

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Misc. A. No. _____/2016

M. Bashir Ahmad versus Chief Secretary & others

Application for restraining respondents to not make promotion of the private respondents to B-20, till the decision of the case:

Respectfully Sheweth,

1. That the subject appeal is fixed for hearing on 08-09-2016.
2. That in the earlier seniority lists, applicant was figured senior than the private respondents on the basis of orders of appointment / promotion in B-18 and B-19.
3. That applicant has raised in the appeal question of public importance, so the case deserves legal appreciations.
4. That applicant has prima facie case in his favor, so balance of convenience lies in his favor.
5. That if private respondents, being most juniors, were promoted to B-20, the purpose of the appeal would defeat and the same would become in-fructuous.
6. That facts and grounds of the appeal be taken as integral part of this application for grant of interim relief.

It is, therefore, most humbly requested that the application be accepted as prayed for.

Date: 08-09-2016

Through

Applicant

 Saadullah Khan Marwat
 Advocate

103

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

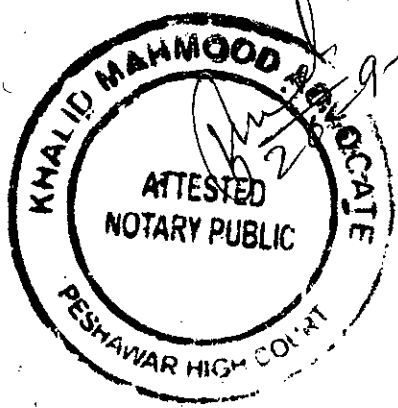
Misc. A. No. _____/2016

M. Bashir Ahmad versus Chief Secretary & others

AFFIDAVIT

I, M. Bashir Ahmad, Applicant, do hereby solemnly affirm and declare that contents of **Application** are true and correct to the best of my knowledge and belief.

M. Bashir Ahmad
2
DEPONENT



"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

legd

No.

Appeal No. *989* of 20*16*
Muhammad Bashir Ahmed Appellant/Petitioner

Chief Secretary Pesh etc Respondent

Respondent No. *5*
Fozal Iqbal, Principal, GHS, Kambat,
Dix Lower.

Notice to: —

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on *06-12-2017* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide the~~

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this *22nd*

Day of *Dec* 20*16*

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

Regd

No.

Appeal No. 989 of 2016
Muhammad Bashir Ahmad Appellant/Petitioner

Versus
Chief Secretary Peshawar Respondent

Respondent No. 6

Notice to:

Darwesh Khan, Principal, GHSS,
Sado, Dir Lower.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 16-12-2016 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Day of Dec 2016

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Registrar,
Khyber Pakhtunkhwa Service Trib
Peshawar.

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"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

regd

No.

Appeal No. 989 of 2016
Muhammed Bashir Ahmad Appellant/Petitioner

Versus
Chief Secretary Pesh etc Respondent

Respondent No. 7

Humayun, Principal, GHSS, Mankiyal,
Swat.

Notice to: —

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 26-12-2016 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. dated~~

Given under my hand and the seal of this Court, at Peshawar this 22nd

Day of Dec 2016.

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
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"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

Recd

No.

Appeal No..... 989 of 20 16

Muhammad Bashir Ahmad Appellant/Petitioner

Versus

Chief Secretary Peshawar Respondent

Respondent No..... 8

Notice to: —

Abdul Hamid, Principal, G/HSS,
Behrain, Swat.

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on..... 26/12/2016 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No..... dated.....~~

Given under my hand and the seal of this Court, at Peshawar this..... 29

Day of..... Dec 20 16

[Signature]
 Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 989/2016

Muhammad Bashir Ahmad Principal GHS No: 1 Rajjar, Charsadda.Appellant

VERSUS

Secretary(E&SE)Department, Khyber Pakhtunkhwa & others.Respondents

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No: 1-4.

Respectfully Sheweth :-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action / locus standai.
- 2 That the instant Service Appeal is badly time barred.
- 3 That the Appellant has concealed material facts from this Honorable Tribunal in the instant service appeal.
- 4 That the instant service appeal is based on mala fide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
- 5 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 6 That the Appellant is not entitled for the relief he has sought from this Honorable Tribunal.
- 7 That the instant Service Appeal is against the prevailing law & rules.
- 8 That the Appellant has been treated as per law, rules & Policy.
- 9 That the instant appeal is not maintainable in its present form.
- 10 That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 11 That the instant Service Appeal is barred by law.
- 12 That the Appellant is not competent to file the instant appeal against the Respondents.
- 13 That the impugned Notification No: SO(S/M)E&SED/4-25/2016/FSL/BS-19(Male) TC Dated 26/4/2016 is legally competent & liable to be maintained in favour of the Respondent Department.

ON FACTS.

- 1 That Para-I needs no comments being pertains to the service record of the appellant.

- 2 That Para-2 incorrect & denied. The Respondent Department has recruited SET/SST on temporary basis. However, in 1993 one Mr. Abdul Hamid has filed a Service Appeal before the Honorable Service Tribunal for the purpose of grant of pay of the Post of SS in BPS-17 alongwith regularization of the Service from the date of his First appointment dated 05/3/1988 figured in S/No: 1 in the summary put up to the Chief Secretary NWFP now KPK .The appeal was allowed to the extent of grant of minimum pay in BPS-17 with no regularization of service against the SS Post, where against the aggrieved party has filed a CPLA before the August Supreme Court of Pakistan which was allowed to the extent of minimum Pay in BPS-17 against the SS Post alongwith annual increments from his first date of appointment & the judgment of the Apex Court was implemented vide Notification No: SO(S)7-15/93/SS dated 28/5/1995. The case was taken with the competent authority who decided to terminate the services of the appellants vide Notification NO: SO(S)S&L/1-4/05 /Regularization /KC dated 19/3/2008 against which Fazal Iqbal has filed a Service Appeal in 2008 for his reinstatement in his service against the SS Post which was allowed by the Honorable Service Tribunal. The matter was referred to the Law Department for CPLA against the judgment of the Service Tribunal, which was declined vide letter No: LD/1-9/180/E&SED/2008/ 12054 dated 23/12/2008. The Respondents 5 to 15 were reinstated in service wef their initial appointments vide order dated 18/4/2009 which has not been challenged by the appellants. Hence in view of the above made submissions the plea of the appellants regarding illegal & without criteria appointment in the Respondent Department is baseless & without any solid proof & justification.
- 3 That Para-3 is incorrect & denied. The services of the above said SETs/SSTs were streamlined on the directions of the Honorable Apex Court to the extent of minimum Pay & without regularization of services & seniority against the Post vide judgment dated 31/5/1994 (Copy of the same as Annexure-A).
- 4 That Para-4 is also incorrect & misleading on the grounds the post of SS was not a Commission Post in BPS-15, rather the Department used to recruit SS in BPS-15 in view of the demands & requirement of the Students.
- 5 That Para-5 is correct. That in view of the judgment dated 31/5/1994 of Service Tribunal, the Respondent Department has implemented the said judgment vide Notification dated 17/01/1996 to the extent of grant of minimum Pay in BPS-17 against the SS Post for the period the appellant has actually served the Post of SS in the Respondent Department but without regularization of service.
- 6 That Para-6 is correct. Hence needs no comments.
- 7 That Para-7 is also correct. That in pursuance of the judgment dated 26/2/1997 of the Apex Court. The Respondent No: 2 issued a Notification dated 28/5/1997 wherein, minimum pay has been allowed & refused seniority & service regularization in line with the directions of the Honorable Supreme Court of Pakistan (Copy of the judgment dated 26/2/1997 as Annexure-B).
- 8 That Para-8 needs no comments. Being pertains to the service record of the appellant.
- 9 That Para-9 is also needs no comments being pertains to the court record.
- 10 That Para-10 is correct to the extent that the judgment dated 17/8/2004 wherein, the Respondent Department has been directed to settled the issue of the appellant against the SS Post pertaining to the seniority & service regularization, whereas, rest of the Para is denied.

- 11 That Para-11 is correct to the extent that the appellant has been promoted vide the Notification dated 30/9/2006 from BPS-18 to 19 on acting charge base & with immediate effect (Copy of the same as Annexure-C).
- 12 That Para-12 is correct to the extent that a summary dated 12/7/2006 & subsequent summary dated 15/7/2007, was put up before the Chief Secretary NWFP now Khyber Pakhtunkhwa, stating therein, the whole case record which was rejected vide order dated 31/5/2007 by the competent authority (Copy of the said is annexure-D).
- 13 That Para-13 is correct that the services of the Private Respondents were terminated vide Notification dated 19/3/2008 on the grounds of without criteria appointments (Copy of the Same is Annexure-E).
- 14 That Para-14 is correct. That appeal has been filed by the aggrieved persons which was allowed vide judgment dated 21/10/2008 by the Honorable Service Tribunal, Peshawar. (Copy of the same is Annexure-F).
- 15 That Para-15 needs no comments.
- 16 That Para-16 is also correct to the extent of reinstatement wef his initial appointment.
- 17 That Para-17 is also correct that the Respondents were reinstated wef his their initial appointments with all benefits.
- 18 That Para-18 needs no comments. Being pertains to the service record of the appellant.
- 19 That Para-19 needs no comments. Being pertains to the service record of the appellant.
- 20 That Para-20 is correct. That vide Notification dated 06/1/2015, the Respondent Department has issued tentative seniority list of the Principal in BPS-19 wherein, the appellant has been placed at S/No: 16 on his due place .(Copy the same is Annexure-G).
- 21 That Para-21 needs no comments being pertains to the record.
- 22 That Para-22 is incorrect & denied. The Respondent Department has acted as per law, rules, policy & criteria in the instant case having no ill will or discrimination with the appellant.
- 23 That Para-23 is correct. Hence needs no comments.
- 24 That Para-24 is correct to the extent of submission of representation against the final seniority list dated 24/4/2016 which was rejected by the Respondent Department on 09/8/2016. (Copies of same is annexure-H& I).
- 25 That Para-25 is incorrect & denied the seniority list dated 26/4/2016 of the Principal BPS-19 is legally competent. Hence the appeal of the appellant is liable to be dismissed on the following grounds.

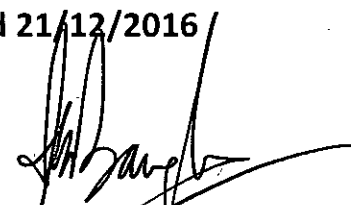
GROUNDS.


- a Incorrect & denied. The appellant has been treated as per law, rules & in view of the above made submissions in the foregoing Paras. Detailed reply has been given in Para-2 of the facts of the present reply.
- b Incorrect & denied. The plea of the appellant in view of above mentioned facts is wrong & illegal. Hence liable to be rejected.
- c Incorrect & denied. The statement of the appellant is baseless & without any cogent reason as the Respondent Department has acted as per law, rules & criteria in the instant case.

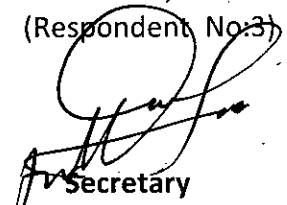
- d Incorrect & denied. The Respondent Department is entitled to act upon the directions of the superior Courts of law wherein, seniority & service regularization have been declined.
- e Incorrect & denied. The matter is relates to the record, hence, needs no comments.
- f Needs no comments being pertains to the service record of the appellant.
- g Incorrect & denied. The Respondent Department has properly implemented the judgment dated 21/10/2008 of the Apex Court in its true letter & spirit. Hence the plea of the appellant is rejected.
- H Incorrect & denied. Hence needs no comments.
- I Incorrect & denied. No authentic record has been annexed in support of his plea by the appellant.
- J Incorrect & denied. The Respondent Department has maintained correct & updated seniority lists as per mandate of law.
- K Incorrect & denied.
- L Incorrect & denied, the appellant has not annexed any cogent proof in support of his plea in this ground.
- m Incorrect & denied. This Para is based on apprehensions. Hence rejected.
- n Incorrect & denied. The Respondent Department is bound to act as per law, rules & criteria in the instant case. However the Respondents further seek leave of this Honorable Tribunal to submit additional grounds & case law /record at the time of arguments.

In view of the above made submissions, it is prayed that this Honorable Tribunal may very graciously be pleased to dismiss the instant Service Appeal with cost in favour of the Respondent Department.

Dated 21/12/2016


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


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


Secretary
(Etab:)Department Khyber
Pakhtunkhwa, Peshawar
(Respondent No: 4)

AFFADIVIT

I, Hameedur Rehman, Asstt: Director (Lit: II) Directorate of E&SE Department Khyber Pakhtunkhwa, Peshawar is hereby solemnly affirm & declare on oath that the contents of the instant reply are true & correct to the best of my knowledge and belief & that nothing has been concealed from this Honorable Tribunal.


Deponent

Subject Specialist from the date when he was adjusted as such. But the period for which he would be entitled to the pay of Subject Specialist would be reckoned upto 3 years back from the date when a writ petition was preferred in the High Court and the claim beyond that would be time barred. As regards the prayer for regularization of service it is for the department to process the case of selection of the appellant as Subject Specialist. The appeal is accepted in the above terms. Parties are left to bear their own costs and file be consigned to the record.

ANNOUNCED.
31.5.1994.

Qazi Hamid
(JUSTICE QAZI HAMID-UD-DIN)
CHAIRMAN.

Taj Muhammad Khan
(TAJ MUHAMMAD KHAN)
MEMBER.

Fazal Sultan

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CA 10/95 etc.

JUDGMENT

SAIDUZZAMAN SIDDIQUI, J.:- The above-

mentioned 15 civil appeals with the leave of this Court are directed against the two separate judgments of learned N.W.F.P. Service Tribunal, Peshawar, dated 31.5.1994 and 20.7.1994 respectively. As the questions of law arising in these appeals are identical, we propose to dispose of these appeals by a common judgment.

2. Civil Appeal No. 88 of 1995 and 120 of 1995 are directed against the judgment of learned Service Tribunal dated 31.5.1994. Civil Appeal No. 89 of 1995 is filed by a civil servant, Abdul Hamid, while Civil Appeal No. 123 of 1995 is filed by Chief Executive, Government of N.W.F.P. Appeals Nos. 559 to 561/95 are filed against the judgment of learned Service Tribunal dated 20/7.1994, by aggrieved civil servants.

3. The relevant facts for decision of these appeals are that appellants in Civil Appeal No. 88/95 and 559 to 561/95 were adjusted/appointed on temporary basis on different dates against the post of subject specialists.

ATTORNEY
Sh. Farid
Counsel for
Appellants

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18/95 etc.

which was a post in BPS-17. Prior to their appointments as Subject Specialist, the appellants were serving as teachers against the posts which were in BPS-15. The appellants were not regularized against the post of Subject Specialist and were also not paid the salary in BPS-17 by the department on the ground that they were not qualified to hold the post of Subject Specialist which was a post in BPS-17. After exhausting departmental remedies, the appellants approached the learned NWFP Service Tribunal through service appeals wherein they prayed for a direction to the department to regularize their services as Subject Specialist in BPS-17 and that they may be paid the minimum salary payable against the post of BPS-17 from the date of their respective appointments. The learned Service Tribunal through the two separate judgments mentioned above though held that the appellants were entitled to minimum pay of BPS-17 for the period the appellants actually worked against the post of Subject Specialist but allowed the claim for arrears of pay only for a period of

ATTESTED

[Signature]

Court Assistant
Supreme Court of Pakistan

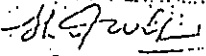
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Sup.
ESTIMATED
John B. [Signature]

three years from the date the respective appeals were
filed before the Service Tribunal by the appellants.
The claim for arrears of pay beyond the period of
three years was disallowed by the learned Tribunal.
It is so for the claim for regularization was concerned.
The learned Tribunal left the question to be decided
by the department in accordance with the law. Leave
was granted in Civil Appeal No. 18 of 1995 and 539 of
531 of 1995 to consider, whether the observation of
learned Tribunal that the appellants were only entitled
to three years arrears of pay from the date they filed
their respective appeals before the Tribunal, was
justified and whether the claim of the appellants
beyond the period of three years as mentioned above
could not be recovered as it had become time barred.
Leave was also granted in Civil Appeal No. 131 of 1995
filed by the Government of N.W.F.P. to consider the
contention of the department whether the appellants
could not claim the bonus against the post of subject
appellant (B-12) as they were not qualified to be

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appointed as Subject Specialist as they had not obtained the degree of B.Ed and M.Ed, which was the required qualification for the said post. We have heard the learned counsel for the appellants as well as learned counsel for the Government of N.W.F.P. in the above appeals.

We will first of all take Civil Appeal No. 128 of 1995 filed by the Government of N.W.F.P. against the judgment of Service Tribunal dated 31.5.1994. We may mention here that in so far as the judgment of Service Tribunal dated 24.7.1994 in the remaining appeals is concerned, that has not been impugned by the Government of N.W.F.P. The respondent in Civil Appeal No. 128 of 1995 was appointed as S.E.T. in B.15 and adjusted against the post of Subject Specialist vide order dated 26.4.1988 (S.O. 19/4.1988). The respondent was denied regularization against the post of Subject Specialist B.17 as well as by in B.17 on the ground that his appointment as S.E.T. in B.15 was temporary appointment.

ATTESTED

 Court Advocate
 Supreme Court of Pakistan
 Islamabad

and therefore, he was not entitled to draw salary
 against the post of Subject Specialist which was a
 post in B.17. The learned Tribunal upheld the claim
 of the respondent in Civil Appeal No. 128/95 with
 regard to payment of minimum pay of B.17 as he was
 holding the post of Subject Specialist continuously
 from the date of his appointment. However, the
 learned Tribunal did not allow the claim of the
 respondent beyond the period of three years from
 the date he filed writ petition in the High Court
 on the ground that the pay for the period beyond
 that period was time barred. The learned counsel for

the appellants in Civil Appeal No. 128 of 1995 contended
 that the respondent was not entitled to draw the
 salary against the post of Subject Specialist which was a post
 in B.17 as he did not possess the required qualification
 namely B.Ed or M.Ed. This contention of the appellants
 in Civil Appeal No. 128 of 1995 was rejected by the
 Tribunal and rightly so in view of the decision in

ATTEST
Sh. Gurb...
 Clerk
 Supreme Court of Madhya Pradesh
 Jabalpur

The case of Islamic Republic of Pakistan vs.

Abdul Karim (1978 SCMR 209) and Federation of Pakistan

vs. Shahnazada Shahpur Jan (1986 SCMR 991). We,

accordingly, find no substance in the contention of

the appellants in Civil Appeal No. 120 of 1995

which is, accordingly, dismissed.

We now take up Civil Appeals Nos. 10/95

and 539 to 551/95. In all these appeals, the appellants

had claimed arrears of pay from the date they were

appointed as Subject Specialists in B.17. The learned

tribunal though accepted their contention that having

worked in the higher post in B.17, they were entitled

to get minimum pay of B.17 from the date of their

respective appointments but their claim for arrears

of salary was allowed only for a period of three years

in the appeal No. 10/95 from the date of

in High Court and in all other cases from the date of

instigation of appeals before the learned Tribunal

by the appellants in each case. The learned Council

for the Government has not been able to point out

ATTESTED

Sh. G. Gul

Chief Justice
Supreme Court of Pakistan
Islamabad

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Ca 18/95, etc.

any law under which the claim for arrears of salary of the appellants could be denied on the ground that it had become time barred. The learned Tribunal, having held that the appellants were entitled to draw the minimum salary in Pay Scale No. 17 from the date of their appointment as Subject Specialist, could not reject the part of the claim of their salary on the ground that they were only entitled to recover salary for three years from the date they filed appeals before the Service Tribunal. It may be mentioned here that the question regarding payment of salary of BUC. 12 post was agitated by the appellants from the dates of their appointment first before the departmental authority and thereafter before the Service Tribunal. In these circumstances, it was hardly open to argument that their claim for salary for the period they worked against the post of Subject Specialist B. 17 had become time barred. The controversy with regard to entitlement of pay against the post of B. 17 having been agitated and finally decided by the Service Tribunal through the impugned judgments

Sh. S. S. S.

1A 13/95 etc.

the appellants were entitled to the arrears of salary for the entire period they have worked against the post of Subject Specialist in B.17 on the basis of minimum pay payable against B.17. We, accordingly, partly allow n.p.p.eals Nos.18 of 1995 and 539 to 551/95 and modify the order of the learned Service Tribunal to the extent that the appellants in these appeals were entitled to the payment of ^{minimum} salary against the post of Subject Specialist B.17 from the dates of their ^{respective} appointments.

6. In so far the claim of appellants in the above appeals with regard to their regularization against the post of Subject Specialist B.17 is concerned, the learned Tribunal rightly declined to grant the same as in the first instance the question of regularization of appellants against the post of Subject Specialist is to be considered by the department. Therefore, no exception can be taken to the judgment of the Tribunal in so far it left the question of regularization of appellants against the post of Subject Specialist B.17

H. Guly

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CA 10/95 etc.

-11-

to be decided by the department. The appeals
stand disposed of, accordingly, with no order
as to costs.

Sd/- Saaduzzaman Saaduzzaman
Sd/- Fajal Iqbal Khan
Sd/- Mahmud ul Basit Johang

ISLAMABAD
26.2.1997
NOT APPROVED FOR REPORTING.

Certified to be true copy
Sh. G. W. J.
14.3.97
CLERK
Supreme Court of Pakistan
Islamabad

12

G.A. No. 283/97
Date of Presentation
Date of Application 26.2.97
No. 310
Sd/- M. A. H. Khan
Sd/- M. A. H. Khan
14-3-97
14-3-97
114
J. A. H. Khan

Annexure C

30-9-06

Ack p chge

GOVERNMENT OF NWFP SCHOOLS & LITERACY DEPT.

Dated Peshawar the 30-9-2006

NOTIFICATION

O.S.O(S)1-2/2006/Promotion BS-18 to BS-19(Male). The Provincial Government, in consultation with the Provincial Selection Board is pleased to promote the following officers of the School & Literacy Department from BPS-18 to BPS-19 on regular basis with immediate effect:

Sl. No	Name	Sl. No	Name	Sl. No	Name	Sl. No	Name
	Saifur Rehman	10-	Muhammad Rafiq	19-	Muhammad Saddique	28-	Khuma Gul
	Hasham Khan	11-	S.Wajid Ali Shah	20-	Rehman Ullah	29-	Fazle Malik
	Said Rehman	12-	Hamid Ali	21-	Fazle Haque	30-	Sultan Mahmood
	Ahmad Jan	13-	Liaqat Ali	22-	Zahid Rashid	31-	Khair Muhammad
	Abdus Salam	14-	Said Muhammad	23-	Kuram Qud	32-	Shubir Ahmad
	Fazle Rahim	15-	Ali Shah	24-	Hazrat Kamal	33-	Ghulam Farid
	Fazle Malik	16-	Jamil Akhter	25-	Abdur Rehman	34-	Muhammad Iqbal
	Mushfaq Ahmad	17-	Jamilur Rehman	26-	Ghulam Mursaleen	35-	Muhammad Khan
	Noorul Wahab	18-	Luqman Ali	27-	Mushtaq Khan		

The Provincial Government in consultation with Provincial Selection Board is further pleased to appoint the following BPS-18 officers of the Schools & Literacy Department in BPS-19 on Acting Charge basis with immediate effect:

Sl. No	Name	Sl. No	Name	Sl. No	Name	Sl. No	Name
16-	Azizur Rehman	52-	Blader Khan	68-	Ghulam Ahmad	84-	Abdul Wahid
17-	Asmat Khan	53-	S.Mahboob Ahmad Shah	69-	Sultan Zaid	85-	Muhammad Sultan
18-	Roz Wali	54-	Abdul Latif	70-	Ahmad Hassan	86-	Mohabat Yar
19-	Abdullah	55-	Muhammad Qadeem	71-	Nek Nawaz	87-	Khaziqur Rehman
20-	Muhammad Bashir Ahmad	56-	Attauliah	72-	Ajab Khan	88-	Muhammad Mukhtar
21-	Muhammad Hamayun	57-	Mir Qasim	73-	Nazeer Khan	89-	Gul Zaman
22-	Muhammad Javed	58-	Misal Khan	74-	Khurshid Anwar	90-	Muhammad Qayam
23-	Muhammad Ibrahim	59-	Abdul Jabbar Khan	75-	Mir Baz Khan	91-	Muhammad Subhan
24-	Sher Ahmad Shah	60-	Akber Hussain	76-	Mehboob Rehman	92-	Amrullah Khan
25-	Salahud Din	61-	Fida Muhammad	77-	Jehan Muhammad	93-	Ghulam Akber
26-	Muhammad Hassan	62-	Iqbal Anwar	78-	Hussain Ahmad	94-	Rab Nawaz
27-	Saeed Khan	63-	Muhammad Javed	79-	Matiullah	95-	Saifur Rehman
28-	Abdul Haq	64-	Inayat Ali	80-	Atiqur Rehman	96-	Qasim Khan
29-	Zahir Shah	65-	S.Abbass Ali Shah	81-	Saifullah		
30-	Mattullah	66-	Said Wahab	82-	Attauliah		
31-	Hanifullah	67-	Raza Ullah	83-	Tariq Mahmood		

No.	Name & Designation	Posted as	Remarks
1	Mr. Saifur Rehman, EDO (BS-19), S&L, Swabi (on acting charge basis)	EDO (BS-19), S&L, Swabi.	Post Already Occupied by him.
2	Mr. Hesham Khan AFO (BS-19), Kurram Agency (on acting charge basis)	Agency In-charge Officer (BS-19), Kurram Agency.	-do-
3	Mr. Saifur Rehman, EDO (BS-19) S&L, Peshawar (on acting charge basis)	EDO (BS-19) S&L, Peshawar	-do-
4	Mr. Ahmad Jinn, Prl. (BS-19) GHSS, Kheshgi Bala, Nowshera (on acting charge basis)	Principal (BS-19), GHSS, No.1 Tangi, Charsadda.	Against Vacant Post.
5	Mr. Abdus Salam, Project Manager (BS-19) Dem Madaris Project, Peshawar (on acting charge basis)	Prl. (BS-19) C Comp. HS, Kohat.	-do-
6	Mr. Fazole Rahim, Prl. (BS-19) GHSS No.2, Bannu (on acting charge basis)	Prl. (BS-19), GHS, No.2, Bannu	Post already occupied by him.
7	Mr. Fazole Malik, Prl. (BS-19), GHS, Gujrat Mardan (on acting charge basis)	Prl. (BS-19), GHS, Gujrat Mardan	-do-
8	Mr. Mushtaq Ahmad, EDO (BS-19) S&L, Nowshera (on acting charge basis)	EDO (BS-19) S&L, Nowshera.	-do-
9	Mr. Noorul Wahab, Prl. (BS-19) GHSS, Lahor Swabi (on acting charge basis)	Prl. (BS-19), GHS, Lahor, Swabi	-do-
10	Mr. Muhammad Rafiq, (BS-19) On deputation with NCHD (on acting charge basis)	Prl. (BS-19) GHSS, Gardai, Bajaur Agency.	Against vacant post.
11	S. Wajid Ali Shah, Prl. (BS-19) GHSS No.3, Mardan (on acting charge basis)	Prl. (BS-19) GHSS No.3, Mardan.	Post already occupied by him.
12	Mr. Hamid Ali, Prl. (BS-19) GHSS, Kabgani, Swabi (on acting charge basis)	Prl. (BS-19) GHSS, Kabgani, Swabi.	-do-
13	Mr. Liaqat Ali, V/Prl. (BS-18), GHSS, Tarojaba Nowshera.	Prl. (BS-19), GHSS, Tarojaba, Nowshera.	Against Vacant Post.
14	Mr. Suid Muhammad, Prl. (BS-19), GHS, Naway Kili Laman, Mohmand Agency (on acting charge basis)	Prl. (BS-19), GHS, Naway Kili Laman, Mohmand Agency.	Post already occupied by him.
15	Mr. Ali Shah, AEO (BS-19), Orakzai Agency (on acting charge basis)	AEO (BS-19), Orakzai Agency.	-do-
16	Mr. Jamil Akhter, Prl. (BS-19), GHS No.3 Abbottabad (on acting charge basis)	Prl. (BS-19), GHS No.3 Abbottabad.	Post already occupied by him.
17	Mr. Jamilur Rehman, Prl. (BS-19), GHSS, Urmir Puyaq, Peshawar (on acting charge basis)	Prl. (BS-19), GHSS, Urmir Puyan, Peshawar.	-do-
18	Mr. Luqman Ali Khan, Prl. (BS-19), GHS, Akora Khattak, Nowshera (on acting charge basis)	Prl. (BS-19) GHS, Akora Khattak, Nowshera.	-do-
19	Mr. Muhammad Saifullah, Prl. (BS-19), GHS, Khanpur, Haripur (on acting charge basis)	Prl. (BS-19) GHS, Khanpur Haripur.	-do-
20	Mr. Rehman Ullah, Prl. (BS-19), GHSS, Domel, Bannu (on acting charge basis)	Prl. (BS-19), GHSS, Domel, Bannu.	-do-
21	Mr. Fazole Ummer, EDO (BS-19), S&L, Hangu (on acting charge basis)	EDO (BS-19), S&L, Hangu	-do-
22	Mr. Zahid Rashid, Prl. (BS-19), GHSS, Billitang, Kohat (on acting charge basis)	Prl. (BS-19), GHSS, Billitang, Kohat.	-do-
23	Mr. Karam Dad, Prl. (BS-19), GHS, Aman Kot, Swat (on acting charge basis)	Prl. (BS-19), GHS, Aman Kot, Swat.	-do-
24	Mr. Hazrat Kamal, Prl. (BS-18), GHSS, Sersanai, Swat.	Prl. (BS-19), GHSS No.2, Mingera, Swat.	Against Vacant Post.
25	Mr. Abdur Rehman, EDO (BS-19), S&L, Dir Upper (on acting charge basis)	EDO (BS-19), S&L, Dir Upper	Post Already Occupied by him.
26	Mr. Ghulam Mursaleen, Prl. (BS-19), GHS, Koshi Chitral (on acting charge basis)	Prl. (BS-19), GHS, Koshi Chitral.	-do-
27	Mr. Musharaf Khan, Prl. (BS-18), GHS, Chail, Swat.	Prl. (BS-19) GHS, Sha du Nowshera.	Against Vacant Post.
28	Mr. Khuna Gul, Prl. (BS-19), GHS, Dewlai, Swat (on acting charge basis)	Prl. (BS-19), GHS, Dewlai, Swat.	Post Already Occupied by him.
29	Mr. Fazole Malik, Prl. (BS-19), GHSS, Pir Sadi, Mardan (on acting charge basis)	Prl. (BS-19), GHSS, Pir Sadi, Mardan.	-do-
30	Mr. Sultan Mehmood, Prl. (BS-18) GHS, Tolana Bandai, Swat.	Prl. (BS-19), GHS, Sharvan, Abbottabad.	Against Vacant Post.
31	Mr. Khair Muhammad, Prl. (BS-19), GHS, Mardan.	Prl. (BS-19), GHS No.1, Mardan.	-do-

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	Nascer Killi, Mardan.		
2	Mr. Shahbir Ahmad, V/Prl. (BS-18), GHSS, No.2, Peshawar Cantt.	Prl. (BS-19), GCMHS No.2, Peshawar City.	Against Vacant Post.
1-	Mr. Ghulam Farid, Prl. (BS-18), GHS, Kangra Colony, Haripur.	Prl. (BS-19), GHSS Kot Najibullah, Haripur.	-do-
1-	Mr. Muhammad Iqbal, Prl. (BS-18), GHS, Lalamber, Karak.	Prl. (BS-19), GHSS Risalpur, Nowshera.	-do-
5-5-	Mr. Muhammad Khan, EDO (BS-18), S&L, Tank.	EDO (BS-19), S&L, Tank.	Post already occupied by him.
2-6-	Mr. Azizur Rehman, Prl. (BS-18), GHS, Jani Khel, FR Bannu.	Prl. (BS-19), (on acting charge basis) GHS, Miran Shah NWA.	Against Vacant Post.
3-7-	Mr. Asmat Khan, Pr. (BS-18), GHSS, No.1, Jamrud, Khyber Agency.	Prl. (BS-19), (on acting charge basis) GHSS, Sama Bada Bair, FR, Peshawar.	-do-
3-3-	Mr. Roz Wali, Pr. (BS-18), GHS, Kagawala, Peshawar.	Prl. (BS-19) (on acting charge basis), GHSS, Akberpura, Nowshera.	-do-
39-	Mr. Abdullah, V/Prl. (BS-18), GHSS, Totakan Malakand Agency.	Prl. (BS-19) (on acting charge basis), GHSS, Totakan, Mkd.	-do-
4)-	Mr. Muhammad Bashir Ahmad, Prl. (BS-18), GHSS, Doshra, Charsadda.	Prl. (BS-19), (on acting charge basis) GHS, Malta Mughal Khel, Charsadda.	-do-
4 -	Mr. Muhammad Hamayun, Prl. (BS-18), GHS, Serai Bala Dir Upper.	Prl. (BS-19) (on acting charge basis), GHSS, Ziarat Talash, Dir Lower.	Against Vacant Post.
4 -	Mr. Muhammad Iqbal, DO(M) (BS-18), S&L, Manehra.	Prl. (BS-19) (on acting charge basis), GHS, Balakot, Manshara.	-do-
4 -	Mr. Muhammad Ibrahim, DO(M) (BS-18), S&L, Dir Lower.	Prl. (BS-19) (on acting charge basis), GHSS, Samar Bagh, Dir Lower.	-do-
4 -	Mr. Sher Ahmad Shah, Prl. (BS-18), GHS, Paharpur, D.I.Khan.	Prl. (BS-19) (on acting charge basis), GHS Ladha, SWA.	-do-
4 -	Mr. Salahud Din, Prl. (BS-18), GHS, Sufaid Dheri, Peshawar.	Prl. (BS-19) (on acting charge basis), GHS, Sufaid Dheri, Pesh.	Post already occupied by him.
4 -	Mr. Muhammad Hassan, Prl. (BS-18) GHSS, Chowlaki, Kohat.	Prl. (BS-19) (on acting charge basis), GHSS, Pir Pai, Nowshera.	Against Vacant Post.
4 -	Mr. Saeed Khan, Prl. (BS-18), GHS, Balam Bat, Dir Lower.	Prl. (BS-19) (on acting charge basis), GHSS, Khanpur Dir Lower.	-do-
4-3-	Mr. Abdul Hq, DO(M) (BS-18), S&L, Mardan.	Prl. (BS-19), (on acting charge basis), GHS Bughdacla, Mardan.	-do-
49-	Mr. Zahir Shah, Prl. (BS-18), GHSS, Serai Naurang, Lakki Marwat.	Prl. (BS-19) (on acting charge basis), GHSS, Nizampur NSR.	-do-
50-	Mr. Matuallah, Prl. (BS-18) GHSS, Jhangira, Swabi.	Prl. (BS-19) (on acting charge basis), GHS, Tur Dher, Swabi.	-do-
51-	Mr. Hanifullah, Instt (BS-18), RITE(M), Peshawar.	Prl. (BS-19), (on acting charge basis), GHSS, Topi, Swabi.	-do-
52-	Mr. Nade Khan, Prl. (BS-18), GHS, Labat Swat.	Prl. (BS-19) (on acting charge basis), GHSS, Drosh Khel, Swat.	-do-
5-	Syed Mehboob Ahmad Shah, Prl (BS-18), GHS, Khadizaj Kohat.	Prl. (BS-19) (on acting charge basis), GHS, Batagram Chd.	-do-
5-	Mr. Abdul Latif, Prl. (BS-18), GHS, Tendo Dagg, Swat.	Prl. (BS-19) (on acting charge basis), GHSS, Natiagali, A/Abad.	-do-
5-	Mr. Muhammad Qadeem, Prl. (BS-18), GHSS, Charbagh, Swat.	Prl. (BS-19) (on acting charge basis), GHSS, Fatehpur, Swat.	-do-
5-	Mr. Attullah, Prl. (BS-18), GHSS, Katgar, D.I.Khan.	Prl. (BS-19) (on acting charge basis), GHSS, Khanipur, A/Abad.	-do-
5 -	Mr. Mir Qalam, Instt. (BS-18), RITE(M) Kohat.	Prl. (BS-19) (on acting charge basis), GHS, Rajoin, Abbottabad.	-do-
5 -	Mr. Misal Khan, Prl. (BS-18), GHS, Gidar, Mardan.	Prl. (BS-19) (on acting charge basis), GHSS, Toru, Mardan.	-do-
5 -	Mr. Abdul Jabbar Khan, Instt. (BS-18), RITE(M), Bannu.	Prl. (BS-19) (on acting charge basis), GHS, S.K. Bala, Bannu.	-do-
6 -	Mr. Akhter Hussain, Prl. (BS-18), GHS, Sersunai, Swat.	Prl. (BS-19) (on acting charge basis), GHSS, No.1 Havelian, Abbottabad.	-do-
61-	Mr. Fida Muhammad, Prl BS-18), GHS, Babozai, Mardan.	Prl. (BS-19) (on acting charge basis), GHS, Katlang Mardan.	-do-

62-	Mr. Iqbal Anwar, Prl. (Bs-18), GHS, Pir Abad, Mardan.	Prl. (BS-19) (on acting charge basis), GHSS, Serai Naamat Khan Haripur.	Against Vacant Post.
63-	Mr. Muhammad Javed, Prl. (Bs-18), GHS, Tulandi, Swabi.	Prl. (BS-19) (on acting charge basis), GHS, Kotla, Swabi	-do-
64-	Mr. Inaya Ali, Prl. (BS-18), GHS, Sharki Hoti, Mardan.	Prl. (BS-19) (on acting charge basis), GHSS, Mardan.	-do-
65-	Mr. Abbass Ali Shah, Prl. (BS-18), GHS, Mali Killi, Kurram Agency.	Prl. (BS-19) (on acting charge basis), GHSS, Edak, NWA	-do-
66-	Mr. Said Nawab, Prl. (Bs-18), GHS, Jamrud Khyber, Agency.	Prl. (BS-19) (on acting charge basis), GHSS, Alamgular, Khyber Agency.	-do-
67-	Mr. Razauallah, Asstt. Chief (BS-18), P&D Deptt: Civil Sectt: Peshawar.	Promoted to (BS-19) (on acting charge basis) & placed his services at the disposal of P&D Deptt. for further posting.	-do-
68-	Mr. Mukhtar Ahmad, Prl. (BS-18), GHS No.2, Mansehra.	EDO (BS-19), (on acting charge basis), S&L, Battagram.	Against Vacant Post.
69-	Mr. Sultan Zaib, DC(M) (BS-18), S&L, Buner.	Prl. (BS-19) (on acting charge basis), GHS, Totalai, Buner.	-do-
70-	Mr. Ahmad Hassan, DO(M) (BS-18), S&L, Swabi.	Prl. (BS-19) (on acting charge basis), GHS, Kalu Khan, Swabi	-do-
71-	Mr. Nek Nawaz, Prl. (BS-18) GHS, Ismail Khel, Bannu	Prl. (BS-19) (on acting charge basis), GHS, Batagram, District Battagram.	-do-
72-	Mr. Ajab Khan, Asstt. Director (BS-18), Directorate of Edu. (FATA), Peshawar.	Prl. (BS-19) (on acting charge basis), GHS, Landi Kotal, Khyber Agency.	-do-
73-	Mr. Nazir Khan, Prl (BS-18), GHS, Jehangiri, Karak.	Prl. (BS-19) (on acting charge basis), GHSS, Umerza, Chd.	-do-
74-	Mr. Khurshid Anwar, Prl. (BS-18), GHS, Chail, Swat.	Prl. (BS-19) (on acting charge basis), GHS, No.1 Nowshera Kalan.	-do-
75-	Mr. Mir Baz Khan, Deputy Director (BS-18), PITE, Peshawar.	Prl. (BS-19) (on acting charge basis), GHSS No.4, Mardan.	-do-
76-	Mr. Mehboob Rehman, Prl. (BS-18), GHS, Dhodial, Mardan.	Prl. (BS-19) (on acting charge basis), GHSS, Shankari, Mansehra.	-do-
77-	Mr. Jehan Muhammad, Prl. (BS-18), GHS, No.2, Nowshera.	Prl. (BS-19) (on acting charge basis), GHSS, Kuza Banda, Battagram.	-do-
78-	Mr. Hussain Ahmad, Instt: (BS-18) RITE(M) Timergara, Dir Lower.	Prl. (BS-19) (on acting charge basis), GHSS, Warai, Dir Upper.	-do-
79-	Mr. Matiullah, EDO (BS-18), S&L, Karak.	EDO (BS-19) (on acting charge basis), S&L Karak.	Post already occupied by him.
80-	Mr. Attique Rehman, V/Pr. (BS-18) GHSS No.1, Peshawar City.	Prl. (BS-19) (on acting charge basis), GHSS, Bada Bire, Peshawar.	Against Vacant Post.
81-	Mr. Saifullah, Instt. (BS-18) RITE(M) Ghoriwala, Bannu.	Prl. (BS-19) (on acting charge basis), GHSS, Kotka Habibullah, FR, Bannu.	-do-
82-	Mr. Attullah, EDO (BS-18), S&L, Laki Marwat.	EDO (BS-19) (on acting charge basis), S&L, Laki Marwat.	Post Already Occupied by him.
83-	Mr. Tariq Mehmood, V/Pr. (BS-18), GHSS, Tarbela KTS, Haripur.	Prl. (BS-19) (on acting charge basis), GHSS, Tarbela, KTS, Haripur.	-do-
84-	Mr. Abdul Wahid, Instt: (BS-18), RITE(M), Mardan.	Prl. (BS-19) (on acting charge basis), GHSS, Kheslogi, Bala, Nowshera.	Against Vacant Post.
85-	Mr. Muhammad Sultan, V/Pr. (BS-18), GHSS, Karak.	Prl. (BS-19) (on acting charge basis), GHS, Ahmad Abad, Karak	-do-
86-	Mr. Muhabat Yar, V/ Pr. (BS-18), GHSS, Khanpur, Dir Lower.	Prl. (BS-19) (on acting charge basis) GHSS, Shergar, Mansehra	-do-
87-	Mr. Khaziqur Rehman, Prl. (BS-18), GHS, Ganderi Khattak, Karak.	Prl. (BS-19) (on acting charge basis), GHS, Rustan, Mardan.	-do-
88-	Mr. Muhammad Mukhtiar, Prl. (BS-18), GHS, Khazana, Dir Lower.	Prl. (BS-19) (on acting charge basis), GHSS, Parinz, Mansehra	-do-
89-	Mr. Gul Zaman, DO(M) (BS-18), S&L, Malakand.	EDO (BS-19), (on acting charge basis), S&L, Buner.	-do-

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90.	Mr. Muhammad Qayum, Prl.(BS-18), GHS, Shingla.	Prl. (BS-19) (on acting charge basis), GHS, Opai, Mausehra	Against Vacant Post.
91.	Mr. Muhammad Subhan, Prl (BS-18), GHS, Civil Qtr. Peshawar.	Prl. (BS-19) (on acting charge basis), GHSS, Adezni, Peshawar.	-do-
92.	Mr. Amanullah Khan, Prl.(BS-18) GHS, Kot Hakim, Tank.	Prl. (BS-19) (on acting charge basis), GHS, Darband, Mausehra	-do-
93.	Mr. Ghulam Akber, DO(M).(BS-18) S&L, Swat.	Prl. (BS-19) (on acting charge basis), GHS Subhan Khawar, Mohmand Agency.	-do-
94.	Mr. Raza Nawaz, Prl. (BS-18), GHS, Ibrahimzai, Charsadda.	Prl. (BS-19) (on acting charge basis), GHSS, No.1 Rajai, Chd.	-do-
95.	Mr. Saifur Rehman, DO(M)(BS-18), S&L, Peshawar.	Prl. (BS-19) (on acting charge basis), GHSS No.2 Peshawar Cantt.	-do-
96.	Mr. Dilawar Khan, Pr. (BS-18) GHS, Barikot, Swat.	Prl. (BS-19) (on acting charge basis), GHS, Maniawar, Swat.	-do-

4- Consequential posting/transfer of the following officers are hereby ordered in their own pay scale in the public interest:

97.	Mr. Fazli Rabi, Prl. (BS-18), GHSS, Chaglar Matti, Peshawar.	Prl.(BS-18) GHS, Civil Quarters, Peshawar.	Vice S.No.91
98.	Mr. Sajid Parvez, Instt. (BS-18), RITE(M), D.I.Khan.	Prl.(BS-18) GHS, Ismail Khel, Rannu.	Vice S.No.71.
99.	Mr. Habader Khan Marwat, Prl. (BS-18), GHSS, Palai Malakand.	Prl. (BS-18) GHSS, Bano Nanton, Lakki Marwat.	Vice S.No.99.
100.	Mr. Yas Ali Jan, Prl.(BS-18) GHS, Sarbai I, Peshawar.	Vice Principal (BS-18), GHSS, No.2 Peshawar Cantt.	Vice S.No.32
101.	Mr. Alamgir Khan, Vice Prl. (BS-18), GHS, Shabandar Fort, Charsadda.	Vice Prl. (BS-18), GHSS No.1 Peshawar City.	Vice S.No.80.
102.	Mr. Allah Dad Khan, Instt. (BS-18, RITE(M)) Kohat.	Prl. (BS-18) GHS, Gandini Khattak, Karak.	Vice S.No.87.

NOTE

The officers so promoted will remain on probation for a period of one year in terms of Section 6(2) of NWFP Civil Servants Act, 1973 read with Rule-15(1) of NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

SECRETARY

ENCL. NO. & DATE EVEN.

Copy forwarded for information & n/action:

- 1 The Special Secretary to Chief Minister, NWFP.
- 2 The Accountant General, NWFP, Peshawar.
- 3 The Director of Education (FATA), Peshawar.
- 4 The Director, Schools & Literacy, NWFP, Peshawar.
- 5 The Director Curriculum & Teachers Education, Abbottabad.
- 6 The Director, RITE, NWFP, Peshawar.
- 7 All District/Agency Accounts Officers Concerned.
- 8 EDOs, S&L Concerned.
- 9 Officers Concerned.
- 1 - PSO to Chief Secretary, NWFP.
- 1 - PS to Minister for Education, NWFP.
- 1 - PS to Secretary, Schools & Literacy Deptt. NWFP.
- 1 - PAs to Special Secretary/Additional Secretary, S&L Deptt. NWFP.
- 1 - PA to Deputy Secretary (Admin) S&L Deptt. NWFP.
- 1 - Office order file.

(G. FERAWAZ KHAN)
SECTION OFFICER (SCHOOLS)

M.S.A. TAJIK
T.A.B. HANMAD.

ANNEXURE E

19-3-08 107

M

GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPARTMENT

Dated Peshawar the 19-03-2008

NOTIFICATION:

OS/S&L/1-9/05-Regularization-KC: The services of the following persons, who were appointed, as Subject Specialists (BI-17), on purely temporary basis by the Defunct-Director of Education Malakand division Saidu Shari Swat without observing the required criteria of qualification method of recruitment and other codal formalities for filling up the posts of Subject Specialists are hereby terminated with immediate effect.

S.#	Name	Name of the Schools	Date of Appointment
1	Abdul Hameed	GHSS No.1 Peshawar City	05-03-1988
2	Mr. Fazal Iqbal	GHSS Samar Bagh Dir Lower	27-08-1988
3	Mr. Hamayun Khan	GHSS Madyan Swat	25-07-1988
4	Mr. Sardar Ali	GHSS Khwaza Kheela Swat	11-12-1989
5	Mr. Muhammad Amir	GHSS Kabal Swat	25-07-1990
6	Mr. Mujtaba Khan	GHSS Ouch Dir Lower	24-03-1990
7	Mr. Biradar Khan	GHSS Warai Dir Upper	29-03-1990
8	Mr. Hassan Ali	GHSS Barikot Swat	02-12-1989
9	Mr. Darwaish Khan	GHSS Talash Dir Lower	07-03-1988
10	Mr. Jehan Dildar Khan	GHSS Sandovi Swat	14-12-1989
11	Mr. Ali Haider	GHSS Kabal Swat	21-03-1990
12	Mr. Hameedul Haq	GHSS Kabal Swat	13-02-1990
13	Mr. Hamayun Khan	GHSS Totakani Malakand	03-03-1988

This issues with the approval of the competent appointing authority:

[Signature]
Secretary
SCHOOLS & LITERACY DEPARTMENT

Idet of even No. & Date

copy is forwarded to:

1. Secretary to Govt of NWFP Establishment Department Peshawar.
2. Secretary to Govt of NWFP Law Department Peshawar.
3. Secretary to Govt of NWFP Finance Department Peshawar.
4. Director Schools & Literacy Department Peshawar.
5. Accountant General NWFP Peshawar.
6. Director Curriculum and Teacher Education NWFP Abbottabad.
7. RSQ to Chief Minister NWFP Peshawar.
8. PSO to Chief Secretary NWFP.
9. All Executive District Officers in NWFP *[Signature]*
10. All District/Agency Account Officers in NWFP
11. PS to Secretary Schools & Literacy Department.
12. PS to Special Secretary Schools & Literacy Department.
13. PS to Additional Schools & Literacy Department.
14. Officers concerned.

[Signature]

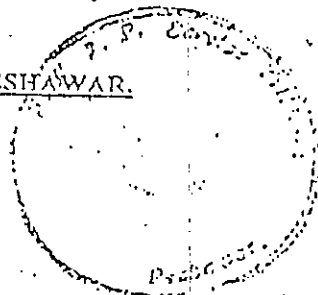
ANNEXURE F

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BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.



Appeal No. 970/2008

Date of institution - 03.07.2008

Date of decision - 21.10.2008

Fazal Iqbal Ex-Subject Specialist Government Higher Secondary School Samar Bagh Dir Lower R/O Kumbat Samar Bagh Dir Lower.....(Appellant)

VERSUS

- 1. Government of NWFP through Chief Secretary NWFP Peshawar.
- 2. Secretary Establishment NWFP Civil Secretariat Peshawar.
- 3. Secretary Elementary and Secondary Education NWFP Peshawar

.....(Respondents)

Appeal under Section 4 of the NWFP Service Tribunal Act, 1974 against the Notification No. SOS/S&L 1-4/05-Regularization KC dated 19.3.2008 whereby the appellant was terminated from service with immediate effect against which the Departmental appeal dated 26.3.2008 has not been replied despite the lapse of 90 days

Mr. Ijaz Anwar, Advocate.....For appellant.

Mr. Ghulam Mustafa A.G.P.....For respondents.

MR. NOOR-UL-HAQ..... MEMBER.
SYED MANZOOR ALI SHAH..... MEMBER.

JUDGMENT

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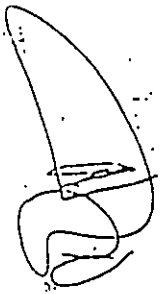
NOOR-UL-HAQ, MEMBER :- This appeal has been filed by the appellant against the Notification dated 19.3.2008, whereby he was terminated from service with immediate effect against which the departmental appeal dated 26.3.2008 has not been replied despite the lapse of 90 days. He has prayed that on acceptance of this appeal the impugned Notification may be set aside, and he be declared as regular employee for all intents and purposes with effect from the date of his appointment, and he may also be reinstated in service with full back wages and benefits of service.

2. Brief facts of the case are that the Government of NWFP Education Department had vide an advertisement published in Daily News paper dated 3.9.1987, invited applications from the desirous candidates for appointment against the post of Subject

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Specialist BPS-17 with the qualification of M.A in the relevant subjects with M.Ed or B-Ed. The appellant having the qualification of M.A in the relevant subject, also applied for the same. As required number of candidates having M.A with B.Ed or M.Ed were not available, hence the Departmental Selection Committee considered the case of the appellant and recommended him for appointment against the post of Subject Specialist. However, it was directed that he be allowed BPS-15 and the appellant was issued appointment order dated 17.2.1988.

3. It is pertinent to point out here that at the relevant time eligible candidates having the additional qualification of B.Ed & M.Ed were not available, while there was dire need of appointment of Subject Specialists in the upgraded Higher Secondary Schools, hence keeping in view the above requirements, the Government of NWFP vide Notification dated 21.11.1991 amended the recruitment rules for the post of Subject Specialist (BPS-17) as follows:-



"Second Class Master Degree in the relevant subject, or in the case of English Subject, Third Class Master degree in English with B.Ed/M.Ed/M.A Education in Second Division respectively from a recognized University or Institute. Provided that candidates not possessing B.Ed, M.Ed or M.A Education Degree shall be eligible for appointment subject to the condition that they shall acquire the professional qualification as aforesaid within 3 years from the date of taking over as Subject Specialist, failing which their services were liable to termination."

The appellant in accordance with the amended rules, improved and acquired the requisite qualification of B-Ed within the target period.

4. The Provincial Government promulgated various Regularization Acts for the regularization of Adhoc & Contract Appointees i.e NWFP Civil Servants (Regularization of Service) Act, 1988, NWFP Employees on Contract Basis (Regularization of Service) Act, 1989 & NWFP Employees on Contract Basis (Regularization of Services) (Amendment) Act, 1990. The appellant was considering himself as regularized by virtue of the above regularization laws, however, it came to light that the respondent department have sent the post held by the appellant with requisition to the Public Service Commission for fresh appointments, hence, the appellant along with other similarly placed employees filed Writ Petition No. 667/1992 in the Peshawar High Court Peshawar with a prayer of his regularization in terms of the Regularization Acts. During the pendency of the Writ Petition it was objected on behalf of the Government that the appellant and others have not filed appeal to the Chief Secretary NWFP as required under Section 4 of the Regularization Act, hence the Writ Petition was dismissed as withdrawn with permission to file a fresh petition in case he does not get redress from the said forum. Although the appellant was working against the post of Subject Specialist (BPS-17) and was perfectly eligible and having the prescribed qualification but was paid the salary in BPS-15, hence, he filed a service

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appeal in the Service Tribunal for the grant of pay of BPS-17 with arrear with effect from the date of his appointment and for the regularization of his services. This Tribunal allowed the relief of pay, however, arrears of pay were allowed for 3 years back from the date the Writ Petition was filed, regarding the prayer for regularization it was directed that the matter of regularization is left for the department to process the case of selection of the appellant as Subject Specialist. The Government filed appeal in the Supreme Court of Pakistan against the decision of this Tribunal. The August Supreme Court of Pakistan in Civil Appeal No. 18, 128 and 539 to 551 of 1995, dismissed the appeal of the Government and maintained the judgment of this Tribunal on the point of regularization, however, allowed and granted the claim for payment of minimum salary against the post of Subject Specialist from the date of his initial appointment. One Muhammad Riaz Subject Specialist a similarly placed employee had also filed Appeal No.92/1995 in this Tribunal. The same was allowed vide judgment and order dated 16.7.1996, however while implementing the judgment the respondent department, allowed him graded pay in BPS-17 alongwith increments against the post of Subject Specialist from 23.5.1988. He was allowed seniority against the post of Subject Specialist with effect from the date of his acquiring the prescribed qualification of the post. The said Muhammad Riaz again filed service appeal No. 649/2000, and sought seniority w.e.f 24.5.1988, however the order dated 15.2.1999 was maintained and he was held entitled to the grant of seniority from the date of his acquiring the qualification i.e 17.2.1992. Accordingly, vide notification (Annexure-G) the said Muhammad Raiz was allowed seniority w.e.f 17.10.1992. On the other hand the appellant was allowed the pay with arrears of the post of Subject Specialist-BPS-17 with effect from his initial appointment pursuant to the judgment of the august Supreme Court of Pakistan vide notification dated 28.5.1997. However, quite illegally attached a rider/condition that he will not claim any seniority against the post of Subject Specialist. The appellant was also granted Move-over BPS-17 to BPS-18 by the respondent department vide Notification dated 27.10.2001 w.e.f. 1.12.2000 on the recommendation of the Departmental Promotion Committee. The appellant had challenged the Notification dated 28.5.1997, wherein he was denied the claim of seniority, referred in Para 2 of the notification in Service appeal No. 2175/1997. This Tribunal vide its judgment and order dated 17.8.2004 again did not decide the matter of regularization of the appellant and directed the respondent department to settle the long standing issue of regularization of service of the appellant as per rules within a reasonable span of time, and remanded back the case to the department for necessary action. The case of the appellant with other Subject Specialists was referred to the Departmental Promotion Committee by the respondent department for regularization. Working paper was prepared to this effect by the Department. The Departmental Promotion Committee discussed the case of regularization of the appellant and held that it did not fall within

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promulgated for the regularization of Adhoc & Contract Appointees i.e NWFP Adhoc Civil Servants (Regularization Service) Act, 1988, NWFP Employees on Contract Basis (Regularization of Service) Act 1989 & NWFP Employees on Contract Basis (Regularization of Services) (Amendment) Act, 1990, were fully attracted to the case of the appellant. He by virtue of those legislations attained the status of regular employee, however, due to the inaction of the respondents, he was denied formal regularization order. Before termination of the appellant's service, no right of hearing was provided to him. He was not issued any show cause notice for explanation and thus the appellant has been condemned unheard. The appellant had in accordance with the amended rules of 1991 improved and acquired the prescribed qualification of B.Ed within the target period and considering his eligibility for the post he was allowed the pay and scale of Subject Specialist by the August Supreme Court of Pakistan. Thus he shall be considered as a regular employee for all intent and purposes. The notification whereby the appellant was terminated from service is in violation of the judgment of the Supreme Court of Pakistan reported in P.L.C 2005 (Civil Service) page 1165, NLR 2004 Service page 12, 2004 SCMR page 49, 1996 page 413 and 1996 SCMR page 1350, because there is no allegations of lacking of the requisite qualification, or complaint regarding his performance in duties. Hence, the notification impugned is liable to be set aside. The appellant has been discriminated against, because similarly placed employees have already been regularized and allowed seniority and are still in service while the appellant has been terminated from service, thus, the order impugned is not tenable on this score alone. He prayed that the impugned Notification dated 19.3.2008 may please be set aside, and the appellant may please be declared as regular employee for all intents and purposes w.e.f the date of his appointment, and he be reinstated in service with full back wages and benefits of service.

8. The learned A.G.P argued that an advertisement was floated through open media on 03-09-1987 for filling the posts of Subject Specialist BPS-17 on temporary basis. The appellant was appointed purely on temporary basis as a stop gap arrangement in BPS-15 (on fixed pay), as per conditions mentioned in his appointment order. Due to shortage of required candidates for the appointment, the condition of B.Ed/M.Ed/M.A (Education) was relaxed, vide amendment dated 21.11.1991, subject to the condition that they shall acquire the same professional qualification within three years. The appellant was appointed on temporary basis as a stop gap arrangement on fixed pay but he could not be regularized as:

- i) He was appointed on fixed pay on temporary basis.
- ii) He did not possess the professional qualifications and experience prescribed for the post at the time of his appointment, as he was simply M.A.

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Accordingly he did not fall under the purview of the Act of contract appointees, therefore, he could not be regularized. It is correct, that pay and scale of the post was given to the appellant in light of the court decision but his services were not regularized. The case of Muhammad Riaz is quite different by virtue of law points, as he was appointed against the post of SET (BPS-15) and was directed to work as Subject Specialist, therefore, could not be resembled with the case in hand. It was the matter of salary/pay and not of seniority which is crystal clear from the judgment of the Honourable Apex Court. As regard the seniority, it was concerned with regularization of the appointment as Subject Specialist, while appointment was not in accordance to the recruitment rules, therefore, he could not be considered accordingly.

9. Move-over, is neither promotion nor concerned with seniority but merely relates with the running status of salary/pay. The Tribunal rightly declined to decide the matter of regularization as the same is prerogative of the Administrative Department with the approval of competent authority. The case of appellant was referred to the DPC, but after thorough scrutiny and examination of the case, it was returned back being not a fit case for regularization for lacking the requirements/entire formalities as per service recruitment rules, as the Divisional Director was not competent for appointment against BPS-17 posts. The true fact is that the appellant's case was time and again processed for regularization, however after thorough examination and scrutiny the competent authority declined to regularize the same as the appointment of appellant was made in violation of merit and relevant recruitment rules, on pick and choose basis. The department being a transiting/routing media, some recommendations were made to the competent authority, while Establishment Department and Law Department treated the same as illegal and rejected the proposal of Administrative Department because the recruitments were made in violation of law and relevant Act and Rules ab-initio, accordingly the Chief Secretary being a competent authority also agreed with opinion of Establishment and Law Departments. All the proceedings have been taken per law and rules with the concurrence of competent authority. The appellant was appointed on temporary basis as a stop gap arrangement on fixed pay, hence, its case do not fall under the scope of contract/adhoc employees regularization Act, while he was not possessing the prescribed professional qualification as required under the rules. He prayed that the appeal may be dismissed.

10. The respondent department has asserted that the appointment of Muhammad Riaz, who was granted regular status was different one, however, the departmental representative present in the court, was confronted with the letter of appointment of the appellant and that of Muhammad Riaz. He candidly conceded that there is no distinction

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their letter of appointments. A comparison of Muhammad Riaz and that of the appellant showed that the appellant's case and that of Muhammad Riaz were identical in all respects and the assertion is absolute. The respondent department has discriminated the appellant for no reason and utter disregard of the norms of equity and justice. It is a glaring violation of the appellant's fundamental rights.

The learned A.G.P. stressed that the appointment of the appellant was irregular and could not be regularized on account of non-observation of the recruitment rules and procedures. When he was asked who violated the rules and prescribed procedure, he had no satisfactory answer. Only a pretext which has been malafidely made the basis of an illegal action, the omission complained of was on the part of the respondent department and they cannot be allowed to benefit out of their own wrong. In any case not after 20 years. As has been held by the august Supreme Court of Pakistan in the case reported as "Secretary Government of NWFP Vs. Saadullah Khan (1996-SCMR-413). Having himself appointed the civil servants the respondents cannot take the benefits of their own lapses, if any, after considerable long time when valuable rights have been created in favour of the employees.

Judging the case on the touch stone of the above authorities, the respondents cannot be allowed to term the appointment of the appellant as illegal after 20 years of his service, coupled with the facts that there is no allegation of his ineligibility, incapability to perform his duties. Interestingly, in the instant case the appellant was allowed move-over from BPS-17 to BPS-18, vide order dated 27.10.2001 w.e.f. 1.12.2000 (Annexure-J with the appeal). The Hon'ble Supreme Court of Pakistan had also approved the induction as well as entitlement to B-17 graded pay.

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The learned A.G.P. tried to argue that the appointment of the appellant was on stop gap arrangements, however, when he was confronted with the appointment letter (Annexure-B with the appeal); it only referred to the appointment as temporary. The learned counsel for the appellant pointed out that it is an appointment for indefinite period and regular one in view of an earlier reported case "Abdul Majid Sheikh Vs. M. Ahmad, Section Officer & another (PLD-1955-SC-208). The learned counsel for the appellant has placed on file, the pay roll of the appellant which also refers to the appointment of appellant as temporary. Moreover, in the column of qualifying service, the period of his service has been given as 21 years and 11 months. The fate of a person who has put in 18 to 22 years service could not be determined just with a stroke of pen without application of mind to the material facts involved in the case, therefore, the arguments put forth by the learned A.G.P. that the appointment was on stop gap arrangements, holds no ground. In the light of the facts and circumstances of the case under the NWFP Civil

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Servants Removal from Service Special Powers Ordinance 2000, if there is any allegation that the appointment was made on extraneously consideration, in violation of law and relevant appointment rules, then the procedure prescribed w/s 5 of the said Ordinance is to be followed. The termination order of the appellant clearly refers to the appointment of the appellant as in violation of the recruitment rules, therefore, Section 3 sub clause of the RSO 2000 was applicable and while dealing with the case of the appellant, show cause notice, constitution of the departmental inquiry was required which has not been done in this case. Therefore, the order of termination from service of the appellant is also not sustainable at this stage.

14. The upshot of the above discussion is that we accept the appeal as prayed for and set aside the impugned order of termination of the appellant dated 19.3.2008. The respondent department is directed to re-instate the appellant in service with all back benefits of service.

15. This judgment will also dispose of the other connected appeals bearing Nos. 912/2008 Abdul Hamid Butt, 913/2008 Darvesh Khan, 914/2008 Hamidul Haq, 915/2008 Ali Didar, 916/2008 Jchan Didar, 917/2008 Muhammad Amin, 918/2008 Mujtaba Khan, 919/2008 Biradar Khan, 920/2008 Sardar Ali, 921/2008 Humayun Khan, 922/2008 Humayun, Versus Chief Secretary NWFP etc, involving common question of law, in the same manner.

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

ANNOUNCED.

21.10.2008.

(SYED MANZOOR ALI SHAH)
MEMBER.

(NGORAJ HAN)
MEMBER.

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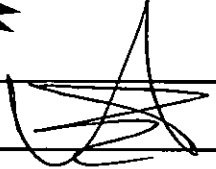
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ایڈوکیٹ: 

بار کونسل ایسوسی ایشن نمبر: be-10-1874

رابطہ نمبر: 8333-9806800

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سر دس سٹیوٹنل حیدر پختونخواہ، کینٹ روڈ

مخاطب: 	دعویٰ: S.A No. 989/2016
محمد شمس الدین	علت نمبر: _____
بنام	مورخہ: _____
حیف سکریٹری اور عدیلہ	جرم: _____
	تھانہ: _____

باعث تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام کیلئے درخواست کی ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور غسوسی، نیز دائر کرنے اپیل نگرانی و نظارتی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

SHAWAR BAR ASSOCIATION PESHAWAR NORTH WEST FRONTIER PROVINCE KHAYBER

المرقوم:

ب د واہ شد الع بد

مقام کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی نامتبادل قبول ہوگی۔

Accepted

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A. No. 989/2016

M. Bashir Ahmad versus Secretary & Others

REPLICATION

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

All the 10 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why the appellant has no cause of action etc.

1. Not correct. Appellant has cause of action and locus standi as respondents, being most juniors, were made seniors for no legal reason.
2. Not correct. Appellant has come to the hon'ble Tribunal with clean hands.
3. Not correct. The appeal is well within time. No material facts were suppressed nor the same were brought on surface.
4. Not correct. Appeal is based on bona-fide. Respondents are not so weak to come under pressure. The appeal is quite maintainable.
5. Not correct. Appellant has come to the hon'ble Tribunal with clean hands. All the necessary parties have been imp-leaded therein.
6. Not correct. Replying respondents were not seniors to appellant, wrong seniority was given to respondents from 14-03-1998 as at the same time, respondents were in BPS-15 (personal grade B-17) while appellant was in B-18 since 18-05-2000.
7. Not correct. Appellant was at the time in BPS-19 on regular basis since 05-01-2009 while he has no concern with final seniority list of BPS-18.

8. Not correct. Appellant never filed any writ petition against the respondents, so such objection is not concerned with him.
9. Not correct. Appellant has no concern with regularization of respondents since 18-04-2009 as at the same time, respondents were in B-17 while appellant was in B-19 since 05-01-2009. As for as regularization of respondents from the date of appointment is concerned, appellant was not party to that proceedings, so has no binding effect upon his seniority and fate.
10. Not correct. Appellant did not challenge final seniority list (B-18) of 01-01-2014 as at the same time appellant was in B-19 while respondent were in B-18. In this seniority list, no count of appellant was given nor his name was figured in the same at any place.
11. Not correct. The instant appeal is not barred by any Law.
12. Not correct. Appellant is quite competent to file the instant appeal against respondents.
13. Not correct. The impugned notification dated 26-04-2016 is illegal and liable to set aside as per Law.

ON FACTS:

1. Needs no comments as this para is not related to appellant.
2. Not correct. As far as regularization of services of respondents as Subject Specialist with effect from the date of their initial appointment in B-17 is concerned, appellant has no concern with the same, because respondents were appointed in the year 1988, 1989 and 1990 while appellant was appointed as such in the year, 1982.
3. Admitted correct to the extent of appeal granting respondents graded pay of B-17 while refused to regularize their services & seniority from the date of initial appointment. Thereafter, respondent were stopped to take any action except to challenge their grievances before the apex court. As for as judgment dated 21-08-2008 of the hon'ble Tribunal is concerned, the same has no binding effect upon the fate of appointment as appellant was not party in the appeal of respondents.

At the same time, respondents were in B-17 while appellant was in B-19 on acting charge basis.

4. Not correct. The para of the appeal is correct regarding qualifying Commission for the post of SS B-17.

In the preceding para No. 3, position has been explained.

5. Not correct. Respondents were at the same time in BPS-17 while appellant was in BPS-19. Only monetary benefits were given to respondents w.e.f 27-05-1993 and no other benefits.
6. Not correct. The judgment of the hon'ble Tribunal dated 31-05-1994 and of the apex court date 26-02-1997 is very much clear on the subject where regularization of services of respondents and seniority was refused in toto.
7. Not correct. Regularization and seniority to respondents was refused by the apex court vide judgment dated 26-02-1997.
8. Not correct. Annex "H" giving knowledge to respondents regarding promotions to appellant to BPS-18 by PSC.
9. Not correct. The para of the appeal is correct regarding subsequent appeal before Service Tribunal of respondents for seniority and deletion of last five lines of the said order.
10. Not correct. The hon'ble Tribunal did not allow regularization of services & consequential benefit including seniority at the cost of others who were appointed on merit on regular basis.
11. Not correct. Proof is attached with the appeal annexed "J" promoting appellant to BPS-19 on 30-09-2006 on acting charge basis.
12. Not correct. That para of the appeal is correct regarding double rejection of Summaries on 12-07-2006 & 15-07-2007 in respect of regularization of services and grant of seniority to respondents from the date of initial appointment with further remarks that respondents shall be dealt with as per law because their appointment was illegal and ab-initio-void.

13. Admitted correct regarding termination of services of respondents vide order dated 19-03-2008 as codle formalities were not observed as well as less in qualification.
- 14-15. Admitted correct by the respondents regarding fling of appeal by respondents against the termination and promotion of appellant to BPS-19 on regular basis on 05-01-2009.
16. In response to this para of reply, it is submitted that respondents were terminated from service on 19-03-2008. Their regularization should have been from this date. More so, the Summary was not approved by the competent authority, i-e Chief Minister, KP, Peshawar.

More so, appellant was not party to the proceedings. The earlier judgments of the hon'ble Tribunal as well as of the apex court could not be superseded at any cost on any legal forums.
- 17-19. Admitted correct by the respondents regarding promotion of respondents to BPS-18 on 12-04-2011 on regular / acting charge basis with immediate effect and further promotion to BPS-19 on regular basis on 21-01-2014 and appellant was promoted to BPS-18 on 18-05-2000 while to BPS-19 on 05-01-2009. These dates of promotion of respondents and appellant shows that appellant was quite senior than respondents.
20. In response to this para of the reply it is submitted that wrong and illegal seniority list was prepared by the department extended respondents undue favor without taking into consideration the dates of promotion of appellant viz-a-viz respondents in each and every grade / cadre.
21. Proof regarding submission of appeal against tentative seniority list is attached as Annexed "U" with the appeal.
22. Not correct. The report of Scrutiny Committee regarding re-determination of eligibility, qualifications, etc. of respondents still hold field.
23. Admitted correct by the respondents regarding issuance of final seniority list which was agitated by appellant by not accepting position assigned to him as well as to respondents.

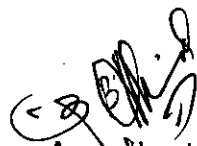
24. Proof regarding submission of representation against incorrect seniority list was preferred which was rejected for no legal reasons.
25. Not correct. The official record was not properly, fairly and justly scrutinized by the official respondents by giving extra-ordinary advantage to respondents for no legal reason.

GROUND S:

- a. Not correct. The ground of the appeal is correct regarding appointment of appellant as SET in 1982 with requisite qualifications while respondents (1988-1990) on fixed pay as such with no qualifications.
- b. Not correct. The ground of the appeal is correct regarding rejection of appeal by Service Tribunal and Supreme Court for grant of regularization of service and seniority.
- c. Not correct. Respondents were in deficient in educational qualifications as against appellant. Their reinstatement was from date of termination i.e. 19-03-2008.
- d. Not correct. CM rejected the plea of regularization and seniority of respondents as their appointments was in total disregard of Law, lack of qualifications.
- e. Not correct. The dates of promotion to B-18 of appellant (18-05-2000) and respondents (12-04-2011) are crystal clear. Law was not followed in the case in hand in letter and spirit.
- f. Not commented upon by the respondents and is crucial para in respect of promotion to B-19 of appellant (05-01-2009) and respondent (21-04-2014), meaning thereby that the same is admitted correct by them. Issue of regularization was not resolved in the judgment. The same should have been w.e.f. 2008, i.e. the date of termination from service.

- g. Not correct. How judgment of Service Tribunal can over ride over the judgment of SC. Respondents should have given benefits from the date of their termination and not from the date of initial appointment.
- h. Not correct. Department was / is under legal obligation to honor the report of Scrutiny Committee because the same was only for this purpose as prayed for i.e. 2008 and not from the initial illegal appointment.
- i. Not correct. Respondents did not qualify the Commission for the post time and again but adopt back channel diplomacy.
- j. Not correct. The date of promotion of appellant to B-19 is 05-01-2009 while that of respondents is 21-04-2014, appellant is senior for more than 06 years from respondents.
- k. Not replied by respondents, so the para of the appeal is admitted correct by them regarding dates of promotion to B-18 of appellant 04-03-1998 and of respondents 12-04-2011, gap of 13 years. Respondents have sought regularization from the date of termination as before this, regularization and seniority was refused to them by the hon'ble Tribunal and Supreme Court of Pakistan.
- l. Not correct. Proof has been attached in shape of dates / orders of appellant to B-18 on 04-03-1998, to B-19 on 05-01-2009 while of respondents to B-18 on 12-04-2011 and to B-19 on 12-04-2014.
- m. Not correct. The para of the appeal is based on facts regarding further promotion of respondents to B-20 within short spane of 02 years.
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It is, therefore, most humbly prayed that the appeal be accepted as prayed for.


Appellant

Through



Saadullah Khan Marwat
Advocate,

Dated: 05-02-2017

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I, M. Bashir Ahmad, appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

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




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S.A. No. 989/2016

M. Bashir Ahmad

versus

Secretary & Others

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7. Not correct. Appellant was at the time in BPS-19 on regular basis since 05-01-2009 while he has no concern with final seniority list of BPS-18.

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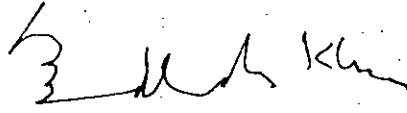
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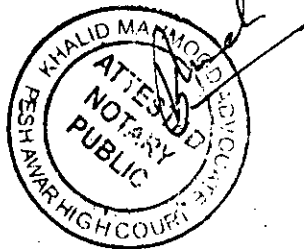

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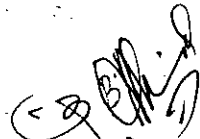
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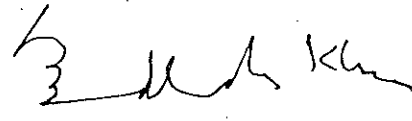
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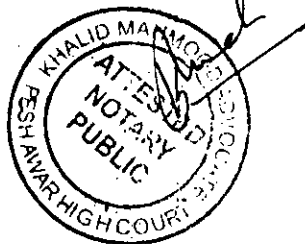

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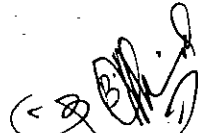
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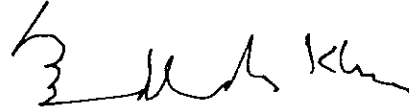
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- i. Not correct. Respondents did not qualify the Commission for the post time and again but adopt back channel diplomacy.
- j. Not correct. The date of promotion of appellant to B-19 is 05-01-2009 while that of respondents is 21-04-2014, appellant is senior for more than 06 years from respondents.
- k. Not replied by respondents, so the para of the appeal is admitted correct by them regarding dates of promotion to B-18 of appellant 04-03-1998 and of respondents 12-04-2011, gap of 13 years. Respondents have sought regularization from the date of termination as before this, regularization and seniority was refused to them by the hon'ble Tribunal and Supreme Court of Pakistan.
- l. Not correct. Proof has been attached in shape of dates / orders of appellant to B-18 on 04-03-1998, to B-19 on 05-01-2009 while of respondents to B-18 on 12-04-2011 and to B-19 on 12-04-2014.
- m. Not correct. The para of the appeal is based on facts regarding further promotion of respondents to B-20 within short spane of 02 years.
- n. Not correct. The para of the appeal is based on facts. Official respondents are backing private respondents in their nefarious designs for further promotion to B-20. Appellant was not party in their appeals, so did not challenge the same nor the same has any binding effect upon the fate of appellant.
- o. Allowed.

7
It is, therefore, most humbly prayed that the appeal be accepted as prayed for.


Appellant

Through



Saadullah Khan Marwat
Advocate,

Dated: 05-02-2017

AFFIDAVIT

I, M. Bashir Ahmad, appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

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




DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No. 989/2016

Bashir Ahmad

VS

Chief Secretary & others

.....

REPLY ON BEHALF OF RESPONDENT NO. 4 to 15

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

1. The appellant has no locus standi and cause of action.
2. The appellant has not come with clean hands.
3. The appeal is time barred.
4. The appeal is not maintainable.
5. The appeal is bad for non-joinder and misjoinder of parties.
6. That the replying respondents were most senior than the appellant and according to the seniority list the seniority given to the replying respondents from 14.3.1998 and the appellant was appointed in 18.5.2000.
7. That the appellant never challenged the final seniority list of 27.5.2013. **Copy attached.**
8. That the some petitioner file writ petition against the replying respondents but the same was also dismissed vide judgment dated 5.3.2014.
9. That the appellant never challenged the order dated 18.4.2009 in which replying respondents were regularized from the date of appointment
10. That the appellant never challenged the final seniority list of the 1.1.2014. **(Copy Attached).**

FACTS:

1. Denied for want of knowledge. Moreover, this para does not relate to replying respondent.

2. Incorrect hence denied. The services of the replying respondents were regularized as subject specialist with effect from the dated of their initial appointment in BPS-17.
3. Correct to the extent that the appeal respondent was accepted by the Hon'able Tribunal vide judgment dated 31.5.1994 while the rest of the contention of the appellant was incorrect. On the basis of judgment dated 21.10.2008 of the Tribunal the E&SE department vide notification dated 18.4.2009 reinstated the replying respondents with all back benefits. The services of the replying respondents were regularized as subject specialist with effect from the dated of their initial appointment in BPS-17.
(Copy attached)
4. Incorrect and misconceived. The judgment of Tribunal dated 21.10.2008 is so much clear on that point.
5. Incorrect and misconceived. The respondents were regularized on the basis of judgment dated 21.10.2008 which is very much clear on every point.
6. Incorrect and misconceived. The Supreme Court in its judgment held that the tribunal rightly says that the issue of regularization was solved by the Department.
7. Incorrect and misconceived. The seniority and regularization was refused by the Respondent no.2 illegally.
8. Denied for want of knowledge. Moreover, this para does not relate to replying respondent.
9. Incorrect and misconceived.
10. Incorrect and misconceived. The case was remanded back to the department and gave direction to settle out the issue as per law and rules.
11. Denied for want of knowledge. Moreover, this para does not relate to replying respondents.
12. Incorrect and misconceived. The appeal of the replying respondents was accepted as prayed for.

Therefore, the summary was approved by competent authority keeping in view the judgment of the Tribunal, there is no favoritism displayed to the replying respondents.

13. Correct to the extent of the replying respondents service was terminated.
14. Correct.
15. Correct.
16. Correct to the extent that the summary was approved and the replying respondents was reinstated and regularized from their initial appointment while rest of the contention of the appellant is incorrect. Moreover, the summary was approved in compliance of judgment dated 21.10.2008.
17. Correct. The official record and judgment is so much clear.
18. Correct.
19. Correct.
20. Correct to the extent that the replying respondents have been placed at the top of the seniority list of 2010 of B-17 while rest of the contention of the appellant was incorrect. The seniority given to replying respondents in B-18 were from the date when the junior was promoted through proper representation filed by the replying respondents which was quite right and according to law. Moreover, the said seniority of 2013 was never challenge by the appellant nor their antedated promotion was challenged by the appellant.
21. Denied for want of knowledge.
22. Incorrect and misconceived. The replying respondent was rightly promoted and given seniority by the authority to replying respondent was correct and according to law and material on record.
23. Correct. Moreover the replying respondent was rightly placed in seniority list because they are senior

from the appellant. The seniority given in BPS-18 to the replying respondents on the basis of regularization of service of the replying respondents from the date of initial appointment and from the date the juniors was promoted, which is according to law and rules. The matter was never challenged and according to superior court judgment once the case decided is always be decided, it is, closed chapter not to be reopened.

24. Denied for want of knowledge and not related to the replying respondents.
25. Incorrect and misconceived. The official record and judgment dated 21.10.2008 is so much clear.

GROUNDS:

- A. Incorrect. The seniority list was issued according to law, facts, norms of justice and the replying respondents was regularized from the initial appointment while the appellant was appointed in BPS-17 in 2000 and material on the record.
- B. Incorrect and misconceived. The official record and judgment is so clear.
- C. Incorrect and misconceived. The replying respondents were reinstated in to service which means that the replying respondents were rightly appointed.
- D. Incorrect and misconceived. As reply in above para.
- E. The contention of the appellant is incorrect and misconceived. The appellant was promoted to BPS-18 on 12.4.2011 but later on after fixation of issue of regularization of the replying respondents. The due seniority and promotion was given to the replying respondents according to law and rules.
- F. The contention of the appellant is incorrect and misconceived. The appellant was promoted to BPS-19 on 21.4.2014 but later on after fixation of issue of regularization of the replying respondents. The due seniority and promotion was given to the replying respondents according to law and rules.

- G. Incorrect and misconceived. The seniority given to the replying respondents are according to law and rules and never override the judgment of the Supreme Court.
- H. Incorrect and misconceived. The appeal of the replying respondents was accepted as prayed for. Therefore, the summary was approved by competent authority keeping in view the judgment of the Tribunal, there is no favoritism displayed to the replying respondents.
- I. Incorrect and misconceived.
- J. Incorrect and misconceived. Moreover, as explained in above para.
- K. Incorrect and misconceived. The seniority given in BPS-18 to the replying respondents on the basis of regularization of service of the replying respondents from the date of initial appointment and from the date the juniors was promoted, which is according to law and rules. The matter was never challenged and according to superior court judgment once the case decided is always be decided, it is, closed chapter not to be reopened.
- L. Incorrect. Hence denied. The replying respondents were given promotion with immediate effect in BPS-18 against which they filed departmental appeal for giving seniority from the date their juniors was promoted. The appeal was accepted and the replying respondents have been given seniority from the date junior was promoted. **(Copy attached)**.
- M. Incorrect and misconceived.
- N. Incorrect and misleading. The seniority given to the replying respondent was according to the law and rules and not challenge the judgment of the Service Tribunal now at that time, the plea of the appellant was badly time barred.
- O. That the replying respondent seeks permission to advance other grounds and proof at the time of arguments.

It is, therefore, most humbly prayed that the appeal in hand may be dismissed with cost throughout being merit less and devoid of any legal footing.

Respondent No.4 to 14

Through:


(M. ASIF YOUSAFZAI)
ASC.


SYED NOMAN ALI BUKHARI
ADVOCATE PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of reply are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.


DEPONENT

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

Service Appeal No. 989/2016

Bashir Ahmad

VS

Chief Secretary & others

.....

**REPLY TO APPLICATION FOR RESTRAINING THE
RESPONDENTS FROM MAKING PROMOTION CASES OF
RESPONDENTS NO4 TO 14 TILL THE FINAL DISPOSSAL
OF THE INSTANT APPEAL.**

RESPECTFULLY SHEWETH:

1. No comments.
2. That, there is no right of the appellant was violated hence there is no cause of action and the reply of the replying respondent may be considered as integral part of the application.
3. Incorrect. The replying respondents are senior to the appellant and rightly placed in the seniority list and the seniority list of BPS-18 never challenged by the appellant.
4. Incorrect. That all the conduct of the appellant is based on malafide and against the cause of justice. More so, the appellant with malafide intention only delay the promotion of the replying respondents.

It is, therefore, most humbly prayed that the on acceptance of this reply the restrain order may be withdrwan . Any other remedy, which this august Tribunal deems fit and

appropriate that, may also be awarded in favour of replying respondent.

Respondent No.4 to 14

Through:


(M. ASIF YOUSAFZAI)
ASC.


SYED NOMAN ALI BUKHARI
ADVOCATE PESHAWAR.

AFFIDAVIT:

It is affirmed and declared that the contents of the above reply are true and correct to the best of my knowledge and belief.

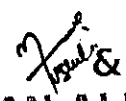

Deponent

appropriate that, may also be awarded in favour of replying respondent.

Respondent No.4 to 14


Through:


(M. ASIF YOUSAFZAI)
ASC.


SYED NOMAN ALI BUKHARI
ADVOCATE PESHAWAR.

AFFIDAVIT:

It is affirmed and declared that the contents of the above reply are true and correct to the best of my knowledge and belief.


Deponent