / record at the time of arguments.

In view of the above made submissions, it is requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favor of the Respondent Department.


Director
Curriculum & Teachers
Education, Abbott Abad
(Respondent No: 3)

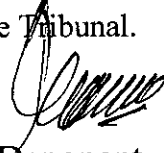

Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1)


Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 2). 17/12/2015


Director/Principal
(RITE) Khyber Pakhtunkhwa,
PESHAWAR.
(Respondent No: 4)

AFFIDAVIT

I, Khaista Rehman Asstt: Director (Lit: II)E&SE Department Khyber Pakhtunkhwa Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Parawise Comments in the titled Service appeal are true & correct to the best of my knowledge & belief & that nothing has been concealed from the ambit of this Honorable Tribunal.


Deponent

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IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present

Mr. Justice Nasir-ul-Mulk.
Mr. Justice Tariq Parvez

CIVIL APPEAL NO. 157-P OF 2010

(On appeal from the judgment/order dated
07.02.2007 passed by NWFP Service Tribunal,
Peshawar in Appeal No. 913 of 2006)

Mumtaz Khan Appellant.

Versus

The Govt. of NWFP (now KPK)
Through Secretary Schools & Literacy,
Education Department & another Respondents.

For the appellant : Haji Muhammad Zahir Shah, AOR.

For the respondents : Mr. Naveed Akhtar, Addl. AG.

Date of hearing : 24.12.2010.

JUDGMENT

TARIQ PARVEZ, J. – Leave to appeal was granted to the appellant in Civil Petition No. 236-P of 2007 on 31.03.2010, when the learned counsel for the appellant, while relying upon **Tazzak Ahmed Malik v. Government of Punjab** (2005 SCMR 1349) and **Abdul Wahid v. Chairman, Central Board of Revenue, Islamabad** (1998 SCMR 882), had raised the contention that the appellant has been continuously working in Grade-16 and is receiving his salary of the said Grade for near about 16 years, therefore, a right has accrued

ATTESTED

in Registrar

of Peshawar

11

to him to continue against the said post as long as the said post is falling vacant and is not being filled in by regular appointment.

2. Brief facts of the case are that the appellant joined the Education Department as Drawing Master on 10.09.1981; he was later on adjusted against the post of Assistant Workshop Inspector (AWI) on 15.04.1984; thereafter, having requisite qualification for the post of Senior English Teacher, he was adjusted against the same but in his own pay and scale (B-9) and was posted to Government Higher Secondary School, Bannu on 14.05.1995; the appellant preferred department appeal for the grant of BPS-16 as he was working against the post falling within the ambit of BPS-16; when he failed to get fruitful results from the department, he approached the NWFP Service Tribunal; however, the relief prayed for by the appellant in appeal was granted to him by the Service Tribunal vide judgment dated 31.08.2002 and he was held entitled to graded pay of the post of Senior English Teacher w.e.f. 14.09.1995 but the arrears of pay and allowances were held admissible from the date of filing of departmental representation. Even thereafter the appellant has been approaching the different legal forums on different grounds including the ground that instead of the year 1998, when he made departmental representation, he shall be paid graded salary from the year 1995, the year he was adjusted against the post of Senior English Teacher.

ATTESTED

Notary Public
Islamabad
Pakistan

7. No doubt that the appellant was in BPS-9 but because of vacant post at Government Higher Secondary School, Bannu, he was adjusted against the Senior English Teacher (Tech) through order dated 14.05.1995, which order itself states that his adjustment as Senior English Teacher was in his own pay and scale. ✓

8. It also appears from the record that consequent upon the order of Service Tribunal dated 31.08.2002, the appellant was allowed graded pay of Senior English Teacher (B-16) post from 14.09.1995 but the arrears of pay and allowances were held admissible from 13.04.1998 i.e. the date on which his departmental representation was received. It was made clear to him in the notification dated 03.11.2004 that this will not entitle him for regular appointment nor he shall be given right of seniority as Senior English Teacher (Tech).

9. It is not disputed that the appellant was not appointed as Senior English Teacher (Tech) on regular basis but he continued to hold this post on the strength of order dated 14.05.1995 against the vacant post, to which until the day the impugned order was communicated to the appellant, no person was appointed on regular basis. Language of the order dated 25.07.2006 is not open to any second interpretation except that he has been shifted to his original post i.e. OT (Tech). Since he was never appointed to BSP-16 on regular basis but it was a stopgap arrangement against the vacant post, which does not create any vested right in a civil servant, who is temporarily asked to perform his functions in an upper-grade. In this

ATTESTED

Registrar

of Police

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case, the appellant has not only been enjoying the status of upper-grade on the basis of adjustment but has been receiving/received salary of such grade, though on the basis of order of the Service Tribunal.

In view of above discussion, we hold that the appellant never had a right to be appointed to the post of Senior English Teacher (Tech), which is to be filled in on regular basis after completion of codel formalities and his going back to his original post has not deprived him of any vested right.

For the foregoing reasons, we see no substance in this appeal, as such the same is dismissed.

Soll. Nasser-ul-Mulk, J.

Soll. Tariq Parvez, J.

Certified to be true copy

Assistant Registrar
Supreme Court of Pakistan
Peshawar.



NOT APPROVED FOR REPORTING.

1781-P/2010

Case No.

Date of Judgment 31-12-2010

Applicant No. 1560

Respondent No. 15

Fee Paid 5.00

Costs 8.30

Total 14.30

Date of Payment 05-01-2011

Date of Receipt 12-01-2011

Copy (copy)

Received by Man. Sharhat Hussain Aon

Total Amount [Signature]

Advocate [Signature]

Enrolled [Signature]



39/1
(74)
(91)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Dated Peshawar the December 28, 2012

NOTIFICATION

NO.SO(S/M)E&SED/3-2/2012/Management Cadre: In pursuance of the Khyber Pakhtunkhwa Local Government Act, 2012 (Khyber Pakhtunkhwa Act No. VIII of 2012) and Govt of Khyber Pakhtunkhwa, Establishment & Administration Department Notification No.SO(E-I)E&AD/4-49/2012 dated 27-12-2012, the positions in Elementary & Secondary Education Department at District level are reorganized as under w.e.f January 1st 2013:-

S.NO.	EXISTING	REORGANIZED/REDESIGNATED
1.	Executive District Officer (E&SE) (BS-19)	District Education Officer Male (BS-19)
2.	Nil	District Education Officer Female (BS-19)
3.	District Officer (E&SE) Male (BS-18)	Deputy District Education Officer Male (BS-18)
4.	District Officer (E&SE) Female (BS-18)	Deputy District Education Officer (BS-18) Female
5.	Deputy District Officer (E&SE) Male (BS-17)	Sub Divisional Education Officer Male (BS-17)
6.	Deputy District Officer (E&SE) Female (BS-17)	Sub Divisional Education Officer Female (BS-17)

2. The District setup of Elementary & Secondary Education shall stand segregated from Local Government institutions established under the Khyber Pakhtunkhwa Local Government Ordinance, 2001 (Khyber Pakhtunkhwa Act No.XIV of 2001) and shall realign with Elementary & Secondary Education Department at provincial level under the Act.

3. Deputy District Education Officers (Female) BS-18 are assigned the additional charge of the post of District Education Officer (Female) BS-19 as a stop gap arrangement till posting/appointment of regular District Education Officer (Female) BS-19.

**SECRETARY
E&S EDUCATION DEPARTMENT**

Endst: of even No. & Date

Copy forwarded to the:

1. Chief Secretary, Govt of Punjab, Sindh, Balochistan and Gilgit Baltistan.
2. Additional Chief Secretary, P&D Khyber Pakhtunkhwa
3. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
4. Additional Chief Secretary FATA Secretariat.
5. Secretary to Governor, Khyber Pakhtunkhwa.
6. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
7. All Divisional Commissioners in Khyber Pakhtunkhwa.
8. Accountant General, Khyber Pakhtunkhwa Peshawar.
9. All Directors of E&S Education in Khyber Pakhtunkhwa.
10. All District Coordination Officer in Khyber Pakhtunkhwa.
11. All Executive District Officer (E&SE) in Khyber Pakhtunkhwa.
12. Director Information, Khyber Pakhtunkhwa.

کدات کتاب چہرے میں ہیں خیر کچھ خواہ کتب کو پاس نام

عنوان جوت دہلی بسلسلے اسل غر 1210/14 شہ پار ارم
 نام گورنمنٹ آف اے ڈیٹر برائے ریسپانڈنٹس

صم جمعہ ۵۰ برائے ریسپانڈنٹس
 اسل غر 1210/14 شہ پار ارم سے گورنمنٹ آف اے ڈیٹر
 کریم آباد سے حصہ کے حصہ کے حصہ کے حصہ کے حصہ کے
 سے علم طور پر استفسار سے - اس سے ہی کو جاری
 Reply کے طور پر کیا جاے

غرضت	نام کم افسر ایس ایس	نمبر غرضت	دست
۱	مدافین اسٹیٹ ڈیو	۳۷	۳۷
۲	گورنمنٹ اسٹیٹ ڈیو	۳۷	۳۷
۳	خان گل اسٹیٹ ڈیو	۴۱	۴۱
۴	گورنمنٹ اسٹیٹ ڈیو	۵۵	۵۵
۵	مدافین اسٹیٹ ڈیو (۶)	۵۵	۵۵
۶	گورنمنٹ اسٹیٹ ڈیو	۷۰	۷۰

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWARService Appeal No.1210/2014

1. Shahid Akram Khan Senior Clerk DEO(F) Abbottabad.

Appellant

K.P. Province
Service Tribunal
Diary No. 53
Date 25-1-16

VERSUS

1. Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Civil Secretariat, Peshawar and 69 others.

Respondents

APPLICATION TO TRANSFER THE ABOVE CAPTIONED APPEAL FROM ABBOTTABAD TO PRINCIPAL SEAT AT PESHAWAR.

Respectfully Sheweth,

The respondents No.12,24,29,45,47,58 & 64/Applicants submits as under:-

1. That the appellant preferred the above captioned appeal in this Hon'ble Tribunal in which he arrayed 65 employees as private respondents. These respondents belong to different District of the province such as Peshawar, Charsadda, Shangla, Swat and Mardan etc.
2. That the appellant entangled the above respondents in frivolous litigation so as to put them in mental agony, physical discomfort and financial drain. Moreover, the respondents being low paid employees are not in a position to afford the expenses of litigation Abbottabad.
3. It is, therefore, requested that the instant appeal may graciously be transferred from Abbottabad to principal seat at Peshawar so as to secure the ends of justice. *Next date for hearing is 18/7/16*

1. Rahim Bakhsh presently Assistant DEO(M) Peshawar. Respondents No.12 *Rahim*

2. Khush Dil Khan presently Assistant DEO(M) Nowshera. Respondents No.24 *Khush Dil*

3. Shehzad Hamayun presently Assistant DE&SE KP Peshawar. Respondents No.29 *Shehzad*

4. Maqbali Khan presently Assistant DE&SE KP Peshawar. Respondents No.45 *Maqbali Khan*

5. Mumtaz Hassan presently Assistant DE&SE KP Peshawar. Respondents No.47 *Mumtaz Hassan*

6. Muhammad Ishaq presently Assistant DE&SE KP Peshawar. Respondents No.58 *M. Ishaq*

7. Ghulam Sabir presently Assistant SDEO(M) Peshawar. Respondents No.64 *Ghulam Sabir*

put up to the court
with appeal.

Reader

hasan
25/1/16.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1210/2014

K.W.F. Provincial
Service Tribunal
Diary No. 25
Dated 3-2-16

Shahid Akram Khan Versus Government of KPK through Secretary,
E&SE, Peshawar etc.

APPLICATION FOR SETTING ASIDE EX-PARTE PROCEEDINGS AGAINST
PRIVATE RESPONDENT NO. 31, FARIDULLAH KHAN.

Respectfully sheweth

1. That the above mentioned appeal was fixed for written reply at camp court, Abbottabad on 20.01.2016.
2. That due to mis-understanding, the applicant (Private respondent No.31) came to Principal Seat at Peshawar on the date fixed.
3. That the applicant has been placed ex-parte on 20.01.2016 but the applicant wants to contest the appeal.
4. That the application is within time, wants to contest the appeal and also relied on the written reply of the official respondents already submitted by them.

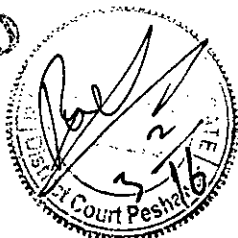
It is, therefore, requested that on acceptance of this application ex-parte proceedings against the applicant may very graciously be set aside and Written reply already submitted by the official respondents may also be considered as reply of the applicant.

F. Dullah
(FARIDULLAH) — 03/2/2016
Private Respondent No. 31

I, Faridullah Khan, Assistant O/O the DEO (M) Lakki Marwat do hereby solemnly affirm that the contents of this application are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

F. Dullah
DEPONENT

ATTESTED



put up to the court with relevant app. he 3/2/16

read

**BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR**



Service Appeal No. 1270 /2014

Shahid Akram Khan Senior Clerk District Education Officer (Female),
Abbottabad.


...APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Civil Secretariat, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. Director Curriculum & Teacher Education, Abbottabad.
4. Director RITE, Peshawar.
5. Amir Muhammad, presently Assistant office of the DEO (M) Swat.
6. Altaf Hussain, presently Assistant office of the DEO (F) Swat.
7. Muhammad Rashad presently Assistant office of the DEO (F) Swat.
8. Umar Khitab presently Assistant office of the DEO (F) Shangla.
9. Abdur Rab presently Assistant office of the DEO (F) Swat.
10. Banaras Khan presently Assistant office of the DEO (F) Chd.
11. Nisar Ahmad presently Assistant office of the DEO (M) Swat.
12. Rahim Bakhsh presently Assistant office of the DEO (M) Peshawar.
13. Inayat ur Rahman presently Assistant office of the DEO (M) Malakand.
14. Ghulam Muhammad presently Assistant office of the DEO (M) Lakki Marwat.
15. Shah Ramand presently Assistant office of the DEO (M) Dir Lower.
16. Amir Zada presently Assistant office of the DEO (M) Malakand.
17. Ali Gohar Khan presently Assistant office of the SDEO (M) Nowshera.
18. Nawaz Khan presently Assistant office of the DEO (F) Nowshera.
19. Fazli Qadeem presently office of the SDEO (M) Buner.
20. Shehzad Gul presently Assistant office of the SDEO (F) Dargai.
21. Hazrat Amin presently Assistant office of the SDEO (M) Swat.
22. Hamid presently Assistant office of the SDEO (F) Lahor Swabi.
23. Rahimullah presently Assistant office of the SDEO (F) Swat.
24. Khush Dil Khan presently Assistant office of the DEO (M) Nowshera.
25. Liaqat Ali presently Assistant office of the DEO (M) Buner.

Expt. No. 4
deleted with
order sheet No. 6
dt. 12-6-15.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



19/8/15

Registered to 400
and filed.

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26. Amir Badshah presently Assistant office of the SDEO (F) Samar Bagh.
27. Fida Hussain presently Assistant office of the DEO (M) Abbottabad.
28. Gul Rehan presently Assistant office of the DEO (F) Swabi.
29. Shehzad Hamayun presently Assistant office of the DE&SE K.P, Peshawar.
30. Jalal ud Din, presently Assistant office of the DEO (M) Shangla.
31. Faridullah Khan, presently Assistant office of the DEO (M) Lakki Marwat
32. Muhammad Tariq, presently Assistant DEO (F) Abbottabad.
33. Naeem Akhtar, presently Assisnat office of the SDEO (M) Swabi
34. Sher Bahadur Khan, presently Assistant office of the SDEO (F) Bannu
35. Jahangir Khan, presently Assistant office of the DEO (F) Lakki
36. Fazli Yazdan, presently Assistant office of the GHSS Ghalanai Mohmand Agency (FATA).
37. Muhammad Sarwar. presently Assistant office of the DEO (M) Abbottabad.
38. Zahid Hussain, presently office of the DEO (F) Malakand.
39. Abdur Rahim, presently Assistant.
40. Shazad Akhtar, presently Assistant office of the DEO (F) Abbottabad.
41. Khan Gul Khan, presently Assistant office of the SDEO (F) Abbottabad.
42. Usman Ghani, presently Assistant office of the DEO (F) Shangla.
43. Wali Rehman, presently Assistant office of the GEC (M) Ghoriwala.
44. Zar Khitab, presently Assistant office of the DEO (M) Swabi.
45. Maqbal Khan, presently Assistant office of the DE&SE K.P, Peshawar.
46. Muhammad Zubair, presently Assistant office of the DC&TE, Abbottabad.
47. Muntaz Hassan, presently Assistant office of the DE&SE K.P, Peshawar.
48. Muhammad Ajmal, presently Assistant office of the SDEO (M) Mansehra.
49. Mohammad Wali, presently Assistant office of the DEO (M) Chitral.
50. Malik Aman, presently Assistant office of the DEO (M) Mansehra.
51. Sawar Khan, presently office of the DEO (M) Swabi.
52. Ismail, presently Assistant office of the DEO (F) Nowshera.
53. Rais Khan, presently Assistant office of the DEO (F) Karak.
54. Dar Ali Khan, presently Assistant office of the DEO (M) Bannu.
55. Muhammad Rafique, presently office of the DC&TE K.P, Abbottabad.
56. Gul Shahin Shah, presently Assistant office of the DEO (M) Karak.
57. Muhammad Anwar, presently Assistant office of the DEO (F) Shangla.
58. Muhammad Ishaq, presently Assistant office of the DE&SE K.P, Peshawar.
59. Shaukat Ali, presently Assistant office of the SDEO (F) Swabi.
60. Lal Zaman, presently Assistant DEO (M) Chitral.
61. Muhammad Pervesh, presently Assistant office of the DEO (F) Shangla.
62. Mohanmad Kamil, presently Assistant office of the DEO (M) Swabi.
63. Muhammad Nawaz, presently Assistant office of the SDEO (M) Topi.
64. Ghulam Sabir, presently Assistant office of the SDEO (M) Peshawar.
65. Muhammad Shair, presently Assistant office of the SDEO Dir L
66. Muhammad Razzaq, presently Assistant office of the SDEO (F) Takhti Nasrati Karak.
67. Ghulam Qadir, presently Assistant office of the DEO (M) Kohat.
68. Abdur Rahim, presently Assistant office of the DEO (F) Swabi.
69. Shams ud Din, presently Assistant office of the DEO (F) Chitral.
70. Muhammad Mubarik, presently Assistant office of the DEO (F), Mansehra.

ATTESTED

Khyber Pakhtunkhwa
Secretary, Government of
Peshawar

...RESPONDENTS


A. No - 1210/14

20.1.2016

Appellant in person, Mr. Zahoor Alam, Assistant alongwith Mr. Muhammad Saddique, Sr.G.P for official respondents No.1 to 3 and private respondents No.27, 37, 41, 50, 55 and 70 in person present. Written reply on behalf of official respondents No.1 to 3 submitted. Undertaking by private respondents present in Court today submitted according to which they rely on the written statement submitted by the official respondents. Remaining private respondents are not in attendance despite notice. Proceeded ex-parte. The appeal is assigned to D.B for rejoinder and final hearing for 18.7.2016 at Camp Court A/Abad.

Sd/-
Chairman
Camp Court
A/Abad

Certified to be true copy


E. J. J. J.
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Appeal 3-2-2016
 Number of Petition 8
 Number of Respondents 1200
 Court 2
 Total 10
 Name of Court 10/11/12
 Date of Completion 3-2-2016
 Date of Disposal 3-2-2016

BEFORE THE SERVICES TRIBUNAL, CAMP COURT,
ABBOTTABAD

Service Appeal No. 1210/2014

Shahid Akram Khan Senior Clerk District Education Officer (Female), Abbottabad.

.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Civil Secretariat, Peshawar & others.

.....Respondents

SERVICE APPEAL

REJOINDER

INDEX

S. #	DESCRIPTION	PAGE #	ANNEXURE
1.	Rejoinder	1 to 4	
2.	Copy of Service Book	5	A
3.	Copy of Notification No.3763-853 dated 11.12.2015	6 to 8	B
4.	Copy of Judgment dated 29.11.2015 of NWFP Service Tribunal	9to 23	C
5.	Copy of Esta Code-2011	24 & 25	D

Dated: 16/08 /16

Through

Shahid Akram Khan
.....Petitioner

Muhammad Ali Khan Jadoon
Advocate High Court,
Abbottabad.

BEFORE THE SERVICES TRIBUNAL, CAMP COURT,
ABBOTTABAD

Service Appeal No. 1210/2014

Shahid Akram Khan Senior Clerk District Education Officer (Female), Abbottabad.

.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Civil Secretariat, Peshawar & others.

.....Respondents

SERVICE APPEAL

REJOINDER

Respectfully Sheweth,

The appellant submitted Parawise reply of the comments as under:-

REPLY OF PRELIMINARY OBJECTIONS

1. That, Para No.1 of the preliminary objection is incorrect.
2. That, Para No.2 of the preliminary objections is incorrect, that the services of the present appellant were permanently absorbed in the department. Moreover, the facts of civil appeal No. 157-P/2010 are different from the instant appeal.
3. That, Para No.1 of the preliminary objection is incorrect.
4. That, Para No.1 of the preliminary objection is incorrect.
5. That, Para No.1 of the preliminary objection is incorrect.
6. That, Para No.1 of the preliminary objection is incorrect.
7. That, Para No.1 of the preliminary objection is incorrect.
8. That, Para No.1 of the preliminary objection is incorrect.
9. That, Para No.1 of the preliminary objection is incorrect.
10. That, Para No.1 of the preliminary objection is incorrect.
11. That, Para No.1 of the preliminary objection is incorrect.

12. That, Para No.1 of the preliminary objection is incorrect.
13. That, Para No.1 of the preliminary objection is incorrect.
14. That, Para No.1 of the preliminary objection is incorrect.

REPLY OF COMMENTS ON FACTS

1. That, Para No.1 needs no reply.
2. That, Para No.2 is incorrect and denied reply is given in the Para No.2 of the Preliminary Objections. Moreover, as per surplus pool policy once an individual is absorbed or adjusted it cannot be repatriated.
3. That, Para No.3 of the appeal is correct and Para No.3 of the comments is incorrect, hence denied.
4. That, Para No.4 is misconceived, appellant was not adjusted on his own wishes and was adjusted by the competent authority and again was made surplus which is against the principle of Natural Justice as well as the Policy of the Government.
5. That, Para No.5 of appeal is correct and Para No.5 of comments is incorrect, appellant is subject to illegal adjustment with malafide in order to give undue favour to near and dears.
6. That, Para No.6 of appeal is correct and Para No.6 of the comments is incorrect, appeal is well within time.
7. That, Para No.7 of the appeal is correct and Para No.7 of the comments is incorrect, hence denied.

REPLY OF COMMENTS ON GROUNDS

- A. That, Para "a" of the appeal is correct and Para "A" of the comments is incorrect, appellant has not concealed any fact from the Court.
- B. That, Para "B" of the comments is incorrect as per the directions laid by the superior Courts that stop gap arrangements is strictly prohibited. Moreover, appellant has been permanently absorbed/

adjusted in education department and by stretch of no imagination is was a temporary arrangement. In this respect the salary has been fixed in BPS-14 by the **Pay Fixation Committee on 01.12.2015** in the service book of appellants. (Copy of service book with entry of pay fixation committee is annexed as **ANX-A**)

- C. That, Para "c" of appeal is correct, while Para "C" of the comments is incorrect as provided in service pool policy of Government of Khyber Pakhtunkhwa once appellants were adjusted absorbed in EDOC (E & SE) cannot be sent back, hence valuable rights of appellants are being infringed by impugned order.
- D. That, Para "d" of the appeal is correct, while Para "D" of the comments is incorrect, hence denied. Impugned order is challenged well within time. Moreover, appellants are possessing higher qualification as required and are performing duties as Senior Clerk from last 14 years which was duly appreciated by Senior Officers. While one Liaqat Ali Senior Clerk who is adjusted along with the appellants and 6 others through impugned Notification (*ANX-B of the appeal Page-15*) is already promoted in BPS-16 by Director Higher Education. (Copy of Notification No. 3763-853/A-167/Promotion dated 11.02.2015 is annexed as **ANX-B**).
- E. That, Para "e" of the appeal is correct while Para "E" of the comments on grounds is incorrect. Now in existence of notification **ANX-B Supra** the impugned notification dated 28.05.2014 has no legal sphere in accordance with law.
- F. That, Para "f" of the appeal is correct while Para "F" of the comments on grounds is incorrect.
- G. That, Para "g" of the appeal is correct while Para "G" of the comments on grounds is incorrect. However, in this respect judgment dated 29.11.2005 on very same nature case is annexed as **ANX-C**).

H. That, Para "h" of the appeal is correct while Para "H" of the comments on grounds is incorrect. (Relevant rules are annexed as ANX-D)

It is, therefore, humbly prayed that appeal may please be allowed as prayed for.

Dated: 16/8 /16

Through


...Appellant

Muhammad Ali Khan Jadoon
Advocate High Court,
Abbottabad

VERIFICATION

Verified that the contents of forgoing rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

Dated: 16/8 /16

Through


...Appellant

Muhammad Ali Khan Jadoon
Advocate High Court,
Abbottabad

DIRECTORATE OF HIGHER EDUCATION

KHYBER PUKHTUNKHWA, KHYBER ROAD PESHAWAR
Telephone No.091-9211025-9210217-9210242 Fax-921021

NOTIFICATION

Dated 11/2/2015

B

Consequent upon the recommendations of the Departmental Promotion Committee (DPC), arrived in the meeting held under the chairmanship of Special Secretary Higher Education Archives & Libraries Department Govt. of Khyber Pukhtunkhwa in his office on 18.12.2014 the Competent Authority is pleased to order the promotion of the following S/Clerk (BPS-14) of the college cadre Higher Education Department to the post of Assistant (BPS-16) and to post them in the college/office as noted against each.

S#	Name & Address	Promoted/Adjusted as Assistant BPS-16	Remarks
1	Nik Zada Senior Clerk GPGJC. (Swat).	GGDC Dagggar (Buner).	AVP
2	Hamid Kamal Senior Clerk GGDC, Serai Naurang (Lakki Marwat).	GDC Tajori (Lakki Marwat).	AVP
3	Miss Musarat Raja Senior Clerk GGPGC, Haripur.	CGC No.2 Haripur.	Vice S.No. 67
4	Abdur Rashid Senior Clerk GDC, Shewa (Swabi).	GGDC Kernal Sher Swabi	AVP
5	Nezam Khan Senior Clerk GGC, Surani Bannu	CGC Kakki Bannu	AVP
6	Zulfiqar Haidar Senior Clerk GGPGC, Kohat.	GDC. Gumbat (Kohat)	AVP
7	Siraj Ahmad Senior Clerk GGDC, Chitral.	GGDC Chitral	AVP
8	Liaqat Ali Senior Clerk GDC, Sabir Abad	GDC Sabirabad (Karak)	AVP
9	Qazi Riazul Islam Senior Clerk GGDC, Jandol Dir (Samar Bagh).	GGDC Jandol (Dir)	AVP
10	Halim Ullah Khan Senior Clerk GPGC, Timergara	GPGC Timergara.	Vice S. No 69
11	Yousaf Shah Senior Clerk GGDC, Sheikh Multoon (Mardan).	GDC Babozai (Mardan).	AVP
12	Muhammad Shafiq Senior Clerk GPGC, Haripur.	GPGC Haripur	Vice S. No 66
13	Habib Ahmad Senior Clerk GGC, Sari Saleh, Haripur.	GGC. Mankari (Haripur)	AVP
14	Ghulam Murtaza Shah Senior Clerk GDC, Ghazi (Haripur).	GDC Ghazi (Haripur)	AVP
15	Manzar Ali Senior Clerk GDC, Dagggar (Buner).	GDC Dagggar (Buner)	AVP
16	Muhammad Afzal Senior Clerk GDC, Jawar (Buner).	GDC Jowar (Buner)	AVP
17	Sifat Ullah Senior Clerk GDC, Gandaf (Swabi).	GDC Gandaf (Swabi)	AVP
18	Sardari Mulk Senior Clerk GPGC, Timergara	GDC Wari (Upper Dir)	AVP
19	Fida Hussain Senior Clerk GDC, No.1 D.I.Khan.	GDC No.1 D.I.Khan	Vice S. No.61
20	Umer Farooq Senior Clerk GGDC, Zaida (Swabi).	GDC Shewa (Swabi)	AVP
21	Akhtar Nawaz Senior Clerk GDC, Takht Nasrati	GGDC Takht Nasrati	AVP
22	Anwar Sher Senior Clerk GDC, Panjpir (Swabi)	GGDC Marguz (Swabi)	AVP
23	Abdul Ghaffar Senior Clerk GDC, Mamash Khel (Bannu).	GDC Mamash Khel (Bannu).	AVP

ANNEXTURE "B"

Farooq Zaman Senior Clerk GPGC, (Bannu).	GDC Domail (Bannu)	AVP
Muhammad Naeem Khan Senior Clerk GGC, Timergara.	GGC Timargara	Vice S. No 63
Muhammad Ashiq Hussain Senior Clerk GPGC, Haripur.	GGC Parhena (Mansehra)	AVP
Aziz-Ur-Rehman Senior Clerk GGC, Khwazakhela Swat.	GGC Madyan (Swat)	Vice S. No 59
Fahim Gul Senior Clerk GDC, Babuzai (Mardan).	GGC Umarzai (Charsadda)	AVP
Akhtar Khan Senior Clerk GDC, No.3 Dara Town Ship (D.I.Khan).	GDC Paharpur (D.I.Khan)	AVP
Abdul Samad Senior Clerk GGC, Kanju (Swat).	GGC Kanjo (Swat)	AVP
Muhammad Imtiaz Senior Clerk GDC, Sherwan (Abbottabad).	GDC Nathiagali (Abbottabad)	AVP
Maqbool Ahmad Senior Clerk GDC, Palai (Malakand Agency).	GDC Palai (Malakand Agency).	AVP
Noor Akbar Senior Clerk GDC, No.2 (Mardan).	GPGC, Mardan	AVP
Aurangzeb Ahmad Senior Clerk Directorate Higher Education.	GCGC Peshawar	Vice S. No 62
Gulzar Hussain Senior Clerk GGC, No.2 (D.I.Khan).	GGDC No. 2 D.I.Khan	AVP
Naseem Khan Senior Clerk GDC, Lahor (Swabi).	GDC Zaida (Swabi)	AVP
Waqar Hussain Shah Senior Clerk GGC, Nelor Saidan (Abbottabad).	GGC Nelor Saidan Abbottabad.	AVP
Riaz Ali Shah Senior Clerk GDC, (Chitral).	GGDC Booni (Chitral).	Vice S. No 68
Zafar Ali Senior Clerk GDC, Naguman.	GDC, Naguman (Peshawar)	
Sardar Hussain Senior Clerk GDC, Khair Abad (Mardan).	GDC Khairabad (Mardan).	AVP
Muhammad Hussain Senior Clerk Directorate Higher Education.	Directorate of Higher Education.	AVP
Jehangir Khan Senior Clerk GSSC, Peshawar.	GDC Wadpuga Peshawar.	AVP
Abdul Ghani Senior Clerk Directorate Higher Education.	GDC Charghar Matti Peshawar.	AVP
Khurshid Alam Senior Clerk GDC, Mathra Peshawar.	GDC Mathra.(Peshawar)	AVP
Shafiq Ur Rehman Senior Clerk GDC, Kotha (Swabi)	GPGC Swabi.	AVP
Muhammad Senior Clerk GDC, KTS, Haripur.	GDC KTS Haripur.	AVP
Tariq Khan Senior Clerk GPGC, No.1 Abbottbad.	GGDC Qalandarabad Abbottabad.	Vice S. No 60
Amjad Sohail Senior Clerk D.I.E, Peshawar.	Directorate of Higher Education.	AVP
Muhammad Humayun Senior Clerk GDC, Katlang (Mardan).	GGDC, Katlang (Mardan)	AVP
Sardar Ali Senior Clerk GGC, Takht Bhai Mardan.	GDC No.2 Mardan.	AVP
Habibur Rehman Senior Clerk GGC, Kalabat Town Ship, Haripur.	GGC Kalabat Town Ship Haripur.	Vice S. No.64
Muhammad Khalid Senior Clerk GDC, Khanpur (Haripur).	GDC Khanpur.	AVP
Ikram Ullah Senior Clerk GGDC, Gulshan Rehman Peshawar.	GGDC, Gulshan Rehman Peshawar.	AVP
Daulat Khan Senior Clerk GDC, Takht Bhai Mardan.	GGDC, Lund Khwar (Mardan)	AVP
Mrs. Noreen Senior Clerk GPGC, Haripur.	GGC, Serai Saleh (Haripur).	AVP

7

Ansuya Durrani Senior Clerk GFC(W), Peshawar.	GGC Bacha Khan.	Vice S. No. 71
Mohammad Tahir Senior Clerk GPGC, Matta Swat.	GPGC Matta Swat.	AVP
Gökhan Rasool Senior Clerk GDC, Shah Essa Bilot Sharif D.I.Khan.	GDC, Shah Essa Bilot Sharif D.I.Khan.	AVP

8

ADJUSTMENT

59	Sarameeb Assistant GGC Madayan Swat.	GGC Jolagram Malakand.	AVP
60	Muhammad Zaheer Ul Haq Assistant GDC Chanderabad.	GGC No.1 Manshra.	AVP
61	Mishkatullah Assistant GDC, No. 1 D. Khan	GGDC, No. 1 D.I.Khan	AVP
62	Khan Badshah Assistant GCGC Peshawar.	GGC Mathra.	AVP
63	Amir Hatam Assistant GGC, Timergara.	Assistant GGC Thana (Malakand Agency)	AVP
64	Ifikhar Ali S/Clerk Working against the post of Assistant GGC KIS Haripur.	S/Clerk GGCKIS Haripur.	Vice S. No 51
65	Waqar Ahmad S/Clerk GGC, Bacha Khan.	GFC(W) Peshawar	AVP
66	Hafeez Ur Rehman S/Clerk working against the post of Assistant GPGC Haripur.	S/Clerk GPGC Haripur.	Vice S. No 12
67	Nadeem Ahmad S/Clerk working against the post of Assistant GGC No.2 Haripur.	S/Clerk GPGC Haripur.	Vice S. No 03
68	Muhammad Hussain S/Clerk working against the post of Assistant GGC Booni Chitral.	S/Clerk GDC Chitral.	Vice S. No 38
69	Sultan Badshah S/Clerk working against the post of Assistant GPGC, Timergara.	S/Clerk GPGC Timergar.	Vice S. No.10
70	Jannat Gul S/Clerk GGC, Madayan Swat.	S/Clerk GPGC, Jehanzeb College (Swat).	Vice S. No 1
71	Muhammad Zahid S/Clerk working against the post of Assistant GGC, Bacha Khan Peshawar.	S/Clerk GGC, Bacha Khan Peshawar.	Vice S. No 65
72	Mustaq Ahmad J/Clerk GDC Shabqadar.	J/Clerk GGC Shabqadar.	AVP

NOTE:- Charge report should be submitted to all concerned.

DIRECTOR HIGHER EDUCATION

Endst:- 3763-853 /A-167/Promotion

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. PS to Secretary Higher Education Khyber Pakhtunkhwa.
3. Director Education FATA, at FATA Secretariat Warsak Road Peshawar.
4. All Govt. Colleges (Male & Female) concerned.
5. Agency Accounts Officer concerned.
6. All District Accounts Officer concerned.
7. Cashier, local Directorate.
8. All Official Concerned.
9. PA to Director High Education Khyber Pakhtunkhwa, Peshawar.

M. B. Bhatti
DEPUTY DIRECTOR (ESTABLISHMENT)

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR

S.A No. 949/2003

9

11/4
22/9/03

Muhammad Irshad Khan S/O Zardad Khan,
P/O Bal Dheri, Abbottabad
Ex-SI/PC, FRP Headquarter, Peshawar.

Appellant

VERSUS

Dy: Commandant,
Frontier Reserve Police, Peshawar.

ANNEXTURE "C"

Commandant, FRP, NWFP, Peshawar.

Inspector General of Police, NWFP, Peshawar. Respondents

APPEAL AGAINST ORDER NO. 2829-39/PC DATED 7.6.2003 OF R.NO. 1, WHEREBY APPELLANT WAS REVERTED FROM THE RANK OF S.I/P.C TO THE RANK OF HEAD CONSTABLE FOR NO REASON

29.11.200

Parties present. Vide our detailed judgment of today in Appeal No. 941/2003 Jamdad Khan Versus Deputy Commandant FRP etc, this appeal is accepted. No order as to costs. File be consigned to the record after completion.

ANNOUNCED.

29.11.2005.

Member.

Member.

29/11/05

mitted to D.A. from 06/03/05
G.A. Irshad Khan
FRP Service 7/12/05
Peshawar.

1-12-05
400
4-20
4-20
7-12-05
7-12-05

Appeal No. 941/2003

Date of institution - 22.09.2003
Date of decision - 29.11.2005

Jamdad Khan, Ex-SI/PC FRP Hqs, Peshawar (Appellant)

VERSUS

1. Deputy Commandant, FRP Peshawar

2. Commandant, FRP, NWFP Peshawar

3. I.G.P. NWFP, Peshawar (Respondents)

Mr. Saadullah Khan Marwat, Advocate for appellant.
Mr. Zaffar Abbas Mirza, Acting Govt. Pleader for respondents.

ABDUL KARIM QASURIA
GHULAM FAROOQ KHAN
MEMBER
MEMBER

JUDGMENT

ABDUL KARIM QASURIA, MEMBER. This judgment will

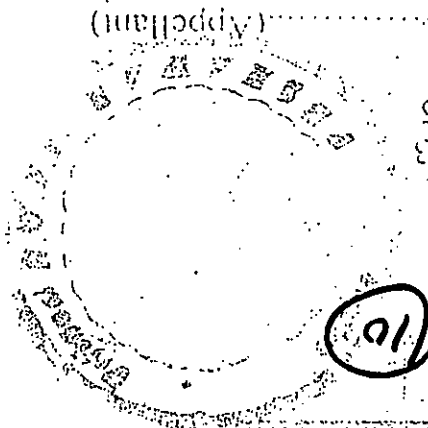
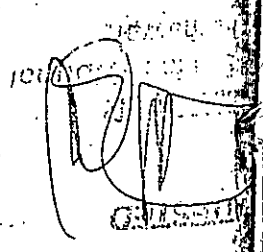
dispose off the appeal filed by Jamdad Khan appellant against the order

dated 7.6.2003 of Deputy Commandant FRP Peshawar, whereby he was

reverted from the post of SI/PC (B-14) to the rank of Head Constable (B-7)

in the FRP, Peshawar. The appellant has prayed that the impugned order

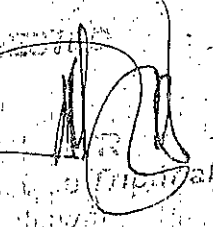
may be set aside and he be re-instated in service with full back benefits.



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2. Brief facts of the case as narrated in the memo of appeal are that the appellant was initially appointed in the Force on 2.12.1979. He was promoted to the rank of Head Constable on 6.6.1987. He was further promoted to the rank of S.I. on 4.6.1982. He was also granted selection grade. Without any reason and justification when the appellant was at the verge of retirement, he was reverted from the rank of S.I. to the rank of Head Constable vide the impugned order dated 7.6.2003 against which the appellant submitted a representation before respondent No. 2 which met with dead response till date. The Force was brought on regular basis by the Provincial Government.

3. The grounds of appeal are that after the lapse of statutory period of 90 days, the appellant preferred the present appeal before the Tribunal challenging the impugned order as illegal, without lawful authority and having been passed in violation of the existing laws on the grounds that the said post was still in existence. He was reverted straightaway from BS-14 to BS-7 while usually reversion order has to be made step by step. Selection Grade (BS-9) was also recalled from him for no reason. The appellant was also promoted to the rank of SI/PC, being eligible, qualified and fit for the said post and he in the same capacity served the Force for 10/11 years but he was reverted in colourful manner and against the prescribed procedure enunciated in the rules. In the year 2000, FRP was brought on permanent and regular basis and Standing Order No. 3 was not applicable in the case of



appellant because the same was for administrative arrangements and has no legal sanctity as the same was not passed at that time by the competent forum. It must be kept in mind that the appellant served the Force for 10/11 years as stated earlier without any complaint, so the principle of locus poenitentiae is applicable in his case because the order was acted upon, implemented and has got finality which cannot be rescinded at a single stroke of pen, except adhering to law. Much less the appellant was neither served with any notice nor he was given opportunity of defence what to speak of holding of enquiry in the matter. In similar circumstances while reverting the other officials, they were served with prior notices before the passing of the demotion orders. Legally reversion amounts to termination of service but such act was without re-coursing to law and in similar circumstances this Tribunal was pleased to accept "Appeal No. 15/1980 of Fazal Hussain Vs. IGP NWFP and others and Appeal No. 70/1995 of Taj Muhammad Vs. Commandant FRP and others.

4. The respondents were served with notices who submitted their written statements by contesting the appeal on merit as well as on law points. Preliminary objections to the extent of limitation, mis-joinder and non joinder of necessary parties, without cause of action and jurisdiction were raised.

ATTESTED
BY
SECRETARY

On factual side, it was urged that the appellant was recruited as constable in Additional Police, which was later on converted into FRP as per record. He was promoted to the rank of SI/PC on officiating basis & such he was reverted to his substantive rank. The reversion from officiating rank is not punishment and no proceedings were required to be initiated against the appellant under the E&D Rules.

6. The appellant has submitted his replication in rebuttal. According to replication the appeal is well within time. No lacuna has been pointed out. No such party has been pointed out as to who was the necessary party and the parties impleaded in the appeal are quite sufficient for the purpose. The appellant has a cause of action as not only he was reverted from the higher rank to the lowest rank but his monthly pay was also reduced from Rs. 11,000/- to Rs. 4,000/-. No element of unclean hands has ever been pointed out. The Tribunal has the exclusive jurisdiction in the matter.

7. On factual it has been submitted that every change in pay scale, whether temporary, officiating, stop gap arrangements, acting charge basis, etc amounts to promotion as per the judgments of the Hon'ble Supreme Court of Pakistan. Even grant of selection grade also amounts to promotion. The appellant was never served with any notice for the purpose. Till date, no rejection order has been received by the appellant. Even the same is not attached with the copy submitted before the Tribunal what to speak of

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supply of copy to the appellant. Standing order No. 3 has no legal force nor there exists any difference in the orders of promotion of the appellant. The promotion of the appellant was on merit and is not open to fire. Apart from the above, in orders dated 11.4.2003 and 7.6.2003 numerous officials were promoted like appellant but they have not been reverted and are still serving as such. In order dated 11.5.1994, Khurshid Anwar SI/PC is still serving as promotee and has not been reverted and this order has been kept secret. In order dated 28.1.1998 at S.No. 1 and 2 Ali Hussain and Syed Asghar Ali are still serving as promotees ASIs, Riazuddin, Haq Dad Khan, Fazal Hussain, etc were given promotions on the same basis and retired as Inspectors. Some Inspectors were given warning of reversion but they have not been reverted as yet.

8. Arguments heard and record perused.

9. At the time of hearing, the Tribunal observed that apparently, the appeal is directed against the order of reversion issued by the Deputy Commandant, FRP, Peshawar (Respondent No.1) but the order of promotion was made by the Commandant, FRP, NWFP, Peshawar (Respondent No.2). So legally and as is held by the apex superior courts, inferior authority cannot interfere with the order of the superior authority and was not amenable to any interference by the inferior authority. The post of SI/PC carries a higher pay scale B-14, status and responsibility as compared to the



Head Constable and to say the least, the appellant was reverted from the post of SI/PC without any valid reason.

10. The preliminary objections raised by the Government Pleader on behalf of the respondents were considered at length but they were ruled out of the contents. The appellant categorically mentioned in the para of the appeal that on 14.6.2003, he preferred an appeal to the Commandant, FRP, NWFP, Peshawar (Respondent No. 2), against the order dated 7.6.2003 of respondent No. 1 but the same is still pending before respondent No. 2 while more than 90 days have been elapsed. The respondents in their reply have mentioned that the representation of the appellant was rejected by the Authority but this was controverted on an affidavit and mentioned that the reply of the respondents is vague and incorrect in the sense that no order of the Authority in respect of the filing of the appeal has ever been communicated to him. On perusal of the record, there seems nothing that the order of rejection has ever been communicated to the appellant, so the appeal is well within time. Other preliminary objections raised by the respondents are also of flimsical nature. It has been held in several cases that this Tribunal is competent to entertain appeals of the aggrieved officials because they are civil servants. Since this objection has been settled once for all and the Tribunal as well as apex higher courts have entertained such like cases in numbers, so we need not dwell upon the issue any more.

ATTESTED

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The appellant has a cause of action because his terms and conditions of service have been violated as he was reverted from the rank of SI/PC (B-7) straightaway to the rank of Head Constable (B-7) on no legal reason, so the appellant has cause of action and this Tribunal has the exclusive jurisdiction regarding the subject matter. The points impliedly are sufficient for the purpose to resolve the issue in hand. No element of un-clear hands has ever been pointed out.

12. While discussing the merit of the case, the learned counsel for the appellant contended that the appellant was promoted to the Grade/4. After 11 years, he was reverted to Grade-7, without any rhyme or reason. Other Head Constables, who were promoted alongwith the appellant on completion of 10/11 years tenure were either kept in service or retired from service as SI/PCs instead of reverting them to the rank of Head Constables. In order dated 01.4.2003, the officials at S.No. 4, Gul Shaid Khan, Habibur Rehman at S.No. 16, Rehmat Ali at S.No. 17 were not reverted but are still serving as such. Similarly, in the order dated 28.1.1998 the officials at S.No. 3, 4, and 5 have been reverted while the officials at S.No. 12 and 6 were not reverted and are still serving as such. Such is the position of the order of the year of 1995 wherein all the officials were retired from service in capacity of SI/PCs except at S.No. 16, Fazal Muhammad who was not reverted while at S.No. 17 Gul Tazeer No. 872 was reverted. In order dated 4.6.1992, the appellant was reverted. Rest of the incumbents were retired from service in

BS-14 while the incumbent at S.No. 2, namely Hayat Khan No. 41 was not reverted. In order dated 7.6.2003 incumbent at S.No. 9 Taj Hussain was not reverted and is still serving as such.

13. The learned counsel for the appellant drew the attention of this Tribunal to other officials namely Humayun Khan, Hayat Khan, Altaf Khan, Mian Zada who were promoted to the post of ASI/PCs on 1.7.1992 but they are still serving the Force as such. Similar other instances also exist. There is no provision in the Police Rules to the effect that Head Constable when promoted and posted as SI/PC would stand reverted after three years. In support of this contention he quoted authority of the Supreme Court of Pakistan, PLD-1965-SC,P-106 "Constitution of Pakistan, 1962" Article 96 (Government Servants) Service Rules not in existence - letters issued by Executive Authorities regarding service matter, increments, etc, ca not take the place of properly framed Rules (P-110-C).

14. The counsel for the appellant further contended that if it is presumed without conceding that the appellant was reverted after completion of normal tenure as SI/PC and this reversion was not by way of punishment, even then the issue of show cause notice to the appellant was mandatory. In support of this contention reliance was placed on PLD-1958 Ka Page-35 "(a) Constitution of Pakistan, Article 181 (ii) reduction in rank - provision, show cause notice applied even if reduction is not by way of penalty or punishment P-40 (c) SCMR-1994-32.

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S. C. S. 1/13

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15. The counsel for the appellant further claimed that the appellant was eligible and qualified for his promotion on the basis of seniority-cum-fitness as he has 26 years unblemished service record at his credit. As such he could not be reverted except by way of punishment and that too in accordance to law. Since the appellant did not commit any irregularity/illegality nor he was proceeded against under any rule, his reversion was without any lawful authority.

16. The Government Pleader while replying to some of the points raised by the counsel for the appellant stated that the appellant was promoted on officiating basis and not on regular basis after completion of normal tenure of 6 years, he was reverted to Grade-7 in normal course. The temporary promotion cannot be claimed as a matter of right as it is not guaranteed. The counsel further argued that the provision does not exist in Police Rules with regards to the promotion of Head Constable to the rank of Sub Inspector/Platoon Commander. The promotion is granted to the incumbents in the interest of administration as a temporary measure. Only those upper subordinates were allowed to remain in officiating capacity for a longer period who are qualified in the Intermediate as well as Upper School Courses. The appellant has not undergone that courses and as such, he could not be allowed to remain as officiating Sub Inspector for ever. He was promoted as SI/PC in officiating capacity and on completion of three years tenure, he was considered for reversion to his substantive rank of Head Constable who was promoted to officiate as Sub Inspector/Platoon

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Commander for 6 years and was allowed to retire after completion of 25 years service on their own request. In the normal course, they had to be reverted to the rank of head Constable after completion of 3 years tenure.

17. While rebutting the stand of Government Pleader, the counsel for the appellant stated that "officiating" does not exist in the promotion order of the appellant but even if it is presumed without conceding that the promotion of the appellant was ordered on officiating/temporary basis, even then demotion from the post of Platoon Commander to that of Head Constable could not be ordered without issuing show cause notice to the appellant. The appellant relied on High Court judgment appearing in PLD-1958 (W.P) Karachi 35 which is set out as under :-

"Government Servant (Railways) Promotion by authority competent to promote temporarily - Promotee un-aware of restricted character of such authority order reverting Railway servant set aside in circumstances of case law of agency and estoppel -

Constitution of Pakistan (1975), Art. 170. (P.805)A' and SCMR 1994 2232. (f) Constitution of Pakistan (1973), Art. 199.

Maxim: "Audi alteram partem" Employee of statutory corporation - Reversion - Absence of statutory rules - remedy Corporation while taking action against its employee, either issuing show cause notice to him nor giving him opportunity of hearing - Corporation having violated principles of natural

ATTESTED

EXAMINER

Service Tribunal

Peshawar

justice, its action in reverting employee was declared to be without lawful authority and of no legal effect.

18. In view of the conflicting views and contradictory stands taken by the parties, it would be difficult to resolve the controversy unless a reference is made to promotion/demotion orders issued by the authorities from time to time. The first order of promotion was issued by the DIG Police Peshawar Range on 4.6.1992. This order is silent about the nature of promotion i.e. regular or otherwise. It also does not mention that the appellant would be reverted as Head Constable after completion of fixed tenure of 3/6 years. We have considered this difference in the two orders on the same subject but we have come to the conclusion that the orders issued by the higher authority i.e. DIG Peshawar would naturally take preference. The claim of the appellant that he was unaware of the restricted character of the promotion would therefore prevail. The appellant is thus entitled to the benefit of the judgment of the Dacca High Court in the Writ Petition No. 239 of 1961 (PLD-1963- Dacca 801) (para 11).

19. The appellant was considered suitable for promotion by the DIG Peshawar Range. This suitability naturally meant seniority-cum-fitness. The appellant is un-doubtedly senior. He is also fit for promotion as he has 25/26 years service at his credit. The appellant possess more than satisfactory record of service. He has earned certificates and cash rewards on several occasions. Entries with regard to all these facts are available in the service

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EXAMINER

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documents of the appellant. The vacancies for promotion were also available at the relevant time.

20. The net result of the above discussion is that the appellant was promoted on regular basis and some orders of respondents, no doubt, bear the word "officiating" but since these orders were not endorsed to the appellant, he is entitled to the benefit of the judgment of Dacca High Court in Writ Petition of 239/1961. Moreover, the appellant could not be demoted on the basis of a Standing Order because such letter had no force of law in view of the judgment of Hon'ble Supreme Court of Pakistan appearing in PLD-1965 (S.C) 16. It is also evident that the appellant became the victim of differential treatment. Other Head Constables who were promoted with the appellant were retired as Platoon Commanders whereas the appellant was reverted back as Head Constable.

21. The counsel for the appellant further contended that after expiry of the probationary period, an official on completion of probationary period becomes permanent and his probationary period automatically ceases. Reliance was placed on PLC-1994-CS-84-PLC-92 CS1327.

22. That most of the orders of promotion to the next higher ranks have been passed by the Commandant, FRP (Respondent No.2), while the orders of reversion to the lower ranks were prompted by the Deputy Commandant, FRP Peshawar, so the same have no legal value as subordinate authority can not legally interfere with the orders of the higher authority. Only on this score, the impugned order is liable to be set aside.

23. That on 16.1.1988 the Finance Department, circulated order of the Government of NWFP, Home & Tribal Affairs Department that all the Forces are hereby regularized.

Para No. 5 at Page-2 of the said order reads as under :-

"5. The location of staff created are shown in Annexure-B. The duties and responsibilities of the new set up will be the same as those of regular police else where and its services will be governed by the police rules or any other rules applicable to their counter parts in regular police."

24. In view of the above discussion, the Tribunal agrees with the arguments advanced by the learned counsel for the appellant, accepts the appeal, sets aside the impugned order and re-instates the appellant in service.

25. This judgment will also dispose off the following connected appeals, as identical questions of law and facts are involved in all these cases :-

<u>S.No.</u>	<u>Appeal No.</u>	<u>Name of appellant</u>	<u>Versus</u>	<u>Impugned order</u>
1.	836/2003	Asal Khan	Dy.cammandan FRP etc.	16.4.2003
2.	896/2003	Nazir Badshah	-do-	7.6.2003
3.	1185/2003	Farhad Khan	-do-	1.7.2003
4.	948/2003	Gulfaraz Khan	-do-	7.6.2003
5.	949/2003	Muhammad Irshad	-do-	7.6.2003
6.	950/2003	Abdul Rehman	-do-	7.6.2003
7.	951/2003	Nasrullah Khan	-do-	7.6.2003
8.	952/2003	Gul Tazar	-do-	7.6.2003
9.	169/2005	Saidur Rehman	-do-	18.10.2004
10.	170/2005	Hayatullah	-do-	18.10.2004
11.	171/2005	Mira Khan	-do-	18.10.2004
12.	172/2005	Fida Muhammad	-do-	18.10.2004
13.	173/2005	Maimun Khan	-do-	18.10.2004

TESTED
[Signature]

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14.	105/2005	Karim khan	-do-	18.10.2004
15.	653/2004	Sher Akbar	-do-	7.6.2003
16.	796/2003	Malak Zada	-do-	24.5.2003
17.	264/2005	Farhad Khan	-do-	18.10.2004
18.	106/2005	Rajmali Khan	-do-	18.10.2004
19.	107/2005	Raza Khan	-do-	18.10.2004
20.	108/2005	Haji Niaz Muhammad	-do-	18.10.2004
21.	109/2005	Yousaf Khan	-do-	18.10.2004
22.	942/2003	Sartaj Khan	-do-	7.6.2003
23.	943/2003	Akbar Khan	-do-	7.6.2003
24.	944/2003	Alauddin	-do-	7.6.2003
25.	945/2003	Ghulam Akbar	-do-	7.6.2003
26.	946/2003	Abdul Haleem	-do-	7.6.2003
27.	947/2003	Luqman Hakim	-do-	7.6.2003
28.	953/2003	Ali Muhammad	-do-	7.6.2003
29.	954/2003	Mir Alam Khan	-do-	7.6.2003
30.	955/2003	Muhammad Gul	-do-	7.6.2003
31.	956/2003	Habibur Rehman	-do-	7.6.2003
32.	957/2003	Noor Bahadur	-do-	7.6.2003
33.	958/2003	Hastam Khan	-do-	7.6.2003
34.	706/2004	Amir Nawaz	SP FRP etc	2-8.2004

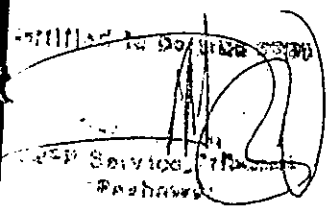
26. No order as to costs. File be consigned to the record.

ANNOUNCED.
29.11.2005.


(ABDUL KARIM GASURIA)
MEMBER.


(GHULAM FAROOQ KHAN)
MEMBER.

28/11/05



Applicant: 1-12-05

56.00

30.00

Urgent: -

Total: 36.00

Name of Applicant: _____

Date of Contention: 7-12-05

Date of Payment: 7-12-05

Shahid

S.T. Case. 24

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post, it would not adversely effect the interest of his seniors in fixation of his seniority in the higher post.

Explanation-II:- If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted, the person promoted first shall rank senior to the person promoted subsequently; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incomplete record or for any other reason not attributing to his fault or demerit.

ANNEXTURE "D"

Explanation-III:- A junior person shall be deemed to have superseded a senior person only if both the junior and the senior persons were considered for the higher post and the junior person was appointed in preference to the senior person.

(2) Seniority in various cadres of civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment.

⁵⁷(3) In the event of merger/restructuring of the Departments, Attached Departments or Subordinate Offices, the inter se seniority of civil servants affected by the merger/restructuring as aforesaid shall be determined in accordance with the date of their regular appointment to a cadre or post.

⁵⁸(4) The inter-se-seniority of civil servants in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular appointment/promotion of the civil servants in the lower post.

Provided that if the date of regular appointment of two or more civil servants in the lower post is the same, the civil servant older in age, shall be treated senior.

18. General Rules: - In all matters not expressly provided for in these rules, civil servants shall be governed by such rules as have been or may hereafter be prescribed by Government and made applicable to them.

19. Repeal:- The North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, are hereby repealed.

⁵⁷ Sub-rule (3) of Rule 17 added vide Notification No. SOR-I(E&AD)4-1/80/IV, dated 28-5-2002.
⁵⁸ Sub-rule (4) of Rule 17 added vide Notification No. SOR-VI (E&AD) 1-3/2008 dated 19th November, 2009.

CHAPTER-5
THE KHYBER PAKHTUNKHWA CIVIL SERVICES PAY
REVISION RULES, 1978
(As Amended Up-to-date)

1. **Statutory provision:-** A Civil servant appointed to a post shall be entitled in accordance with the rules to the pay sanctioned for that post. He will draw the pay and allowances of the post on which he is appointed from the date he assumes the charge of that post and cease to draw that pays as soon as he relinquishes the charge of that post.

Section 17 of Civil Servants Act, 1973. & F.R.17.

2. **Condition of service for annual increment:** The increment in the Basic Pay Scales shall fall due on 1st day of December, following the completion of at least six months service at a stage in the relevant Basic Pay Scales. [Rule-7]

Decision; w.e.f the calendar year 1998 onwards, the civil servant retiring on or after first day of June of a year shall be entitled to the usual annual increment, for the purpose of calculation of his pension only, on completion of six months service in the year of his retirement, irrespective of due date of 1st December following the completion of six months. The above benefit would equally be admissible in the case of civil servant who dies while in service.

No. FD(PRC)1-199 dated 24-121999 Read with even Nodated 27-03-2000.

3*. **Benefit of Annual Increment on Notional basis.**

All those Government servants who exhausted /may exhaust the relevant pay scale may be allowed the benefit of annual increment beyond the scope of exiting pay scales w.e.f 1-12-2005. There will be no presumptive benefit on account of the aforesaid increment prior to 1-12-2005, therefore, no arrears shall be allowed prior to this date. The increment may be treated as personal pay subject to the condition that the employee concerned has put in 6 months or more service as counts for annual increment unless withheld under the rules. The amount of personal pay may not be reduced but treated as part of pay scale of concerned Government servant concerned for the purpose of fixation of pay, pension and recovery of house rent etc.

*NO. FD (PRC) 1-1/2006 Dated March, 26 2007.

4. **ADMISSIBILITY OF ANNUAL INCREMENT DUE TO INTRODUCTION OF BPS-1983**

Promotion between 2.6.1983 and 30.6.1983.

The conditions of 6 months service to earn increment has already been relaxed in BPS-83, the employees promoted to higher posts between 2.6.1983 to 30.6.1983 are entitled to receive their normal increment on 1.12.1983.

Promotion between 1.7.1983 and 30.11.1983.

Increment on 1.12.1983 is not admissible to employees promoted between 1.7.1983 and 30.11.1983, since they have not completed 6 months service in term of rule-7 of The Khyber Pakhtunkhwa Civil Service Pay revision rules, 1978.

Appointment between 2.6.1983 and 30.11.1983.

Employees appointed upto 30.6.1983 and who were in receipt of pay in Revised National Pay Scale would receive their 1st increment in BPS on 1.12.1983, but the employees appointed between 1st July and 30th November, 1983, would be entitled to receive their 1st increment in BPS on 1.12.1984 instead of 1.12.1983.

Employees who have opted for refixation of Pay on or after 1.7.1983.

They will not be entitled to receive increment in BPS on 1.12.1983. Their cases will be regulated under rule-7 read with rule 10(3) of the The Khyber Pakhtunkhwa civil services pay revision rules, 1978.

No.FD(PRC)I-1/85-IV dated 29.4.1985

5. Fixation of Pay on Transfer from a lower scale to a Higher Scale. (i.e. on Moveover/Upgradation of Post). (Rule-9)

When a civil servant is allowed to draw pay in the next higher Basic Pay Scale by Moveover or his post having been upgraded, his pay in the higher scale shall be fixed at a stage next above his pay in the lower scale.

6. Fixation of pay on promotion: Subject to the provisions of rule-11, (See S.No.6 below) Where a civil servant is promoted from a lower to a higher post in BPS-2 to 19 where the stage in the Basic Pay Scale of the higher post, next above the pay of the civil servant concerned in the pay scale of the lower post, gives a pay increase equal to or less than a full increment of the pay scale of the higher post, the initial pay in the Basic Pay Scale of the higher post shall be fixed after allowing a premature increment in the Basic Pay Scale of the higher post; -Rule 10(1) (i)

7. Prescribed length of service for the purpose of pay and increments.

a) The minimum length of service (in BPS-17 and above) prescribed for the purpose of drawl of pay and increments on promotion to posts carrying BPS-18 and above shall be as under:

BPS of the Post	Prescribed length of service
BPS-18	5 years
BPS-19	12 years
BPS-20	17 years
BPS-21	22 years
BPS-22	22 years

In calculating the service rendered in BPS-17 and above, half of the service rendered in BPS-16 and 1/4th of service rendered in scale below-16, if any, shall be added for the purpose of computing total length of service. These orders shall take immediate effect.

No. FD(PRC)I-1/86-VI(B), dated 5.6.1986.

b) Service rendered in the Federal Government or any other Provincial Government shall also be taken into account for the purposes of, and in the manner