97/16 -

13.7.2016

None present for the appellant. Mr. Gul Muhammad, C.T alongwith Mian Amir Qadir, G.P for the respondents present. Representative of the respondents has produced copy of order dated 18.04.2016 according to which the appellant has = been posted at GPS No. 1Skha Kot. Since none is in. attendance on behalf of the appellant despite repeated calls as such the appeal is dismissed in default. File be consigned to the record room

<u>ANNOUNCED</u> 13.7.2016

Nairman Camp Court, Swat

11.02.2016

Arpellant Deposite Security &

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was initially appointed as PST in the year 1994 and during the course of service promoted as SPST and then as CT to BPS-15. That the appellant is entitled to fixation of pay in SPST at the first stage and there-after as CT (BPS-15) but the respondents are reluctant to fix the same in terms entitlement of appellant constraining him to prefer departmental appeal on 27.11.2015 which was not responded and hence the instant service appeal on 26.1.2016.

That the appellant is entitled to pay fixation in order of promotion. Places reliance on Article 38 (e) of the Constitution of the Islamic Republic of Pakistan.

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/comments for 27.4.2016 before S.B.

Charman

27.4.2016

Agent of counsel for the appellant and Mr. Gul Muhammad, C.T alongwith Addl: A.G for respondents present. The appeal pertains to territorial limits of Malakand Division. To come up for written reply/comments on 13.07.2016 before S.B at camp court, Swat.

Form- A

FORM OF ORDER SHEET

Court of___

	Case No	97 /2016
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26.01.2016	The appeal of Mr. Alam Khan resubmitted today by Mr.
	· · ·	Noor Muhammad Khattak Advocate may be entered in the
		Institution register and put up to the Worthy Chairman for
		proper order.
2		REGISTRAR
2	28-1-12	This case is entrusted to S. Bench for preliminary
		hearing to be put up thereon <u>11-2 - 14</u> .
		CHAIRMAN
	•	
	-	• •
		· · · ·
	1	

The appeal of Mr. Alam Khan C.T GHS No.1 Sakhakot Distt. Malakand received to-day i.e. on 20.01.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of notification dated 9.2.2013 mentioned in para-2 of the memo of appeal is not attached with the appeal which may be placed on it. λ

(2) Copy of impugned order and departmental appeal against may be placed on file.
3- Annexure-D of the appeal may be attested.

No. 6 /S.T. Dt. 20 1 /2016

Note:

REGISTRAR

SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Sir lopies of the Notification dated 9.2.2013 and impugned order are not available, hence the appeal may be put up before the bench. That Department of appeal has dready the bench. That Department of appeal has dready been attached as annexes "D" Page-"4.

Mi . 1 26/1/2016

BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO 97 /2016

ALAM KHAN

VS

EDUCATION DEPTT:

INDEX			· .
S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal		1-3.
2.	Service book	Α	4- 11.
3.	Promotion Notification	В	13.
4.	Pay slip	С	14.
5.	Departmental appeal	D	15.
6.	Letter	Е	16.
7.	Vakalat nama		17.

APPELLANT

THROUGH: NOOR MUHAMMAD KHATTAK ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 97 /2016

Mr. Alam Khan, C.T (BPS-15), GHS No.1 Sakhakot, District Malakand. BARY No 50

.....APPELLANT

VERSUS

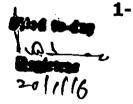
- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (Male), District Malakand.
- 4- The District Account Officer, District Malakand.

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR FIXATION OF PAY FROM BPS-14 TO BPS-15 INSTEAD OF FROM BPS-12 TO BPS-15 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed to fix the pay of the appellant from BPS-14 to BPS-15 instead of from BPS-12 to BPS-15. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH: ON FACTS:



Logistran 26 /1/16

That vide Notification dated 9.2.2013 the appellant was promoted to the post of Senior Primary School Teacher (BPS-14) on seniority cum fitness basis and on the proper recommendation of Departmental promotion committee. That in response the appellant submitted his charge report and started performing his duty with utmost satisfaction of

- 5- That appellant having no other remedy filed the instant appeal on the following grounds amongst the others.

GROUNDS:

- A- That the action of the respondents by not fixing the pay of the appellant in BPS-15 from BPS-14 is against the law, facts and norms of natural justice.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and malafide manner while fixing the pay of the appellant in BPS-15 from BPS-12 instead of from BPS-14 to BPS-15.
- D- That no notice has been issued to the appellant before fixation of his pay from BPs-12 to BPS-15.
- E- That no chance of personal hearing/ defense has been given to the appellant and as such the respondents violated the principle of Audi Altrem Partum.
- F- That according to Article 38(e) of the Constitution of Pakistan 1973 the state is bound to reduce disparity in the income and earnings of individuals including persons in the various classes of the service of Pakistan but in this case the respondents totally violated Article 38(e) of the Constitution of Pakistan 1973.

- G- That under the law appellant is fully entitle for fixation of his pay from BPS-14 to that BPs-15 instead of from BPS-12 to BPS-15.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

DATED: 14.1.2016

APPELLANT

ALAM KHAN THROUGH:

(For use in Police Department only). Heirs, Ι. 2. 3. Verification Roll No. dated received back W Crester Kell No. 14 31/ 1988 0(1) 572 p. D. ¥.... 20433 SAM EADINAL Yse. WLeft thumb-impression. 5.9 8945 (5) FA 1. D. R. O(A) Kam Bankal 5**6**8% Qualifica for under WerDate 1355 لأهدرن Qualifications Session 1993 Vire Exam - pression (English .\v; 25/10/93 First Arts 5200 614 At dectar D. T. OT Bashtu B. L. or B. A. Sub: Divi Fdo: Officer an Ranizal Som Superior Dar 124 Mandarud Agenoy 1 st Pleadership examination $\mathcal{M}^{\mathcal{N}}$ 289587 NIVEN Training School Final examination Plan-drawing Qther qualifications 14 Finger print Edu: Offices <u>5</u>58 Dassed MA Sam Radizal Darget - nam pen Kesnif due Nar Malukand ABEDOY tob: Bivi: Dr 21413 obtain duties (AN) out Cou 1100 C in Division Ve auties declared on 26-6-2000. Reser ATTESTED Dy District Officer (E&S) Education (M Sama Ranizai at Dargai Mito N. B-Line to be drawn under the qualification possessed.

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<u>> OFFICE OF THE DISTRICT EDUCATION OFFICER (M) MALAKAND</u> <u>AT BATKHELA</u>

OFFICE ORDER.

Consequent upon the recommendation of Departmental Promotion committee in its meeting held on 25-7-2015, the District Education Officer (M)(E&SE) Malakand at Batkhela is pleased to approve the Promotion of the following SPST,s/PSHTs, on the basis of seniority cum fitness to the posts of CT (Male)regular BPS-15(10985-905-38135) are hereby adjusted against the CT vacant posts.

S	Sen:No.	Name of official & Present Place of posting	School where posted as CT B-15
#1	205	Sultan Muhammad PSHT.GPS Amandara	GCMHS Batkhela
2	254	Muhammad JehangirKhan PSHT.GPS.Pir Mahmood shah,Banda.	GHS No.2 Sakhakot
	464	Muhammad Ilyas.SPSTGPS Pinjan	GHS No.1 Dheri Allahdand
3	464 472	Muhammad Ayaz SPST.GPS No.1 Thana	GHS No.1 Thana
4	472	Shah BadShah .SPST GPS.Jalalkot.	GCMHS Batkhela
5		Muhammad Riaz SPST.GPS Kot(H/C)	GHSS Kot
6	486	Gul Rahman SPST. GPS Wartair	GHS Wartair
7	489 🗸	Muhammad Siyab SPST GPS Said Abad	GHS No.1 Dheri Allahdand
8	490	Gul Bad Shah SPST GPS Maina	GHS Maina
9	497	Muhammad Humayun Khan SPST GPS No.1 Kot	GHSS Kot
10	499	Muhammad Fayaz SPST GPS .Kot(H/C)	GHSS Kot
11	507	Ali Gohar SPST GPS Janat Abad	GHS HaryanKot
12	522	Wazir Said SPST GPS Krapa	GHSHaryanKot
13	523	Hamidud Din SPST GPS Bazdara Payeen	GHS Palai
14	528	Muhammad Naeem SPST GPS Haibat Gram	GCMHS Batkhela
15	540	Sana Ullah Jan SPST GPS CC Thana	GCMHS Batkhela
16 17	569	Said Malik SPST GPS No.I Jalala	GHS No.1Thana
L	572	Iftikhar Hussain SPST GPS Gulshan Abad	GHS No.1 Dheri Allahdand
18	572	Arshad Karim SPST GPS Palai Khpa	GHS CC Thana
19 20	580	Nazar Badshah SPST GPS Sori Ghara	GHS HaryanKot
		Fazal Qahar SPST GPS Jalala	GMS Pianda Kandaro
21	581	Nek Bad shah SPST GPS Qadam Khela	GHS Wartair
22	609	Gul Muhammad SPST GPS Maizara	GHS No.2 Batkhela
23	609	Alam KhansPST. GPS Dawa Khan Kally	GHS No, 1 Sakhakot
	611 V		GHS Badraga
25	613 V	/ Jehangir Khan SPST GPS Garang Dara	GHS Wartair
26	619	Muhammad Shafiq SPST GPS Pinjan	GH5 No.I Dheri Allahdand
27		Zamir Khan SPST GPS Sori Ghara	GHS No.2 Batkhela.
28	_	Muhāmmad Idress SPST GPS Maina	GHS Brah
29		Obaidur Rahman SPST GPS shagai Amandara	GHS No.2 Batkhela
30		Muhammad Raees Khan SPST GPS Hisar kally	GHS Totakan
31		Syed Muhammad Musa SPST GPS Qulangi	GHS Totakan
32		Muhammad Zahir Shah SPST GPS Makhnawala	GHS Badraga
33		Munammag Zahir Shan SPST GPS Makinawala	GHS NO.1 Dheri Allahdand
34		Umar Rahman SPST GPS Shagai Amandara	GCMHS Batkhela
35		Shahid Hussain SPST GPS No.2 Thana	GHS Khar
36	656	Shah Mulk SPST GPS No.3 Batkhela	

TERMS AND COMNDITIONS:

- 1. They would be on probation period of one year.
 - 2. They will be governed by such rules and regulations as may be issued from time to time by the

Government.

3. Their Services can be terminated at any time, in case of his performance is found un-

Satisfactory during probationary period. In case of misconduct, he shall be preceded under the rules Framed from time to time.

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- 4. Charge report should be submitted to all concerned.
- 5 NO TA/DA is allowed for joining his duty.
- 6. They will give an undertaking to be recorded in their service books to the effect that if any overc

payment is made to him in light of this order will be recovered and if he is wrongly promoted he will be reverted.

(SYED MANZAR JAN SAJID) DISTRICT EDUCATION OFFICER (M) MALAKAND AT BATKHELA

Endst:No. <u>4637-76</u> / Promotion SPST to CT Malakand . Dated Batkhela the <u>27/7/2015</u>. Copy forwarded for information and necessary action to the:-

- Director (E&SE)Khyber Pakhtunkhwa, Peshawar.
- 2. Principals/Head Masters GHSS/GHS/GMS in District Malakand.
- 3. District Accounts Officer Malakand.
- 4-5 SDEO.s(M)Swat & Sam Ranizai at Batkhela & Dargai.
- 6. B&AO of the local office.
- 7. AP DEMIS local office.

1.

8. Teachers Concerned.

DISTRICT EDUCATION OFFICER (M) MALAKAND AT BATKHELA

D. GOVERNMENT OF PAKISTAN ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA DISTRICT PAYMENT ADVICE J. DISTRICT PAYROLL SYSTEM(and Sec.002 Month July 2015 BH: DO243764 Buckle: Both House, Frimary Scho GOVERNMENT PRIMARY SCHOOL Name: ALAM KHAN DESIGNATION REPATE DI7040 -Gevernment Frimary Scho GOVERNMENT PRIMARY SCHOOL UNIT. DSIGNATION REPATE DI30EPTT CODE*7200 DI30E COOL-Additional School S	
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SH: Three: PAYROLL SYSTEM(and Pers: H: 00243764 Buckle: Name:: ALAM KHAN Name::: ALAM KHAN DESIGNATION REBATE UNIC:NO: IT/YUI37200 UNIC:NO: IT/YUI37200 UNIC:NO: IT/YUI37200 PAYSIANO ALLOWANCES: ID/2040 -GOVERNMENT PRIMARY SCHOOL YOOT-Basic Pay NO?040 -04 PAYSIANO ALLOWANCES: II. 476.00 1300-Hedical: Allowance I. 476.00 1300-Hedical: Allowance I. 500.00 1300-Hedical: Allowance I. 500.00 12148-Adhoc Allowance I. 715.00 2148-15X Adhoc Relief Allow 2014 2. 572.00 2174-Adhoc Relief Allow 2014 2. 572.00 2174-Adhoc Relief Allowances 37.838.00 DEDUTIONS:: 530.40 Deducted 110.00 TAX: (3609) 54.00 3501-Benevolent Fund IB0.00 3501-Benevolent Fund IB0.00 3501-Benevolent Krk I00.00 3501) ,
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بخدمت جناب (DEO (M) صاحب ملاکنڈ ایٹ بٹ خیلہ

عنوان: **ا بدل**

جناب عالى ا

D - (14)

میودبانیہ گزارش ھیے ۔کیہ میند رجہ ذیل اساتذہ کا SPSTسے CTمیں پروموشن 27-2015 - 27-07-21 ۔ بمطابق ارڈر نمبر 76-4637 ڈی ای او میلاکنڈ ایٹ بٹ خیلہ کو ھوچکا ھے ۔ چونکہ مذکورہ اساتذہ کا سکیل 14 پر تین سیال مکمل ھونے میں اب چند مہینے باقی ھیں۔اور متعلقہ حکام براہ راست سکیل 12سے سکیل 15میں فیکس کرنا چاھتے ھیں۔جس سے تنخواہ پہلے سے بھی کم ھورھی ھے۔

لہذا اپ صباحیان مہریانی کرکے متاثرہ اساتذہ کا 2016-02-02 اپنی پرانی تنخواہ جاری کروانے اور 2016-02-10 کو پہر نئی سکیل 15کے مطابق تنخواہ فیکس کرانے کے احکامات جاری فرمائیں۔ سائلین اپ کے اہل واعیال کے لئے تا حیات دعاگو رہینگے۔

ATTESTEL

العار ضين

عالم خان سيريل نمبر 24

OFFICE OF THE District Education Officer (M) Malakand at Batkhela No.---7-4-49-/Pay Protection/CT/Mkd; Dated Batkhela the <u>27</u>/11/2015.

The Director (E&SE)Khyber Pakhtunkhwa, Peshawar.

Subject: <u>PAY PROTECTION TO CT TEACHERS</u>

Memo:

As per Promotion order of 34 teachers from SPST B-14 to CT BPS-15 vide this office Order No.4637-76/Promotion SPST To CT Malakand dated 27-7-2015. The Promoted teachers have not completed their 03 years duration which is considered the normal period for promotion.

Now these teachers are faced with great financial crunch due to not awarding BPS-15 and premature increment.

Therefore it is humbly requested to grant sanction under FR-22(13) regarding their pay Fixation in BPS-15.

Your cooperation in this regard will be highly valued.List of the teachers concerned is attached herewith

DISTRICT EDUCATION OFFICER (M) MALAKAND AT BATKHELA

ATTESTED

VAKALATNAMA

IN THE COURT OF KPK Service Inibunal Pohaw

OF 2016

Ham Khan

(APPELLANT) (PLAINTIFF) (PETITIONER)

VERSUS

(RESPONDENT) (DEFENDANT) Education Department

I/We____lam uhan

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

Dated.___/2016

<u>ACCEPTED</u> NOOR MOHAMMAD KHATTAK (ADVOCATE)

OFFICE: Room No.1, Upper Floor, Islamia Club Building, Khyber Bazar, Peshawar City. Phone: 091-2211391 Mobile No.0345-9383141

OFFICE OF THE District Education Officer (M) Malakand at Batkhela No._____/Pay Protection/CT,s Dated Batkhelka the ____/4/2016

The District Accounts Officer Malakand.

Subject: **PAY PROTECTION**

Memo:

Reference is made to the Promotion order of PST to CT issued vide this office Endst;No.4637-76/Promotion SPST to CT Malakand dated 27-7-2015. In this order the cases of those teachers who have not completed their 03 years tenure at SPST were objected by your office that these teachers have not completed their normal tenure i.e 03 years on BPS-14, which is mandatory for promotion. The three years period of three completed on 09-2-2016.

Now it is requested that the pay of the following teachers may be released Wef,28-7-2015 to 09-2-2016 on BPS-14 and Wef,10-2-2016 on BPS-15.

S #	Name of Teacher	Place of duty.	
1	Muhammad Tariq CT	GHS Badragga	
2	Muhammad Zahir Shah COT	GHS Badragga	
3 /	Alam Khan CT	GHS No.I Skhakot	

(SYED MAN ZAR JAN SAJID) DISTRICT EDUCATION OFFICER (M) MALAKAND AT BATKHELA

Endst;No. 2587-89 Endst;No. 2587-Pay Protection CT/DEO(M) Malakand; Dated Batkhela the, 18/4/2016. Copy forwarded to the: 1.District Accounts Officer Malakand. 2.Principal Concerned. 3.Teachers Concerned.

DISTRICT EDUCATION OFFICER (M)

То

OFFICE OF THE District Education Officer (M) Malakand at Batkhela No._____/Pay Protection/CT,s Dated Batkhelka the ____/4/2016

The District Accounts Officer

Malakand.

Subject: PAY PROTECTION

Memo:

Reference is made to the Promotion order of PST to CT issued vide this office Endst;No.4637-76/Promotion SPST to CT Malakand dated 27-7-2015. In this order the cases of those teachers who have not completed their 03 years tenure at SPST were objected by your office that these teachers have not completed their normal tenure i.e 03 years on BPS-14, which is mandatory for promotion. The three years period of three completed on 09-2-2016.

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2	Muhammad Zahir Shah COT	GHS Badragga
3 /	Alam Khan CT	GHS No.I Skhakot

(SYED MAN ZAR JAN SAJID) DISTRICT EDUCATION OFFICER (M) MALAKAND AT BATKHELA

Endst;No. 2557^{-} /Pay Protection CT/DEO(M) Malakand;

Dated Batkhela the, <u>1\$</u>/4/2016. Copy forwarded to the:-

1. District Accounts Officer Malakand,

2.Principal Concerned.

3, Teachers Concerned.

DISTRICT EDUCATION OFFICER (M) MALAKAND AT BATKHELA

То