

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No: 247/2023

Tariq-ur-Rehman, SS BS-17 District KarakAppellant.


VERSUS

**Government of Khyber Pakhtunkhwa through Chief Secretary
& othersRespondents**

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar
Diary No. 8794
Dated 2/11/23

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Assistant Director (Lit: II)
E&SE Khyber Pakhtunkhwa,
Peshawar

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE
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Service Appeal No: 247/2023

Tariq-ur-Rehman, SS BS-17 District KarakAppellant.

VERSUS

**Government of Khyber Pakhtunkhwa through Chief Secretary
& othersRespondents.**

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No: 1 to 4.

Respectfully Sheweth:-

The Respondents submit as under: -

PRELIMINARY OBJECTIONS.

- 1 That** the Appellant has got no cause of action/locus standi to file in the instant case before this Honorable Bench.
- 2 That** the appellant is not an aggrieved person within the meaning of Section-4 of Khyber Pakhtunkhwa Service Tribunal Act-1974 read with Article 212 of the constitution of Islamic Republic of Pakistan, 1973.
- 3 That** the Appellant has concealed material facts & record from the ambit of this Honorable Tribunal in the titled case.
- 4 That** the Appellant has not come to this Honorable Tribunal with clean hands.
- 5 That** the matter in hand is based on mala fide intentions for gaining illegal service benefits from the Department against the SS (BS-17) post.
- 6 That** the titled case is barred by law and limitation Act 1908.
- 7 That** the appellant has correctly been placed in the final Seniority list as stood on 31-07-2022 in accordance with the provision of Section-8 Civil servants Act 1973 read with of Rules 17 (a) of APT rules 1989 by the Department
- 8 That** the titled case is bad for mis-joinder & non-joinder of the necessary parties to the case.

- 9 That the appellant is estopped by his own conduct to file the instant case against the Department.
- 10 That the matter is not maintainable in its present circumstances and even facts of the case rather the appellant is a habitual litigant against the Department for no good cause of action.

ON FACTS.

- 1. That Para-1 pertains to the residential record of the appellant including his citizen ship as Pakistani having CNIC & Domicile of District Karak.
- 2. That Para-2 is correct that vide Notification/letter No. SOG/SI/SS/APPTT/2005 dated 10-09-2005, the appellant along with others candidates were appointed against the SS (BS-17) TC on purely contract basis for the initial period of 06 months & later on, the services of the appellant were regularized against the SS (BS-17) post vide Notification No. SO(G) E&SE/1-85/2009/SS/Contract in the light of NWFP employees (Regularization of Services) Act, 2009 (NWFP Act No. XVI of 2009 dated 31-05-2010 with the terms & condition vide S.No. 4 that their seniority will be determined according to section-4 of the NWFP employees Regularization of Services Act 2009 which is hereby reproduced in verbatim for ready reference as under:

Section-4 **Determination of Seniority:** -

(1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, & shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2). The seniority inter-se of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre. Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one. (Copies of the Notifications dated 10-09-2005, 31-05-2010 & Act of 2009 are attached as Ann-A, B & C.

- 3. That Para-3 is incorrect to the extent that the appellant has not filed any kind of Departmental Appeal against the tentative seniority list of the SS in BS-17 cadre of the Respondent Department, hence, got finality under the relevant provision of Law of limitation Act, 1908 & resulted in the final

seniority list dated 31-07-2022 under the provision of Section-8 of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule-17 of Civil Servant (APT) Rules-1989. **Attached as Annex-D.**

4. **That** Para-4 is also incorrect that no Departmental Appeal against the final seniority list of SS BS-17 TC as stood on 31-07-2022 has been filed by the appellant to the appellate authority till date nor any such record to the said effect is available in the Respondent Department, hence got finality under the Law & Rules in vogue with further submission that the appellant is not entitled for the grant of retrospective effect of regularization of services w.e.f 10-09-2005 against the SS post in (BS-17) TC in view of the Section-4 of (Regularization of Services) Act, 2009 read with the provision of Rule-17 of Civil Servant (APT) Rules-1989, hence, the stand of the appellant is illegal & liable to be rejected.
5. **That** the appellant is not an aggrieved person within the meaning of Section-4 of Khyber Pakhtunkhwa Service Tribunal Act-1974 read with Article 212 of the constitution of Islamic Republic of Pakistan 1973 furthermore, the appellant has got no cause of action to file instant appeal. Therefore, the appeal in hand is liable to be dismissed on the following grounds inter alia: -

GROUND: -

- A. **Incorrect & not admitted.** The stand of the appellant is illegal and liable to be rejected as the act of the Respondent Department with regard to the final seniority list of SS in (BS-17) TC notified vide Notification dated 31-07-2022 is legally competent & liable to be maintained.
- B. **Incorrect & not admitted.** The plea of the appellant is against the facts & relevant citation of Law & Rules on the titled appeal, wherein, the appellant has been treated as per law & policy by the Department under the provision of Article 04 & 25 of the constitution of 1973.
- C. **Incorrect & not admitted.** The statement of the appellant is misconceiving and even against the facts as agitated in the foregoing paras of the reply on behalf of the Respondents.
- D. **Incorrect & not admitted.** The stance of the appellant is illegal & liable to be rejected in favor of the Department in view of the above made submissions by the replying Respondents in the titled appeal before this Honorable Tribunal.
- E. **Correct** to the extent of the regularization of services of the appellant in the light of the Act, 2009 against the SS in (BS-17) TC post vide Notification dated 31-05-2010 w.e.f 24-09-2009, wherefrom the seniority of the cited post has also being allowed to the appellant under the above cited provision of Law. Rules & criteria under the provision of Article-189 of the constitution of 1973 by the Respondent Department, hence, the claim of the

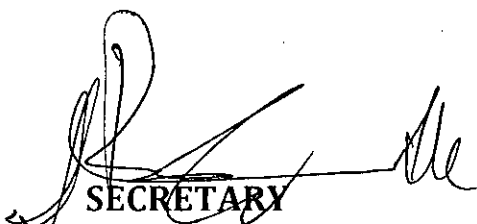
1973 by the Respondent Department, hence, the claim of the appellant regarding grant of seniority against the noted post w.e.f his 1st appointment dated 10-09-2005 as contractual employee is illegal & liable to be rejected.

F. **Incorrect & not admitted.** The act of the Department with regard to the cited final seniority list dated 31-07-2022 of SS BS-17 TC is legal and liable to be maintained in favor of the Department.

G. **Incorrect & not admitted.** The impugned Seniority list of the year dated 31-07-2022 is in accordance with the mandatory provision of Section-8 of Civil Servants Act 1973 read with Rule 17 (a) of the APT Rules 1989, whereby, the appellant has been placed at his correct Seniority w.e.f 24-09-2009 against the said post by the Department. Therefore, the claim of the appellant is liable to be rejected with the prayer that the Respondent seek permission to raise additional grounds at the time of arguments.

Therefore, in view of the above made submissions, the appeal in hand may kindly be rejected in favor of the Department in the interest of justice.

Dated. ___/___/2023.


SECRETARY

E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1 & 2)


DIRECTOR

E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 3 & 4)

BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No: 247/2023

Tariq-ur-Rehman, SS BS-17 District Karak.....Appellant.

VERSUS

**Government of Khyber Pakhtunkhwa through Chief Secretary
& othersRespondents.**

AFFIDAVIT

I, Dr. Hayat Khan Assistant Director (Litigation-II) E&SE
Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on
oath that the contents of the instant para wise Comments are true & correct
to the best of my knowledge & belief. It is further stated on oath that in this
appeal the answering Respondents have neither been placed Ex-Parte nor
their defense has been struck off/cost.


Deponent

ATTEST

02-11-2023

6

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No: 247/2023

Tariq-ur-Rehman, SS BS-17 District KarakApplicant.

VERSUS


**Government of Khyber Pakhtunkhwa through Chief Secretary
& othersRespondents.**


REPLY TO THE CONDONATION OF DELAY APPLICATION

1. **That** para-1 is correct that the titled appeal is pending adjudication before this Honorable Tribunal & is fixed for reply on behalf of the Respondents No. 1-4 for today.
2. **That** para-2 is correct that final seniority list dated 31-07-2022 of the SS BS-17 TC has been notified & up loaded by the Department, wherein, the appellant has been awarded seniority against the said post w.e.f 24-09-2009 upon his regularization of services vide Notification dated 31-05-2010 in their light of Act, 2009, hence, the main service appeal & instant application for condonation of delay are badly time barred & liable to be dismissed.
3. **That** para-3 is also incorrect, hence, denied in view of reply to the para-2 of the instant application by the Respondents No. 1-4.
4. **That** para-4 is incorrect as the delay caused by the appellant is intentional & can not be condoned against the Respondents under the Law & Rules in vogue.

Therefore, in view of the above made submissions, the application in hand may kindly be rejected in favor of the Department in the interest of justice.

Dated. ___/___/2023.


SECRETARY
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1 & 2)


DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 3 & 4)

(7) (8) (B)

Government of NWFP
Schools and Literacy Department
No. SOC/SL/SS Appt./2005
Dated Peshawar the 10/09/2005.

ORDER

Consequent upon the recommendation of the Departmental Selection Committee (DSC), the Competent Authority is pleased to appoint the following Male Subject Specialists (BPS-17) on contract basis for a period of six months or till arrival of the nominees of the NWFP Public Service Commission whichever is earlier with immediate effect and post them against the vacant posts in the schools as listed against their names.

Subject:	Physics		Address	Zone	Posted At
S.#	Name of Candidate	Father's Name			
1	Ali Al Hussain	Nasrullah	V.S.P.O. DHERI AL LAQAND MOH, DARGA MALAK AND AGENCY	Merit	GHSS Tolakan, Malakand Agency
2	Siad Akbar	Abdur Khan	C/O GISS Kalkay Mandan	Merit	GHSS Thand Kol, Swabi
3	Kamran Ali	S. Haider Ali Shah	Sadar Ahmad Jan Colony Peshawar	Merit	GHSS Chughtar Mati, Peshawar
4	Insanullah	Sayd Husswan	V. & P.O. ASSA KHEL LARKI MARWAT	Merit	GHSS Kol Kasimir, Larki
5	Bakhat Zaman Shah	Rahim Shah	VILL SPO BABUZAI ADAKHEL DIST AND THE MARDAN	Merit	GHSS Palo Dheri, Mardan
6	Muhammad Salim Khan	Nawab Khan	VILL BAWAD ERIAN P/O GERAI CAMP A THE & DIST LAKKI	Merit - I	GHSS S/Naurang, Larki
7	Tariq ur Rehman	Sheikh Wali	V. DARGA BANDA P.O AHMAD ABAD THE BARAKAT KAHAK.	Merit - I	GHSS Shukar Dara, Kohat
8	Dil Faraz	Farqon Shah	DOB. HO IDIA MOHALLA SALAR VADRA LARKI GALT BANNU	Merit - I	GHSS Lalozai, Bannu
9	Muhammad Shafiq	Fat Muhammad	WALI KHAN Zai Khallid, Peshawar Assembly Peshawar	II	GHSS Darg, Peshawar
10	Muhammad Iqbal Khan	Mian Abas Khan	VILL BATHIAN THE TARKH DARI DIST BARDERAN	II	GHSS Zarabi, Swabi
11	Nawaz Khan	Ali Ahmad	MOH. QADIBED, CHARI V. & P.O. BADALER PESHAWAR.	II	GHSS Dorahra, Charsadda
12	Muhammad Riaz	Jehan Zeb	Molokata Khel V: Ghulegay Swat.	III	GHSS Monkyal, Swat
13	Khadim Muhammad	Perhalzgar	MOH. SHALEMANI VILL & P.O. DCHRI ALLADAND DIST FATA	III	GHSS Zaimdara, Dir(Lower)
14	Syad Qayum	Muhammad Zaman	C/O Saadun Bano Dargat Dargi Bazar Malakand	III	GHSS Mayar, Dir(Lower)
15	Shahidullah	Qazi Khan	Moh. Dargi Khel V: & P.O. Tiar Khel L.Mirwal.	IV	GHSS Hakim Haved, Bannu
16	Sher Nawab	Sher Ali Khan	C.O GISS DIL TANG KOHAT.	IV	GHSS Usterzal Payan, Kohat
17	Ghulam Amanat	Muhammad Hamid	Wajid Colony Dargat Dargi Bazar	IV	GHSS Parop, D.I. Khan
18	Muhammad Saleem	Jehandad Khan	V. DARGA BANDA P.O AHMAD ABAD THE BARAKAT KAHAK.	V	GHSS Baroda, Hunpur
19	Shahina Raza	Innan	C/O. Amanat Khan Dargat Dargi Bazar	V	GHSS Beer, Hunpur
20	Zakir Hussain	Muhammad Hamayun	WALI KHAN Zai Khallid, Peshawar Assembly Peshawar	V	GHSS Bar, Abbottabad

Attested
Assistant Director (Litigation)
F & SE Department
Khyber Pakhtunkhwa Peshawar

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to be true Copy

ORDER

Consequent upon the recommendation of the Departmental Selection Committee (DSC), the Competent Authority is pleased to appoint the following Male Subject Specialist (BS-17) on contract basis for a period of six months or till arrival of the nominees of the NWFP Public Service Commission whichever is earlier with immediate effect and post them against the vacant posts in the schools as noted against their names:

Subject S#	Physic's Name of Candidate	Father's Name	Address	Zone	Posted at
1.	Altaf Hussain	Nasrullah	Malakand Agency	Merit	GHSS Totakan, Malakand Agency
2.	Said Akbar	Abdar Khan	Katlang Mardan	Merit	GHSS Thand Koi, Swat
3.	Kamran Ali	S. Haider Ali Shah	Peshawar	Merit	GHS Chaghar Matti, Peshawar
4.	Insanullah	Sayed Husswan	Lakki Marwat	Merit	GHSS Kot Kashmir Lakki
5.	Bakht Zamin Shah	Rahim Shah	Mardan	Merit	GHSS Palo Dheri, Mardan
6.	Muhammad Salim Khan	Nawab Khan	Lakki	Merit-I	GHSS S/Naurang Lakki
7.	Tariq ur Rehman	Sheikh Wali	Karak	Merit-I	GHSS Shakar Dara, Kohat
8.	Dil Faraz	Zarghon Shah	Bannu	Merit-I	GHSS Lalozai, Bannu
9.	Muhammad Shafiq	Lal Muhammad	Peshawar	II	GHSS Daag, Peshawar
10.	Muhammad Iqbal Khan	Mian Abbas Khan	Mardan	II	GHSS Zarobi Swabi
11.	Nawaz Khan	Ali Ahmad	Peshawar	II	GHSS Dosehra Charsadda
12.	Muhammad Riaz	Jehanzeb	Swat	III	GHSS Mankyal Swat
13.	Khadim Muhammad	Parhaizgar	Bat Khela	III	GHSS Zaimdara Dir Lower
14.	Syad Qayum	Muhammad Zamin	Malakand	III	GHSS Mayar Dir Lower
15.	Shafiullah	Qazi Khan	Lakki Marwat	IV	GHSS Hakim Haved Bannu
16.	Sher Nawab	Sher Ali Khan	Kohat	IV	GHSS Usterzai Payan Kohat
17.	Gohar Zaman	Muhammad Ramzan	Tank	IV	GHSS Parora D I Khan
18.	Muhammad Safeer	Jehandad Khan	Haripur	V	GHSS Bareela Haripur
19.	Shamna Rez	Imran	Haripur	V	GHSS Beer Haripur
20.	Zakir Hussain	Muhammad Hamayun	Rawalpindi	V	GHSS Boi Abbottabad

Attested
Assistant Director (Litigation)
E&SE Department
Khyber Pakhtunkhwa Peshawar

9

9

Terms and Conditions of their Appointment

1. The candidates will enter into an agreement and conditions mentioned in such agreement.
2. Their salary is subject to sanction of Government.
3. They will get pay in G.P.S. 17 plus union allowance.
4. The initial period of their appointment shall be a Commission which ever is earlier. This order will be in force from the date of issue.
5. Their services will be liable to termination (or resignation) without prior notice. Their one month notice period shall be 15 days.
6. The appointees shall join their posts within 15 days of the issuance of this order. If EDOs (S and L) shall furnish a certificate to the effect that the appointees have joined their posts or otherwise, after 15 days of the issuance of this order. Their services can be terminated at any time if such information is found unsatisfactory. In case of misconduct they will be proceeded against under the rules of service.
7. They shall be required to furnish original copies of all their certificates/documents to EDO (S and L) concerned. The EDO concerned should check their original certificates/documents.
8. The appointment is School specific and non-transferable during the currency of contract period.
9. The in-service candidates shall not be allowed to join and shall not be benefited over charge by the EDO concerned.
10. No TA/DA etc. will be allowed to the appointees for joining duty.
11. Charge report shall be submitted to the concerned.

Their services will be governed by the terms and conditions of the contract.

They shall be treated as members of the Government Public Service from the date of issue.

During the currency of this agreement, in case of any dispute, it shall be referred in favour of Government.

Secretary

Encls: No. Even No. and Date.

Copy forwarded for information and necessary action to the:

1. Accountant General NWFP Peshawar
2. District Account Officer concerned.
3. Director Schools and Literacy NWFP Peshawar
4. The Executive District Officers (S and L) concerned.
5. Principal of the Schools concerned.
6. Officers concerned.
7. PS to Minister for Education, Government of NWFP
8. PS to Secretary Schools and Literacy, Government of NWFP

Attested

Assistant Director (Litigation)
E&SE Department
Khyber Pakhtunkhwa Peshawar

(Signature)
(Muhammad Tariq Khan)
Deputy Secretary (Admin.)
19/12/2005

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19/A

(10)

Terms and Conditions of their Appointments

1. The candidates will enter into an agreement with the Government and their services will be governed by the terms and conditions mentioned in such agreement.
2. Their salary is subject to execution of agreement deed obtaining the terms and conditions of the contract.
3. They will get pay in BPS-17 plus usual allowances as admissible under the rules.
4. The initial period of their appointment shall be six months or till the arrival of the selectees of the NWFP Public Service Commission whichever is earlier. This order will automatically stand terminated after 180 days from the date of issue.
5. Their services will be liable to termination without assigning any reason being the cogency of this agreement in case of resignation without prior notice, their one month pay plus allowances shall be forfeited in favour of Government.
6. The appointees shall join their posts within 15 days of the issuance of the order. The LODs (S and L) shall furnish a certificate to the effect that the appointees have joined the posts or otherwise, after 15 days of the issuance of this order.
7. Their services can be terminated at any time in case their performance is found unsatisfactory in case of misconduct they will be proceeded against under the Removal from service (Special Power) Ordinance 2000 and E and D Rules 1973.
8. They shall be required to furnish attested copies of all their certificates / degrees to EDO (S and L) concerned. The EDO concerned should check their original certificates / degrees.
9. The appointment is school specific and non-transferable during the cogency of contract period.
10. The in Service candidates shall not be allowed to join and shall not be handed over charge by the EDO concerned.
11. No TA/DA etc will be allowed to the appointees for joining duty.
12. Charge report shall be submitted to all concerned.

Secretary

Endst: No. Even No and date.

Copy forwarded for information and necessary action to the:

1. Accountant General NWFP Peshawar.
2. District Account Officer concerned.
3. Director Schools and Category NWFP Peshawar.
4. The Executive District Officer (S and L) and concerned.
5. Principal of the Schools concerned.
6. Officers concerned.
7. PS to Minister for Education Government of NWFP.
8. PS to Secretary Schools and Literacy Government of NWFP.

Attested

[Signature]
Principal of Schools
Peshawar

(Muhammad Tariq Khan)
Deputy Secretary (Admn)

20
11

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Dated Peshawar, the 31-05-2010

NOTIFICATION

NO. SO (G) E&S/1-85/2009/SS/Contract In pursuance of the powers conferred under Section 25 of the NWFP Civil Servant Act, the Competent Authority is pleased to regularize the services of the following contract employees, Male (Subject Specialists) (BPS-17) in various Subjects in Elementary & Secondary Education Department w.e.f 24-09-2009 under the NWFP Employees (Regularization of Services) Act, 2009 on the terms and conditions given at end of this notification.

S.#	NAME WITH FATHER NAME	DOMICILE	SUBJECT	PLACE OF POSTING
1	Sadiqur Rehman S/O Fazle Haleem	Buner	Biology	GHSS Bailara Buner
2	Khalid Ullah S/O Ihsan Ullah	Buner	Biology	GHSS Nagrai Buner
3	Akbar Hussain S/O Sherin Zada	Buner	Biology	GHSS Gadezai Buner
4	Seyar Khan S/O Munir Khan	Charsadda	Biology	GHSS Dosehra Charsadda
5	Ahmed Ghaziud Din S/O Quwal Khan	Chitral	Biology	GHSS Shagram Chitral
6	Shah Nawaz S/O Ghulam Nawaz	FR Bannu	Biology	GHSS D/Kalan, D.I.Khan
7	Qamar Zaman S/O Meer Zaman	Bannu	Biology	GHSS Ramak D.I.K
8	Gohar Ali S/O Ghulam Hussain	D.I.Khan	Biology	GHSS Kath-Grah D.I.Khan
9	Wahid Jan S/O Faleh Jan	Dir Lower	Biology	GHSS Hayaseral Dir lower
10	Attaullah Jan S/O Sahib Jan	Chitral	Biology	GHSS Drosli Chitral
11	Gul Rahim S/O Fazal Hakim	Dir (lower)	Biology	GHSS Tawla China Dir (Lower)
12	Shah Fasih S/O Ali Akbar	Dir Lower	Biology	GHSS Zaimdara Dir Lower
13	Qadeer Ullah S/O Nasrullah Khan	Karak	Biology	GHSS Dailan Hangu
14	Jamalud-Din S/O	NWA	Biology	GHSS Landi Kachi Kohat
15	Hadir Ali Khan S/O Mustaq Ali	Mardan	Biology	GHSS Pir Sakdi Mardan
16	Riaz Muhammad S/O Junia Khan	Mardan	Biology	GHSS Mayar Mardan
17	Anif Shah S/O Salih Shah	Mardan	Biology	GHSS Chamtar Mardan
18	Anwarullah S/O Lal Badshah	M.Agency	Biology	GHSS Olandar Shangla
19	Sultanul-Din S/O Muhammad Gul	Swat	Biology	GHSS Shahpur Shangla
20	Arshad Ali S/O Khan Syed	Mardan	Biology	GHSS Chowga Shangla
21	Ashfaq Ali S/O Sultan Sher	Swabi	Biology	GHSS Chanal Swabi
22	Fakhr Alam S/O	Mohmand-A	Biology	At the disposal of Director FATA Education for further posting
23	Ahya Jan S/O	Mohmand-A	Biology	At the disposal of Director FATA Education for further posting
24	Muhammad Azhar s/o Asghar Khan	Haripur	Biology	GHSS Bagra Haripur
25	Yasir Khan S/O Muhammad Ashraf	Abbottabad	Chemistry	GHSS Z.Masoom Abbottabad
26	Burhanul-Din S/O Abdul Rashid	Manshara	Chemistry	GHSS Lora Abbottabad
27	M.Yousaf Khan S/O Jumma Khan	Lakki	Chemistry	GHSS Dalola Abbottabad
28	Kaif Zafar S/O Aurangzeb Khan	Manshara	Chemistry	GHSS K.P. Ayubia Abbottabad

Witnessed
Assistant Director (Litigation)
E&SE Department
Khyber Pakhtunkhwa Peshawar

ATTEN:
to be true

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Dated Peshawar, the 31-05-2010

NOTIFICATION

NO. SO (G) E&S/1-85/2009/SS/Contract: In pursuance of the powers conferred under Section 25 of the NWFP Civil Servant Act, the Competent Authority is pleased to regularize the services of the following contract employees, Male (Subject Specialists) (BPS-17), in various Subjects in Elementary & Secondary Education Department w.e.f 24-09-2009 under the NWFP Employees (Regularization of Services) Act, 2009 on the terms and conditions given at end of this notification.

S.#	NAME WITH FATHER NAME	DOMICILE	SUBJECT	PLACE OF POSTING
1	Sadiqur Rehman S/O Fazle Haqem	Buner	Biology	GHSS Battara Buner
2	Khalil Ullah S/O Jhsan Ullah	Buner	Biology	GHSS Nagrai Buner
3	Akbar Hussain S/O Sherin Zada	Buner	Biology	GHSS Gadezai Buner
4	Seyar Khan S/O Munir Khan	Charsadda	Biology	GHSS Dosehra Charsadda
5	Ahmed Ghazi (Din) S/O Quwal Khan	Chitral	Biology	GHSS Shagram Chitral
6	Shah Nawaz S/O Ghulam Nawaz	FR Bannu	Biology	GHSS D/Kalan, D.I.Khan
7	Qamar Zaman S/O Meer Zaman	Bannu	Biology	GHSS Ramak D.I.K
8	Gohar Ali S/O Ghulam Hussain	D.I.Khan	Biology	GHSS Kalth-Grah D.I.Khan
9	Wahid Jan S/O Fateh Jan	Dir Lower	Biology	GHSS Hayaserai Dir lower
10	Altaullah Jan S/O Salih Jan	Chitral	Biology	GHSS Drosht Chitral
11	Gul Rahim S/O Fazal Hakim	Dir (lower)	Biology	GHSS Tawla China Dir (Lower)
12	Shah Fasil S/O Ali Akbar	Dir Lower	Biology	GHSS Zaimdara Dir Lower
13	Qadeer Ullah S/O Nasrullah Khan	Karak	Biology	GHSS Dallah Hangu
14	Jamalud-Din S/O	NWA	Biology	GHSS Landi Kachi Kohat
15	Hadir Ali Khan S/O Mustaq Ali	Mardan	Biology	GHSS Pir Saddi Mardan
16	Riaz Muhammad S/O Junia Khan	Mardan	Biology	GHSS Mayer Mardan
17	Arif Shah S/O Saif Shah	Mardan	Biology	GHSS Chamlar Mardan
18	Anwarullah S/O Lal Badshah	M.Agency	Biology	GHSS Olandar Shangla
19	Sultanul-Din S/O Muhammad Gul	Swat	Biology	GHSS Shahpur Shangla
20	Arshad Ali S/O Khan Syed	Mardan	Biology	GHSS Chowga Shangla
21	Ashfaq Ali S/O Sultan Sher	Swabi	Biology	GHSS Chanal Swabi
22	Fakhr Alam S/O	Mohmand-A	Biology	At the disposal of Director FATA Education for further posting
23	Ahya Jan S/O	Mohmand-A	Biology	At the disposal of Director FATA Education for further posting
24	Muhammad Azhar s/o Asghar Khan	Haripur	Biology	GHSS Bagra Haripur
25	Yasir Khan S/O Muhammad Ashraf	Abbottabad	Chemistry	GHSS Z.Masoom Abbottabad
26	Burhanul-Din S/O Abdul Rashid	Manshera	Chemistry	GHSS Lora Abbottabad
27	M.Younis Khan S/O Jumma Khan	Lakki	Chemistry	GHSS Dalola Abbottabad
28	Kalim Zai S/O Aurangzeb Khan	Manshera	Chemistry	GHSS K.P. Ayubia Abbottabad

ATTES-
to be true

Quested
Assistant Director (Litigation)
E&SE Department
Khyber Pakhtunkhwa Peshawar

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245.	M. Yaseen S/O Mohammad Zaffar	Chitral	Pak Study	GHSS Drosch Chitral
246.	Javid Musa S/O M. Musa Khan	Chitral	Pak Study	GHSS Morilashi Chitral
247.	Muhammad Bilal S/O Riaz Hussain	D.I. Khan	Pak Study	GHSS Rammak D.I. Khan
248.	Abdul Sallar S/O Faiz Rasoul	D.I. Khan	Pak Study	GHSS Abdul Khel D.I. Khan
249.	M. Jamshed Iqbal S/O Allah Diwaya	D.I. Khan	Pak Study	GHSS D/Kalan D.I. Khan
250.	Inam Ullah S/O Raffiullah	Dir Lower	Pak Study	GHSS Munda Dir Lower
251.	Asghar Khah S/O Gul Sadbarg	Mardan	Pak Study	GHSS Zaimdara Dir Lower
252.	Alamzeb S/O Muhammad Zaman	Malakand	Pak Study	GHSS Wari Dir Upper
253.	Imran Khan S/O Izzat Khan	Karak	Pak Study	GHSS Lachi Kohal
254.	Tanveer Hussain S/O Shabir Hussain	Kurram-A	Pak Study	GHSS Dhand Saghri Kohal
255.	Sajjad Ahmad S/O Bahadar Khan	Haripur	Pak Study	GHSS Kawai Mansehra
256.	Mukamil Shah S/O Miro Jan	Swabi	Pak Study	GHSS No.1 Mardan
257.	Bahadar Khan S/O Imdadullah	Nowshera	Pak Study	GHSS Manki Sharif, Nowshera
258.	Muhammad Hussain S/O Hazrat Sharif	Malakand-A	Pak Study	GHSS Jalozai Nowshera
259.	Ilyas Ahmad S/O Ahmadullah Khan	Charsadda	Pak Study	GHSS Urmur Payan Peshawar.
260.	Ihsanullah S/O Abdul Ghaffar	Peshawar	Pak Study	GHSS Sulaid Sung Peshawar
261.	Wajid Ali S/O Shaluk Khan	Khyber-A	Pak Study	GHSS Sandovi Shangla
262.	Syed Adnan Ahmad S/O Syed Muhammad Shah	Swabi	Pak Study	GHSS Kabgani Swabi
263.	Naveed Iqbal Khah S/O Majidullah Khan	Swat	Pak Study	GHSS Kishwara, Swat
264.	Sajjad Ali S/O Liaqat Ali	Mardan	Pak Study	GHSS Madyan, Swat
265.	Manzoor Hussain S/O Badshah Moh	Malakand	Pak Study	GHSS Falehpur Swat
266.	Saqib Anwar S/O Muhammad Anwar	Abbottabad	Physics	GHSS Tajwal Abbottabad
267.	Missaral Naeem S/O Munsif Khan	Haripur	Physics	GHSS Berote Abbottabad
268.	M. Arshad S/O Muhammad Younis	Abbottabad	Physics	GHSS Dalola Abbottabad
269.	Ziaur Rehman S/O Saifur Rehman	Abbottabad	Physics	GHSS Z. Masoom Abbottabad
270.	Rukhsar Ali S/O Raham Zad Khan	Bannu	Physics	GHSS Hakim Hawed Bannu
271.	Liaqat Ali Khan S/O Qadar Shah	Mardan	Physics	GHSS Balara Buner
272.	M. Sajid S/O Ghulam Yasin	D.I. Khan	Physics	GHSS Abdul Khel D.I. Khan
273.	Muhammad Saeed S/O Muhammad Sharif	D.I. Khan	Physics	GHSS D/Kalan D.I. Khan
274.	Sarbilland Khan S/O Sher Afzal	Dir Lower	Physics	GHSS Mayar Jandol, Dir lower
275.	Kifayatullah S/O Mahar Gul	Charsadda	Physics	GHSS Mian Brangola Dir Lower
276.	Gul Muhammad S/O Noor Muhammad	Dir Lower	Physics	GHSS Samar Bagh Dir Lower
277.	Shakil Khan S/O Hassan Gul	Dir Lower	Physics	GHSS Ziarat Talash Dir Lower
278.	Shahid Iqbal Khan S/O Bakht Zamir	Dir Lower	Physics	GHSS Wari, Dir upper
279.	Muhammad Shakoor S/O Hakim Khan	Karak	Physics	GHSS Chorlazi Kohal
280.	Inamullah S/O Qasim Khan	Lakki	Physics	GHSS Abdul Khel Lakki
281.	Tariq ur Rehman S/O Sheikh Wali	Karak	Physics	GHSS Landiwah Lakki
282.	Ali Ahmad S/O Bahadar Khan	Mardan	Physics	GHSS Palai Malakand
283.	Mian Abdul Malik S/O Mian Hussain	Mansehra	Physics	GHSS Behali Mansehra
284.	Israr Ahmad S/O Nisar Ahmad	Mansehra	Physics	GHSS Garhi Habibullah Mansehra
285.	Muhammad Saqeer S/O Jahandad	Haripur	Physics	GHSS Jabbori Mansehra

Asst. Dir. SS Regularization (SI)

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Tariq ur Rehman S/O Sheikh Wali

Assisted
Assistant Director (Litigation)
E&SE Department
Khyber Pakhtunkhwa Peshawar

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TERMS & CONDITIONS.

1. Their services will be considered as regular but without pension & gratuity in terms of Section-19 of the NWFP, Civil Servants Act, 1973 as amended, vide NWFP, Civil Servants (Amendment) Act, 2005. They will, however, be entitled to contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
2. Their Terms & Conditions of service shall be governed under the NWFP Civil Servant Act 1973 and the rules made there under except seniority.
3. Their services will be liable to termination on one month's notice from either side. In case of resignation without notice their one month pay/allowances, shall be forfeited to Government.
4. Their seniority will be determined according to Section-4 of the NWFP, Employees (Regularization of Services) Act, 2009.
5. They should join their post within 30-days of the issue of this notification and they will be required to furnish copies of all their certificates/degrees alongwith original receipts and photo stat copies thereof, pertaining to the verification fee of the concerned Examining body (Board & University) to this Department as well as to the EDOs (E&SE) concerned.
6. They would be on probation for a period of two years extendable for another one year.
7. They will be governed by such rules and regulations as may be issued from time to time by the Government.
8. Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they will be proceeded against under the NWFP Removal from Service (Special Power) Ordinance, 2000 and the Rules framed from time to time.
9. They are junior to those selectees who have been appointed by Government on the recommendations of Khyber Pakhtunkhwa Public Service Commission.
10. Charge report should be submitted to all concerned.
11. The EDO (E&SE) concerned is directed not to release their pay until the verification of their documents.
12. No TA/DA will be allowed to the appointees for joining their duty.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA,
ELEMENTARY & SECONDARY EDUCATION DEPTT.

Endst: No. & Date even:

Copy of the above is forwarded to:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Director Information, Khyber Pakhtunkhwa, Peshawar.
4. Director Education FATA, Khyber Pakhtunkhwa, Peshawar.
5. District/ Agency Accounts Officers concerned.
6. Executive District Officers, (E&SE) in Khyber Pakhtunkhwa.
7. PS to Minister (E&SE), Khyber Pakhtunkhwa, Peshawar.
8. PS to Secretary Govt. of Khyber Pakhtunkhwa, (E&SE) Department.
9. PS to Additional Secretary Govt. of Khyber Pakhtunkhwa, (E&SE) Department.
10. All Subject Specialists concerned.
11. Office orders file.

(FARID AHMAD KHATTAK)
SECTION OFFICER (GENERAL)

ATTESTED
to be true Copy

Attested
Assistant Director (Litigation)
E&SE Department
Khyber Pakhtunkhwa Peshawar

(14)
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**THE ¹[KHYBER PAKHTUNKHWA]
EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009.
(²[KHYBER PAKHTUNKHWA] ACT NO. XVI OF 2009)**

[First published after having received the assent of the Governor of the ³[Khyber Pakhtunkhwa] in the Gazette of ⁴[Khyber Pakhtunkhwa] (Extraordinary), dated the 24th October, 2009]

**AN
ACT**

to provide for the regularization of the services of certain employees appointed on adhoc or contract basis.

WHEREAS it is expedient to provide for the regularization of the services of certain employees appointed on adhoc or contract basis, in the public interest, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**---(1) This Act may be called the ⁵[Khyber Pakhtunkhwa] Employees (Regularization of Services) Act, 2009.

(2) It shall come into force at once.

2. **Definitions.**---(1) In this Act, unless the context otherwise requires,-

- (a) "Commission" means the ⁶[Khyber Pakhtunkhwa] Public Service Commission;
- (aa) "contract appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment;
- (b) "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees for project post or appointed on work charge basis or who are paid out of contingencies;

¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011


²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁶Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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Assistant Director (Litigation)
E&SE Department
Khyber Pakhtunkhwa Peshawar

- (14)
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(15)
- (c) "Government" means the Government of the ¹[Khyber Pakhtunkhwa];
 - (d) "Government Department" means any department constituted under rule 3 of the ²[Khyber Pakhtunkhwa] Government Rules of Business, 1985, and does not include any section of a Department or an organization which is federally funded;
 - (e) "law or rule" means the law or rule for the time being in force governing the selection and appointment of civil servants; and
 - (f) "post" means a post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission.

(2) The expressions "ad hoc or contract appointment" and "civil servant" shall have the same meanings as respectively assigned to them in the ³[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (⁴[Khyber Pakhtunkhwa] Act No. XVIII of 1973).

3. **Regularization of services of certain employees.**---All employees including recommendees of the High Court appointed on contract or ad hoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post:

Provided that the service promotion quota of all service cadres shall not be affected.

4. **Determination of seniority.**---(1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority interse of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

Attested
[Signature]
Assistant Director (Litigation)
E&SE Department
Khyber Pakhtunkhwa Peshawar

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Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

4A. **Overriding effect.**—Notwithstanding any thing to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

5. **Repeal.**—The North-West Frontier Province Employees (Regularization of Services) Ordinance, 2009 (N.-W.F.P. Ordinance No. VII of 2009) is hereby repealed.

Attested

Assistant Director (Litigation)
E&SE Department
Khyber Pakhtunkhwa Peshawar

(17) (18)

**UPDATED VERSION OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS
(APPOINTMENT, PROMOTION & TRANSFER) RULES, 1989
[UPTO 20.02.2023]**

PART-I

GENERAL

1. **Short title and commencement:** - (1) These rules may be called the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

(2) They shall come into force at once.

2. **Definitions:**-(1) In these rules, unless the context otherwise requires:-

(a) "Appointing Authority" in relation to a post, means the persons authorized under rule 4 to make appointment to that post;

(b) "Basic Pay Scale" means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;

(c) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;

(d) "Departmental Promotion Committee" means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government, which do not fall within the purview of the Provincial Selection Board;

² (dd) "Departmental Selection Board" means a Board constituted for the purpose of making selection for initial recruitment /appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission:

Provided that more than one such committees may be constituted for civil servants holding different scales of pay".

(e) "Departmental Selection Committee" means a committee constituted for the purpose of making selection for initial appointment to posts under a department, or office of Government [in Basic Pay Scale 17 and below not falling within the purview of the Commission];

(f) "Post" means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades ; and

¹ Substituted by Clause (d) of sub-rule (1) of Rule 2 vide Notification No. SOR-I (S&GAD) 4-1/80 (Vol-II) dated 14-01-92.

² Clause (dd) added by Notification No. SOR-III (S&GAD) 2-7/86, dated 8-12-1994

Attested

[Signature]
Assistant Director (Litigation)
E&SE Department
Khyber Pakhtunkhwa Peshawar

17. **Seniority :-** (1) the seniority inter se of civil servants ³⁴(appointed to a service, cadre or post) shall be determined:-

- (a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission ³⁵[or as the case may be, the Departmental Selection Committee;] provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection; and
- (b) in the case of civil servants appointed otherwise, with reference to the date of their continuous regular appointment in the post; provided that civil servants selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post.

Explanation-I:- If a junior person in a lower post is promoted to a higher post temporarily in the public interest, even though continuing later permanently in the higher 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.

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.

(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.

³⁴ Substituted for the words appointment to a post in the same basic pay scale in a cadre by Notification No. SOR-I(S&GAD) 1-80-III dated 1-6-1989.
³⁵ The words inserted by Notification No. SOR-I(S&GAD)4-I-80-III, dated 04-02-1996.
 Sub-rule (3) of Rule 17 added vide Notification No. SOR-I(S&AD)4-I-80-IV, dated 28-5-2002.

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 Assistant Director (Litigation)
 E&SE Department
 Khyber Pakhtunkhwa Peshawar

17(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 Khyber Pakhtunkhwa Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, are hereby repealed.

Attested
[Signature]
Assistant Director (Litigation)
E&SE Department
Khyber Pakhtunkhwa Peshawar




**DIRECTORATE ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR.**

AUTHORITY LETTER

I Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar do hereby authorize Mr. Muhammad Imran Assistant (Litigation) of this Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar to attend the Khyber Pakhtunkhwa Service Tribunal in connection with filing of para wise comments in Service Appeal No. 247/2023 Titled Tariq-ur-Rehman VS Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department.

Dated 02/11/2023


Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.