Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
		BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL **Camp Court D.I.Khan** **Service Appeal No. 500/2016** Date of Institution ..... 21.04.2016 Date of Decision ..... 26.02.2019 Begum Yasmin D/o Mushk-e-Alam resident of village Tattar Khel Tehsil & District Lakki Marwat. **Appellant** **Versus** 1. The Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar. 2. Director Education Khyber Pakhtunkhwa Peshawar. 3. District Education Officer (Female), District Lakki Marwat. 4. District Education Officer (Male) District Lakki Marwat. 5. Deputy Commissioner, Lakki Marwat. **Respondents**
	26.02.2019	**Mr. Muhammad Hamid Mughal----------Member(J)** **Mr. Muhammad Amin Kundi----------Member(J)** JUDGMENT MUHAMMAD HAMID MUGHAL, MEMBER: - Learned counsel for appellant and Mr. Farhaj Sikandar learned District Attorney present. 2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for the issuance of direction to the respondents to reinstate the appellant in service as

Primary School Teacher.

3. Learned counsel for the appellant argued that the appellant was appointed as Primary School Teacher vide order dated 15.12.1994; that vide order dated 05.03.1997 the appellant was terminated from her service; that the Provincial Government enacted the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012 to provide relief to those sacked employees who were dismissed, removed or terminated from service, by appointing them into government service. Next contended that the appellant was also included in the eligible sacked employees in the meeting regarding sacked employees dated 09.01.2013 held in the office of Deputy Commissioner Lakki Marwat. Next contended that in the light of aforementioned Act, the appellant is fully eligible for her reinstatement being sacked employee but the respondents ignored the appellant due to malafide intention. Next contended that the Hon'ble Peshawar High Court Bannu Bench granted relief to another sacked employee namely Mst. Shabana Yaqoob vide judgment dated 01.10.2018 passed in Writ Petition No.108-B/2015.

4. As against that learned District Attorney argued that the case of the appellant does not fall within the ambit of sacked employee as defined under Clause (g) of Section 2 of the Act (ibid); that the appellant was not appointed against any regular post nor she possessed the prescribed qualification of Primary School Teacher in the year 1994. That in the year 1994 the appellant was appointed just on the sheer desire of the Minister of Primary Education Khyber

Pakhtunkhwa, as such the appointment of the appellant was illegal. Further argued that the appellant has to qualify the NTS Exam as per existing government policy and appointment will be made according to the merit. Further argued that the Writ Petition bearing No.377/2014 filed by the appellant for her reinstatement was dismissed in limine by Hon'ble Peshawar High Court Bannu Bench vide judgment dated 29.04.2015.

5. Arguments heard. File perused.

6. Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012 was promulgated to provide relief to those sacked employees in the government service who were dismissed, removed or terminated from service by appointing them into the government service. The term sacked employee has been defined in Clause (g) of Section 2 of Act (ibid) which is reproduced as under:

"*sacked employee*" *means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed or terminated from service during the period from the 1st day of November, 1996 to 31st day of December, 1998 on the ground of irregular appointments.*

7. Perusal of the appointment order dated 15.12.1994 of the appellant would show that she was appointed upon the desire of the Minister of Primary Education Khyber Pakhtunkhwa.

8. Nothing is available on record to suggest that the appellant was appointed on regular basis to a civil post and that she possessed the prescribed qualification at that time i.e. in the year 1994 rather the appellant qualified/got Primary Teaching Certificate in the year 2016. Copy of the PTC also produced by the learned counsel for the appellant and placed on file.

9. District Education Officer (Female) Lakki Marwat in his office letter dated 24.03.2014 to the Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, for the purpose of seeking guidance, also stated that the appellant has not provided the PTC Certificate. Learned counsel for the appellant could not demonstrate that the case of appellant Mst Begum Yasmeen is identical to that of Mst. Shabana Yaqoob mentioned above.

10. As a sequel to above the appellant has not been able to seek indulgence of this Tribunal. Consequently the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

(Muhammad Amin Kundi)
Member

(Muhammad Hamid Mughal)
Member
Camp Court D.I.Khan.

ANNOUNCED
26.02.2019

21.01.2019 Mr. Nawaz Khan, husband of the petitioner and Mr. Farhaj Sikandar, District Attorney alongwith Mr. Dil Jan, Supdt for respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council instant matter is adjourned to 26.02.2019 for arguments before D.B at camp court, D.I.Khan.

Chairman
Camp Court, D.I.Khan

26.02.2019 Learned counsel for the appellant and Mr. Farhaj Sikandar learned District Attorney present. Vide separate judgment of today of this Tribunal placed on file, the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

(Muhammad Amin Kundi)
Member

(Muhammad Hamid Mughal)
Member
Camp Court D.I.Khan

ANNOUNCED
26.02.2019

28.06.2018 Tour is hereby cancelled, Therefore the case is adjourned for the same on 31.08.2018 before S.B.

Reader
Camp Court D.I Khan

31.08.2018 Counsel for the appellant present. Tour is hereby cancelled. Therefore the Case is adjourned for the same on 12.09.2018 before S.B.

Reader
Camp Court D.I Khan

12.09.2018 12th September has been declared as public holiday on account of 1st Muharram therefore, the case is adjourned for the same on 27.11.2018 before S.B at Camp Court D.I.Khan.

Reader
Camp Court D.I.Khan

27.11.2018 Husband of the appellant present. Mr. Dil Jan, Supdt alongwith Mr. Usman Ghani, District Attorney for respondents present. Written reply on behalf of respondents submitted, copy of the is handed over the learned District Attorney. To come for rejoinder/arguments on 21.01.2019 before D.B at camp court D.I.Khan.

(M.Amin Khan Kundi)
Member
Camp Court D.I.Khan

Service Appeal No. 500/2016

25.01.2018 Counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney for the respondents present. Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 15.03.2018 before S.B at Camp Court D.I.Khan.

(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

15.03.2018 None for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Sabira Parveen, DEO (F) Lakki Marwat for respondents present. Written reply on behalf of respondents no. 1,3 and 4 submitted. None for respondents no. 2,5 and 6 nor their reply submitted. Last opportunity granted. To come up for written reply/comments of respondents no., 2,5 and 6 on 28.06.2018 before S.B at camp court D.I.Khan.

(Ahmad Hassan)
Member
Camp Court D.I.Khan

26.07.2017 Counsel for the appellant present. Ms. Sabra Parveen, DEO (F) Lakki Marwat alongwith Mr. Farhaj Sikandar, District Attorney for the respondents also present. Written reply not submitted. Representative of respondent-department requested for time for submission of written reply. Adjourned. To come up for written reply/comments on 30.11.2017 before S.B at Camp Court D.I.Khan.

(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

30.11.2017 Clerk of the counsel for appellant present. Mr. Farhaj Sikandar, District Attorney alongwith Ms. Sabra Parveen, DEO (F) Lakki Marwat for the respondents also present. Written reply on behalf of respondents not submitted. Learned District Attorney requested for further adjournment. Adjourned. To come up for written reply/comments on 25.01.2018 before S.B at Camp Court D.I.Khan.

(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

500/2016

26.12.2016 Counsel for appellant present. Preliminary arguments heard. Point raised needs clarification to the extent that this service appeal was filed on the basis of directions from the august Peshawar High Court, Bannu Bench in Writ Petition dated 29.04.2015 whereas the departmental appeal was filed on 21.12.2015 and the instant service appeal on 05.04.2016 limitation needs clarification. Pre-admission notice be issued to the respondents for preliminary arguments for 20.02.2017 before S.B at Camp Court D.I.Khan.

ASHFAQUE TAJ
MEMBER
Camp Court D.I.Khan

22.02.2017 Learned counsel for appellant Mr. Dilawar Khan, Advocate and Ms. Sabra Bibi, DEO (F) Lakki Marwat alongwith Mr. Farhaj Sikandar, Government Pleader for respondents present. Learned counsel for appellant at the very out set submitted that as far as the question of limitation is concerned there are number of judgments of apex Supreme Court of Pakistan in which limitation has been condoned and if they are allowed they would submit the relevant authorities at the time of final arguments.

Other points raised need consideration. The appeal is admitted for regular hearing subject to clarification of limitation at the time of final arguments. The appellant is directed to deposit the security and process fee within 10 days there-after notices be issued to the respondents for written reply/comments for 26.07.2017 before S.B at Camp Court D.I.Khan.

Appellant Deposited
Security & Process Fee

(ASHFAQUE TAJ)
MEMBER
Camp Court D.I.Khan

24.05.2016 None for the appellant present. Notice be issued to the appellant/counsel for the appellant for preliminary hearing. To come up for preliminary hearing on 30.08.2016 at camp court D.I. Khan.

Member
Camp Court D.I.Khan

30.08.2016 Counsel for the appellant present and requested for adjournment. To come up for preliminary arguments on 26-9-16.2016 at camp court D.I. Khan.

Member
Camp court D.I. Khan

26.09.2016 Counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 26.12.2016 before S.B at Camp Court D.I.Khan.

Member
Camp Court D.I.Khan

Form- A

FORM OF ORDER SHEET

Court of_____

Case No. 500/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	12/05/2016	The appeal of Mst. Begum Yasmeen resubmitted today by post through Mr. Muhammad Mohsin Ali Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order please. REGISTRAR
2	13-5-2016	This case is entrusted to Touring S. Bench at D.I.Khan for preliminary hearing to be put up there on 24-05-2016. CHAIRMAN

The appeal of Mst. Begum Yasmeen D/O Mushke Alam received to-day by post on 21.04.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Page Nos. 12, 13 & 14 of the appeal are illegible which may be replaced by legible/better one.
2- Annexure-D of the appeal is incomplete which may be completed.
3- Annexures of the appeal may be flagged.
4- Seven more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 639 /S.T,

Dt. 21/4 /2016

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Mohsin Ali Adv.
High Court Dera Ismail Khan.

Respected Sir,

Re-submitted the instant appeal, and annexed the better copies of Page No. 12 & 14. While annexure "D" Page No. 13 is enclosed complete Act. The appeal also flagged, and seven sets also submitted alongwith main/original appeal.

Dated: 9/5/2016

Muhammad Mohsin Ali
Advocate High Court.
D.I. Khan.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 500 /2016

Begum Yasmin .....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa and others .....RESPONDENTS

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2	Copy of Appointment order	A	8
3	Copy of Certificates	B	9 to 11
4	Copy of Termination Letter	C	12
5	Copy of Notification regarding Sacked employees	D	13
6	Copy of minutes of the meeting dated 09-01-2013	E	14
7	Copies of correspondence	F	15 to 21
8	Copies of writ petition & order	G & G-1	22 to 29
9	Copy of Application / Departmental Appeal	H	30 to 32
10	Copy of Judgement dated 25-05-2011 of august Supreme Court of Pakistan	I	33, 34
11	Vakalatnama	------	35

Dated: 05-04-2016

Humble Appellant

بیگم یاسمین

Begum Yasmin

Through Counsel

Muhammad Mohsin Ali
Advocate High Court,
District Courts, D.I.Khan.
0344-9852393

Dilawar Khan
Advocate,
District Courts, D.I.Khan.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 500 /2016

Begum Yasmin daughter of Mushk-e-Alam resident of village Tattar-Khel, Tehsil & District Lakki Marwat.

.....APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Education, Khyber Pakhtunkhwa, Peshawar.
2. Secretary Education, Khyber Pakhtunkhwa, Peshawar.
3. Director, Education Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Female), District Lakki Marwat.
5. District Education Officer (Male), District Lakki Marwat.
6. Deputy COmmissioner, Lakki Marwat.

.....RESPONDENTS

- - - - - - - -

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974

- - - - - - - -

PRAYER; On acceptance of this appeal this august court may be pleased to DIRECT the respondents to re-instate / adjust the appellant on her service as Primary School Teacher (PST) with all back benefits on the grounds appearing hereinafter;

OR

GRANT any other relief considered just and appropriate under the given circumstances of the case.

- - - - - - - -

Respectfully sheweth;

1. That initially the appellant was appointed as Primary School Teacher (PST) against the vacant post in Education Department, Lakki Marwat vide office order Endst; No. 133-35 dated 15-12-1994. Copy of the same is enclosed as **Mark-A**.
2. That the appellant was performing her duty to the best of her ability and to the entire satisfaction of her superiors. No complaint, whatsoever, was advanced against her in respect of her official duties during the service. Copies of certificates are enclosed as **Mark-B**.
3. That vide office order Endst; No. 151-64 dated 05-03-1997 the appellant was terminated from her unblemished service as untrained teacher in the light of Enquiry Committee decision under the Chairmanship of District Education officer (Male) Pry: Karak. Copy of termination order is enclosed as **Mark-C**.
4. That on 20th September, 2012 the Provincial Govt. of Khyber Pakhtunkhwa issued a notification vide No. PA/Khyber Pukhtunkhwa/Bills/2012/6077 to provide relief to those sacked employees in the Government service who were dismissed or removed or terminated from service by appointing them into the Government service. The reference is as under:

   "whereas it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the

said post, during the period from 1st day of November 1993 to 30th day of November 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December 1998 on various grounds." Copy of notification is enclosed as **Mark-D**.

5. That in the light of above notification, the appellant approached to respondents for her re-instatement with all back benefits on regular service being sacked employee. Thereafter, a meeting was held under the Chairmanship of Deputy Commissioner, Lakki Marwat on 09-01-2013, and it was decided in that meeting that eligible sacked employees will be considered as of 30 % available share of the sacked employees as per Government of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 as and when the post of PST (Female) will advertised. The appellant also included in the eligible sacked employees as per meeting held on 09-01-2013. Copy of minutes of the meeting dated 09-01-2013 is enclosed as **Mark-E**.

6. That the appellant time and again approached to respondents No. 4 to 6 for her re-instatement being sacked employee but the respondents ignored the appellant due to malafide intention, and they used delaying tacts. Copies of correspondence are enclosed as **Mark-F**.

7. That being aggrieved, the appellant filed the Writ Petition No. 377 of 2014 before Honourable Peshawar High Court, Bannu Bench for her redressal, but the same was dismissed being not maintainable on the ground that to that effect Service Tribunal having the exclusive

jurisdiction to entertain the same. Copies of writ petition & order are enclosed as **Mark-G & G-1** respectively.

8. That thereafter, the appellant filed the application / departmental appeal on 21-12-2015 to respondent No. 4, but till date no decision is made. Copy of the same is enclosed as **Mark-H**.

Thus, being aggrieved, the present appellant filling the instant appeal, inter alia, on the following grounds;

GROUNDS:

A. That the act of the respondents while refusing to re-instate the appellant under Sacked Employees Act, 2012 is based on malafide, without jurisdiction, without lawful authority, discriminative and misuse of official capacity to ignore the appellant from her right.

B. That it is apparent from the face of record that the appellant is entitled for re-instatement of her service which was terminated in the year 1997 on the basis of political victimization, thus the act of the respondents is discriminatory in nature. Hence, the appellant has been left with no other option to beg his lawful rights from this Honourable Court through the instant appeal.

C. That the august Supreme Court of Pakistan also decided the same nature case in favour of employees / appellants in Civil Appeals No. 51-P & 52-P of 2009 decided on 25-05-2011. The appellants of that cases were also untrained teachers (PST) and were terminated from their service in the year 1997. Thus on this ground too the instant appeal is liable to be accepted. Copy of the said judgment is enclosed as **Mark-I**.

D. That the appellant is the victim of unlawful and illegal act of the respondents and such a malafide act on the part of respondents is against the law and natural justice, it has caused an immense mental torture and agony to the appellant.

E. That the appellant is not treated in accordance with law. She is virtually deprived of her right as guaranteed under the law.

F. That the appeal is being filed within the statutory period prescribed in section 4 of The KPK Service Tribunals Act, 1974.

G. Any other legal ground that may be raised at the time of hearing of this appeal.

It is, therefore, prayed that on acceptance of this appeal this court may be pleased to pass orders as prayed for in the heading of this appeal.

Dated: 05-04-2016

Humble Appellant

بیگم یاسمین

Begum Yasmin
Through Counsel

Muhammad Mohsin Ali
Advocate High Court,
District Courts, D.I.Khan.

Dilawar Khan
Advocate,
District Courts, D.I.Khan.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. _____/2016

Begum Yasmin .....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa and others .....RESPONDENTS

AFFIDAVIT

I, the Appellant, do hereby solemnly affirm and declare on Oath that all the para-wise contents of this appeal are true and correct to the best of my knowledge and belief; and that nothing has been deliberately concealed or kept secret from this Honourable Court.

Identified by Counsel

بیگم یاسمین

Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. _____/2016

Begum Yasmin .....APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa and others. .....RESPONDENTS

ADDRESSES OF THE PARTIES

Begum Yasmin daughter of Mushk-e-Alam resident of village Tattar-Khel, Tehsil & District Lakki Marwat.

.....APPELLANT

---

1. Govt. of Khyber Pakhtunkhwa through Secretary Education, Khyber Pakhtunkhwa, Peshawar.
2. Secretary Education, Khyber Pakhtunkhwa, Peshawar.
3. Director, Education Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Female), District Lakki Marwat.
5. District Education Officer (Male), District Lakki Marwat.
6. Deputy COmmissioner, Lakki Marwat.

.....RESPONDENTS

Dated: 05-04-2016

Humble Appellant

بیگم یاسمین

Begum Yasmin

Through Counsel

Muhammad Mohsin Ali
Advocate High Court,
District Courts, D.I.Khan.

Dilawar Khan
Advocate,
District Courts, D.I.Khan.

ANNEX:- A
page:- 8

Attested

OFFICE OF THE DISTRICT EDUCATION OFFICER(FEMALE)PRY:LAKKI MARWAT
APPOINTMENT

As desired by the Minister of Primary Education NWFP and MPA-PF-62, the following candidate are hereby appointed in BPS-7 plus usual allowance as admissible under the rules, in the interest of public service from the date of taking their charge.

SNo.	Name & Father Name.	Name of Place	Remarks
1.	Begum Yasmin, Utd; D/O Muqq Alam	GGPS, K/F/Khan Sulman Khel	Vacant Posts
2.	Zohra Bibi Utd; D/O AlamKhan	-do-, Kotka Naqibullah Tajori	-do-
3.	Sarwat Bibi Utd; D/O Syed Subhan Ali	-do- Mirza Shah Battani	-do-

TERMS AND CONDOTION

1. Charge report sould be submitted to all concerned
2. They will produce their Health and age certificate from the M/Supdt; DHQ, Bannu.
3. Their appointment are purely temporary basis and liable to termination at any time without any notice assiging/reasons.
4. Their Original Certificate/documents may be got verififed beafre banding over charge.

Sd/---
(KALSOOM ZAR)
DISTRICT EDUCATION OFFICER
(F) PRY:LAKKI MARWAT

Endst;No. 133-35 / Dated Lakki the, 15/12 /1994

Copy to the :-

1;- Director of Primary Education NWFP, Hayat Abad, Peshawar.
2;- P.A to Minister for Primary Education NWFP, Peshawar
3;- District Accounts Officer Lakki Marwat
4;- Sub;Divisional Education Officer(F) Lakki Marwat
5;- Candidate concerned.

DISTRICT EDUCATION OFFICER
(F) PRY:LAKKI MARWAT

Attested

ANNEX: B
Page-(9)

SERVICE CERTIFICATE

Certified that MST: BEGUM YASMIN D/O Mushke Alam R/O Village Titter Khel is working as PST in this school since 15-12-1994 uptill now, i-e 31-3-1996

DATED:

دستخط سکول چوکیدار گوٹکہ فیروز خان سلیمان خیل
11201-5250352-1
سیف اللہ خان

HEAD TEACHER
GGPS, Saeed Akhtar

Attested

میں تصدیق کرتی ہوں کہ بیگم یاسمین (کوٹلہ فیروز خان سلمان خیل)
میں 15-12-1994 سے 31-3-1996 تک ڈیوٹی کی ہے۔

دستخط ہیڈ ٹیچر

دستخط سکول چوکیدار
(کوٹلہ فیروز خان سلمان خیل)
11201-5250352-1
سیف اللہ خان

(11)

Attested

گاؤں
(تتہ باشی)

میں تصدیق کرتی ہوں کہ بیگم یاسمین 1/9/1996 سے
5/3/1997 تک ڈیوٹی کی ہے۔

دستخط ہیڈ مسٹر
Naheed Akhtar

Head Mistress
G.G.P.S Tatta Bazi Khel
Distt: Lakki Marwat

Annexure Page (12)

OFFICE OF THE DISTRICT EDUCATION OFFICER [illegible]

Termination

Perusal of the relevant record the appointment of the following PTC teachers have been found illegal Original deception and against the prescribed rules. Therefore after final decision of enquiry Committee under the chairmanship of Bashir Akhan District Education Officer Male Primary Karak the following thachers are hereby terminated with immediate effect.

S.No.	Name of Teacher	Father Name	Appt: Order Dated	Remarks
			1994	
1.	Noqum Yasmin	Bushk-e-Alum	No.133-35 dt:15.12.94	Illegal appointment Not advertisement
2.	Zohra Begum	D/O Alam Khan	-do-	-do-
3.	Barwat Bibi	D/O Syed Muhad Ali	No. -do-	Not advertisement
			1995	
4.	Shagufta Shaheen	D/O Saadullah	No.2419-23 dt:17.10.95	Illegal appointment Not advertisement
5.	Begina Bibi	D/O Amir Khan	No.277-86 dt:27.3.95	Illegal appointment not advertisement
6.	Roakin Bashir	D/O Mohammad Bashir	531-36 dt:30.4.95	Illegal Appointment criminal deception
7.	Shabana Yaqub	D/O Mohd: Yaqub	No.2030-45 dt:7.8.95	Illegal appointment already terminated No.1099-1105 dt.20.5.96
8.	Sakina Bibi	D/O Habibullah	No.2073-79 dt:21.8.95	Illegal appointment not advertisement

DISTRICT EDUCATION OFFICER(F)
PRIMARY LAKKI MARWAT

Endst No. 151-64 Dated 05-03 /1997

Copy of the above is submitted for information please.

1. P.A. To Chief Secretary N.W.F.P. Peshawar
2. P.A. to Secretary Education N.W.F.P. Peshawar
3. P.A. to Director Primary Education N.W.F.P. Peshawar
4. Mohammad Bashir Khan Chairman Enquiry Committee District Education Officer Primary Karak.
5. Sub Divl: Education Officer Male Lakki Marwat.

Copy to all concerned teachers

DISTRICT EDUCATION OFFICER
PRIMARY LAKKI MARWAT

BETTER COPY

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) LAKKI MARWT.

TERMINATION:

As perusal of the relevant record the appointment of the following PTC Teachers have been found illegal order decision and against the prescribe rules, therefore after final decision of enquiry committee under the chairmanship of Bashir Akram District Education Officer Male Primary karak the following teachers are hereby terminated with immediate effect.

S.N	Name of Teacher	Father Name	Apptt; Order dated	Remarks
		1994		
1	Begum Yasmin	Mushk-e-Alam	133-35 dated 15/12/1994	Illegal appointment Not Advertisement
2	Bushra Begum	Alam Khan	"do"	"do"
3	Sarwat Bibi	Syed Abdul Ali	"do"	Not advertisement
		1995		
4	Shagufta Shaheen	Saad Ullah	24191-23 dated 17/10/95	Illegal appointment Not Advertisement
5	Hasina Mir	Amir Shah	277-88 dated 27/03/95	Illegal appointment Not Advertisement
6	Noshin Bashir	M. Bashir	531-36 dated 30/04/95	Illegal appointment
7	Shabana Yaqoob	Mohd; Yaqoob	2030-45 dated 07/08/95	Illegal appointment Not Advertisement
8	Shakina Bibi	Habib Ullah	3073-75 dated 21/08/95	Illegal appointment Not Advertisement

DISTRICT EDUCATION OFFICER (F)
LAKKI MARWAT.

No. 151-64 Dated 05/03/1997.
Copy of the above is submitted for information please.

P.A to Chief Secretary NWFP, Peshawar.
P.A to Secretary Education NWFP, Peshawar.
P.A to Director Primary Education NWFP Peshawar.
Mohamamd Shabir Khan Chairman Enquiry Committee District Education Officer Primary Karak.
Sub Divl; Education Officer Lakki Marwat.

DISTRICT EDUCATION OFFICER (F)
LAKKI MARWAT.

EXTRAORDINARY

GOVERNMENT

REGISTERED NO. P.III

GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 20TH SEPTEMBER, 2012.

A-H Sardar

Annex D

P (13)

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 20th September, 2012.

No. PA/Khyber Pakhtunkhwa/Bills/2012/6077.—The Khyber Pakhtunkhwa Sacked Employees (Appointment) Bill, 2012 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 10th September, 2012 and assented to by the Governor of the Khyber Pakhtunkhwa on 17th September, 2012 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA SACKED EMPLOYEES (APPOINTMENT) ACT, 2012

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

(first published after having received the [illegible]ent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khy[illegible] Pakhtunkhwa (Extraordinary), dated the 20th September, 2012).

AN

ACT

to provide relief to those sacked employees in the Government service, who were dismissed, removed or terminated from service, by appointing them into the Government service.

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November, 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998 on various grounds;

WHEREAS the Federal Government has also given relief to the sacked employees by enactment;

AND WHEREAS the Government of the Khyber Pakhtunkhwa has also decided to a sacked employees on regular basis in the public interest;

It is hereby enacted as follows:

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtun Sacked Employees (Appointment)Act, 2012.

(2) It shall apply to all those sacked employees, who were holding various civil during the period from 1st day of November, 1993 to 30th day of November, 1996 (both days incl

(3) It shall come into force at once.

2. Definitions.--- In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them that is to say,-

(a) "civil post" means a post created by the Finance Department of Gove for the members of civil service of the Province;

(b) "Department" means the Department and the Attached Departm defined in the Khyber Pakhtunkhwa Government Rules of Business including the Divisional and District offices working thereunder;

(c) "Government" means the Government of the Khyber Pakhtunkhwa;

(d) "Prescribed" means prescribed by rules;

(e) "Province" means the Province of the Khyber Pakhtunkhwa;

(f) "rules" means the rules made under this Act; and

(g) "sacked employee" means a person who was appointed on regular civil post in the Province and who possessed the prescribed qualific experience for the said post at that time, during the period from November, 1993 to the 30th day of November, 1996 (both days incl was dismissed, removed, or terminated from service during the peri day of November, 1996 to 31st day of December, 1998 on the irregular appointments.

3. Appointment of sacked employees.---Notwithstanding anything contained in any la the time being in force, on the commencement of this Act, all sacked employees subject t may be appointed in their respective cadre of their concerned Department, in which they o posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of

4. ...e relaxation.— The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.

5. Sacked employees shall not be entitled to claim seniority and other back benefits.— A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

6. Preference on the basis of age.— On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.

7. Procedure for appointment.—(1) A sacked employee, may file an application, to the concerned Department within a period of thirty days from the date of commencement of this Act, for his appointment in the said Department:

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted in the prescribed manner, for appointment:

Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(4) The concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. Removal of difficulties.— If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act, as may appear to him to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.

9. Act to override other laws.--- Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.

10. Power to make rules.--- Government may make rules for carrying out the purpose of this Act.

BY ORDER OF MR. SPEAKER

PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by the Manager,
Stty. & Ptg. Dept., Khyber Pakhtunkhwa, Peshawar.

ANNEX:- E
page:- (14)

Attested
Mad.D
Adv

MINUTES OF THE MEETING REGARDING SACKED EMPLOYEES HELD ON 09.01.2013

A meeting regarding re-instatement of sacked employees was held on 09.01.2013 at 11:00 am in the personal office of the Deputy Commissioner, Lakki Marwat under his chairmanship. The following attended the meeting:

1. Mir Azam Khan District Education Officer Lakki Marwat — Member
2. Parveen Khattak Dy: District Education Officer (F), Lakki Marwat — Member
3. Shagufta Amin Assistant District Officer Establishment (F) Lakki — Member
4. Akram Marwat Assistant O/O DEO (M), Lakki Marwat — Member

The chair welcomed all the participants and opened the discussion that in pursuance to the Government of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing).

The District Officer Education, Lakki Marwat furnished the names of eligible sacked employees, whose application are received under Sub-Section (1) in the respective Cadre. The documents so received to the Education Department upto 20.10.2012 were scrutinized, checked and found qualified and eligible for the post of PST, which are as under:

S.N	Name, Parentage & Address	Post	No. & Date of Appointment	No. & Date of Termination	Qualification
1.	Shabana Yaqoob d/o Muhammad Yaqoob r/o Lakki City	PST	2030/43, dt: 17.08.1995	151-64, dt: 05.03.1997	F.A/PTC
2.	Begum Yasmeen d/o Muslik Alam	PST	133-35, dt: 15.12.1994	151-64, dt: 05.03.1997	F.A / PTC

It was finally decided that these eligible sacked employees will be considered out of 30% available share of the Sacked Employees as per the Government of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, as and when the Post of PST (Female) are advertised.

OFFICE OF THE DISTRICT EDUCATION OFFICER, LAKKI MARWAT

No. 444-47 Dated: 21 / 01 / 2013

Copy forwarded to:

1. The Secretary to Government of Khyber Pakhtunkhwa E&S Education, Peshawar
2. The Director E&S Education Khyber Pakhtunkhwa Peshawar
3. The Deputy Commissioner Lakki Marwat
4. The District Education Officer (Female), Lakki Marwat

District Education Officer (Male)
Lakki Marwat

BETTER COPY

Page - 14-A

MINUTES OF THE MEETING REGARDING SACKED EMPLOYEES HELD ON 09/01/2013

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1. Mir Azam Khan District Education Officer, DIKhan. ....Member.
2. Parveen Khattak Dy; District Education Officer (F), DIKhan.....Member.
3. Shagufta Amin Assistant District Officer Establishment (F) Lakki...Member.
4. Akram Marwat Assistant O/O DEO(M), Lakki Marwat..... Member.

The chair welcomed all the participants and opened the discussion that in pursuance to the Government of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012, Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing).

The District Officer Education Lakki Marwat furnished the names of eligible sacked employees. Whose application are received under sub-section(1) in the respective cadre. The documents so received to the Education Department upto 20/10/2012 were scrutinized checked and found qualified and eligible for the post of PST, which are as under:-

S.N	Name Pargentage & address	Post	No. & Date of Appointment	No. & Date of Termination	Qualification.
1.	Shabana Yaqoob D/o Mohammad Yaqoob R/o Lakki City.	PST	2030/43. Dated 17/08/1995	151-64, dated 05/03/1997	F.A/PTC
2.	Begum Yasmeen D/o Mushk Alam	PST	133-35, dated 15/12/1994	151-64, dated 05/03/1997	F.A/PTC

It was finally decided that these eligible sacked employees will be considered on of 30% available share of the sacked employees as per the Government of Khyber Pakhtukhwa Sacked Employees (Appointment) Act 2012, as and when the post of PST (Female) are advertized.

OFFICE OF THE DISTRICT EDUCATION OFFICER, LAKKI MARWAT

No. 444-47 Dated 21/01/2013

Copy forwarded to:-

1. The Secretary to Government of Khyber Pakhtunkhwa E&S Education Peshawar.
2. The Director E&S Education Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commissioner Lakki Marwat.
4. The District Education Officer (Female), Lakki Marwat.

DISTRICT EDUCATION OFFICER (MALE)
LAKKI MARWAT.

ANNEX:- F
Page:- (15) Attested

بحضور جناب سیکریٹری صاحب ایلیمنٹری اینڈ سیکنڈری محکمہ تعلیم صوبہ خیبر پختونخوا دام اقبالہ

جناب عالی!

عنوان: نہایت آداب و احترام کیساتھ درج ذیل سطور ہمدردانہ غور کیلئے پیش خدمت ہیں۔

۱۔ 1996-97-98 کے دوران حکومت نے مختلف محکموں کے کافی ملازمین کو ملازمتوں سے برخاست کیا تھا۔ متاثرہ ملازمین نے انصاف کے حصول کے لئے مسلسل جدوجہد کرتے ہوئے مرکزی اور صوبائی حکومتوں کو نظر ثانی پر آمادہ کیا۔ نظر ثانی کے نتیجے میں مرکزی اور صوبائی حکومت خیبر پختونخواہ نے قانون سازی کر کے ایکٹ نمبر XX11P of 2010 اور ایکٹ نمبر خیبر پختونخواہ XP11 of 2012 بترتیب پاس کیے۔ مذکورہ ایکٹ کی قبول ملاحظہ کے لئے منسلک ہیں۔ اس کے علاوہ مختلف نوٹیفکیشن بھی جاری کیے ہیں۔ جن کے بقول بھی ملاحظہ کے منسلک ہیں۔

۲۔ جناب عالی! چونکہ ابھی ابھی آپ نے جملہ بھرتیوں پر پابندی لگائی ہیں۔ اس لیے خدشہ ہے کہ آپ کے جاری شدہ احکامات کے تحت ہماری بحالی بھی رک جائی گی۔ حالانکہ ہماری بحالی کا معاملہ حکومت کے عام تقرریوں سے قطعی مختلف ہے۔ ہماری تقرریاں 1997 کے برخاست شدہ محروم مظلوک الحال ملازمین سے تعلق رکھتی ہیں۔ جن کے لیے مذکورہ ایکٹ کے تحت قانون سازی کی گئی ہے۔ اور آئندہ ڈومیسائلوں میں متعلقہ محکموں سے تقرریاں جاری ہونے والے ہیں۔ متاثرہ ملازمین گذشتہ 15 سال سے مشکلات برداشت کر رہے ہیں۔ اور صرف وہ نہیں بلکہ انکے بچے بھی شدت سے والدین کے ملازمتوں پر بحالی کا انتظار کر رہے ہیں۔

۳۔ جناب والا! بذریعہ درخواست ہذا خدمت عالیہ میں اپیل کی جاتی ہیں۔ کہ ہماری تقرریوں کو اپنے جنرل آرڈر سے مستثنیٰ فرماویں۔ تاکہ ہماری بحالی متاثرہ نہ ہو۔ ہم جملہ ملازمین آپکے اقبال اور درازی عمر کے لئے دعا گو رہینگے۔

مورخہ: 31-01-2013

منجانب جملہ برخاست شدہ ملازمین
صوبہ خیبر پختونخواہ

کاپی برائے:

۱۔ مرکزی چیف الیکشن کمیشنر
۲۔ صوبائی چیف الیکشن کمیشنر
۳۔ ڈائریکٹر ایلیمنٹری اینڈ سیکنڈری ایجوکیشن
۴۔ ڈی ای او ضلع صوابی

So (9)
I read the news item in the daily "News" that the provincial cabinet is going to regularize 2794 contract employees through legislation.
14.1.2

(16)

Attested
EMIS
Edu

OFFICE OF THE DEPUTY COMMISSIONER LAKKI MARWAT

No. 21-23 /DC/Lakki/PA/Edu: Dated: 03-01-2013
04

To

1. The District Education Officer Lakki Marwat
2. The Deputy District Education Officer Female Lakki Marwat
3. The Sub Divisional Education Officer Lakki Marwat

Subject: KHYBER PAKHTUNKHWA SACKED EMPLOYEES (APPOINTMENT) ACT, 2012)

Memo:

In pursuance to the Secretary Elementary & Secondary Education Department Govt. of Khyber Pakhtunkhwa Peshawar Order No.SO(G)E&SE/2-3(B)/REINSTATEMENT dated 09-10-2012 regarding subject noted above, the following two applications have been received as sacked employees requesting therein for their re-instatement:-

SN	Name/Father Name/Address	Post	No. & Date of Appointment	No. & Date of Termination
1	Shahbana Yaqoob D/O Muhammad Yaqoob R/O Lakki City	PTC	No.2030-43 dated 17-08-1995	No.151-64 dated 5-3-1997
2	Begum Yasmeen D/O Mushke Alam R/O Titter Khel	PTC	No.133-35 dated 15-12-1994	-do-

In order to consider and finalize these cases a meeting is scheduled to be held on 09/01/2013 at 11:00 am in the personal office of the undersigned.

You are, therefore directed to attend the said meeting on date, time and venue fixed for.

Deputy Commissioner
Lakki Marwat

Even No. & Date:

Copy forwarded to the Secretary Education Government of Khyber Pakhtunkhwa Peshawar for information.

Deputy Commissioner
Lakki Marwat

(17)

Attested
AEO
Edu

OFFICE OF THE DISTRICT COORDINATION OFICER LAKKI MARWAT

No. 4806 /DCO/LM/HRDO/App;; Dated 23-10-2012

To

The Executive District Officer
(E&S) Education Lakki Marwat.

Subject:- THE KHYBER PAKHTUNKHWA SACKED EMPLOYEES (APPOINTMENT) ACT 2012 (KHYBER PAKHTUNKHWA ACT NO.XVII OF 2012)

Reference to the Secretary Elementary and Secondary Education Department Government of Khyber Pakhtunkhwa Peshawar order No.SO(G)/E&SE/2-3(B)/REINSTATEMENT dated 09-10-2012 endorsed to this office as well as to your office regarding subject noted above (copy for ready reference enclosed).

Please process the cases of sacked employees (if any) for necessary action, well in time, in the light of the Khyber Pakhtunkhwa sacked Employee (Appointment) Act 2012.

Sd/-
District Coordination Officer
Lakki Marwat.

Even No. & date

Copy to the Section Officer (General) Elementary and Secondary Education Department Government of Khyber Pakhtunkhwa Peshawar w/r to his letter No. quoted above.

Sd/-
District Coordination Officer
Lakki Marwat

Send to DCO for further process.
ES

HRDO PA
EDO (E)
immediately put up the case
DCO

Received
No. 10924
Date 26-10-12
Signature
DCO office Lakki Marwat

(18) Attested

Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department

No. SOG/E&SE/2-3(B)/2013
Dated Peshawar the 18/02/2013

To

1. All Directors, E&SE in Khyber Pakhtunkhwa.
2. All District Education Officers (Male/Female) in Khyber Pakhtunkhwa.

Subject: - **APPLICATION REGARDING RE-INSTATEMENT OF SACKED EMPLOYEES.**

I am directed to refer to the subject noted above and to enclose herewith a copy of an application submitted by all terminated employees of Khyber Pakhtunkhwa, which is self-explanatory, for further necessary action.

Encl: As above.

Section Officer (General)

Endst: No. & date even.

Copy forwarded to: -

1. P.S to Secretary, E&SE Department.
2. P.S to Additional Secretary, E&SE Department.

Section Officer (General)

Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

Endst: No. 261 Dated Peshawar the 4/2/2014.

Copy of the above is forwarded to the:-

1. District Education Officer (Female) Lakki Marwat with the remarks to ensure 30% quota for sacked employees.
2. SO (General) Govt of Khyber Pakhtunkhwa E&SE Department w/r to his letter No. cited above.
3. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

Deputy Director (Estt)
for Directorate of Elementary & Secy Edu:
Khyber Pakhtunkhwa Peshawar.

Director Elementary & Secondary Education Khyber Pakhtunkhwa

DEO (F) Lakki Marwat

Ensure 30% quota reserved for sacked employees according to earlier Govt policy

For consideration and to be put up

Private Secretary To Minister Elementary & Secondary Education Khyber Pakhtunkhwa

My dear Rafiq Khan Khattak Dir Edu.
AOA. please appoint Yasmeen Bibi on the vacant post of PST in GGPS Jhang Khel & oblige
Regard

Col (R) Dr. Amin Ullah Marwat
Member National Assembly
NA-27, Lakki Marwat

(19)

Attested

OFFICE OF THE DISTRICT COORDINATION OFICER LAKKI MARWAT

No. 5112 /DCO/LM/HRDO/App;; Dated 29-11-2012

To

The Executive District Officer
(E&S) Education Lakki Marwat.

Subject:- THE KHYBER PAKHTUNKHWA SACKED EMPLOYEES (APPOINTMENT) ACT,2012 (KHYBER PAKHTUNKHWA ACT NO.XVII OF 2012)

Reference to this office letter No.4806/DCO/LM/HRDO/App; dated 23-11--2012 regarding subject noted above (copy for ready reference enclosed).

The action taken in the matter is still awaited. Please process the cases of sacked employees for necessary action, without further delay, in the light of the Khyber Pakhtunkhwa sacked Employee (Appointment) Act 2012.

District Coordination Officer
Lakki Marwat.

Even No. & date

Copy to the Section Officer (General) Elementary and Secondary Education Department Government of Khyber Pakhtunkhwa Peshawar for information.

District Coordination Officer
Lakki Marwat

(20)

Attested

Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department
No.SOG/E&SE/2-3 (B)/2013
Dated Peshawar the 13/03/2013.

To,

The Director,
E&SE Khyber Pakhtunkhwa,
Peshawar.

Subject:- THE IMPLEMENTATION OF SACKED EMPLOYEE ACT AND SAVING TRUE SPIRT FROM MINISTERPRTATION

I am directed to refer to the subject noted above and to enclose herewith a copy of an application alongwith its enclosure submitted by Qari M. Hanif Secretary Sacked Employees Khyber Pakhtunkhwa, which self-explanatory, for strict necessary action.

Encl: As above

Sd/-
Section Officer (General)

Endst:No. & date even.

Copy forwarded to the:-

1. P.S to Secretary E&SE Department.
2. P.A to Additional Secretary, E&SE Department.

Sd/-
Section Officer (General)

DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION KHYBER PAKHTUNKHWA

Endst: No. 2205-56 /F.No.Sacked Employees/Vol: I/PST.(M) General. Dated 16/4/2013.

Copy of the above is forwarded alongwith application of Qari M.Hanif Secretary sacked Employees alongwith a copy of the decision of Supreme Court for further necessary action to the:-

1. All District Education Officer (Male & Female) in Khyber Pakhtunkhwa.
2. Section Officer (General) Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department w/r to his letter No. cited above.
3. P.A to Director Elementary and Secondary Education Local Office.

Deputy Director (Estab :)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.
16/4/13

EO (F) D.No: 46 Dt: 23-4-2013 Lakki Marwat

Promote for further m/a
DEO (F)
22/4/13

(21)

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) LAKKI MARWAT

No. _____ Dated. 24-3-2014

To

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Attested

Subject:- GUIDANCE

Memo:-

Reference your office letter No. Nil dated: 28-02-2014 regarding re-instatement of Mst: Begum Yasmin D/O Mushke Alam R/O Village Titter Khel District Lakki Marwat according to Sacked Employees Act.

It is stated for your kind information that the above named Sacked Employee was appointed as PST BPS-07 vide District Education Officer (F) Pry: Lakki Marwat Endst: No. 133-35 dated: 15-12-1994 (photo copy attached) as Annex: "A" but after above 02 year she was terminated from Service in the light of Enquiry Committee decision under the Chairman Ship of District Education Officer (M) Pry: Karak, vide DEO (F) Pry: Lakki Marwat Endst: No. 151-64 dated: 05-03-1997 (photo copy attached as Annex: "B".

It is further stated that in meeting regarding sacked employees was held on 09-01-2013 under the Chairman Ship of DEO (M) Lakki Marwat in which her documents were scrutinized, checked and found qualified and eligible for the post of PST (Photo copy of Minutes of the meeting attached as Annex: "C", but the candidate concerned has not provided the PTC certificates to the undersigned.

It is further stated that the services of the above mentioned Begum Yasmin was terminated due to illegal appointed (copy attached as Annex: "D".

It is requested that this office may please be guided to appoint/re-instate of the above mentioned candidate being sacked Employee or otherwise.

District Education Officer
(Female) Lakki Marwat

Endst: No. 823 Dated. _____

Copy for information to the Begum Yasmin D/O Mushke Alam R/O Village Titter Khel Lakki Marwat.

District Education Officer
(Female) Lakki Marwat

ANNEX:- G
Page:- (22)

BEFORE THE COURT OF HON'BLE PESHAWAR HIGH COURT BANNU, BENCH.

WRIT PETITIONER NO. 377 /2014

Begum Yasmin d/o Mushk-e-Alam r/o village Tattar Khel, Tehsil & District Lakki Marwat.

.... (Petitioner)

.....Versus.....

1. The Secretary to Government of Khyber Pakhtunkhwa E&S Education, Peshawar.
2. The Director E&S Education Khyber Pakhtunkhwa Peshawar.
3. The Deputy Commissioner, Lakki Marwat.
4. The District Education Officer (Male) Lakki Marwat.
5. The District Education Officer (Female) Lakki Marwat.

..... (Respondents)

Attested

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973, FOR RE-INSTATEMENT / APPOINTMENT AS SACKED EMPLOYEE AS PST (PRIMARY SCHOOL TEACHER) WITH ALL BACK BENEFITS.

Prayer:-

Filed Today
Additional Registrar
24-7-14

On acceptance of instant writ petition, the respondents may be please be directed to re-instate / adjust the petitioner on her service as Primary School Teacher (PST) with all back benefits.

ATTESTED

EXAMINER
Peshawar High Court,
Bannu Bench

The parties may easily be served on the addresses referred to herein above.

Respectfully Sheweth:-

1. That, petitioner was initially appointed as Primary School Teacher (PST) against vacant post in Education Department, Lakki Marwat vide Endst No. 133-35 dated 15-12-1994. ***(copy of appointment order is annexed herewith as annexure "A").***

2. That, since the date of induction of petitioner in service, she was regularly performing her duties to the best of her ability and to the entire satisfaction of her superiors and no complaint, whatsoever, was advanced against her in respect of official duties. ***(Copies of attendance register and attendance certificates are annexed as annexure "B").***

3. That after 02 years the petitioner was terminated from her unblemished service as untrained teacher in the light of Enquiry Committee decision under the Chairmanship of District Education Officer (male) Pry: Karak, vide DEO(F) Pry: Lakki Marwat Endst: No. 151-64 dated 05-031997. ***(Copy of Termination order from service is annexed as annexure "C").***

4. That on 20th September, 2012 the Provincial Govt: of Khyber Pukhtoonkhwa issued a notification vide No. PA/Khyber Pukhtunkhwa/Bills/2012/6077, to provide relief to those sacked employees in the Government service, who were dismissed, removed or terminated from service by appointing them into the Government service. The reference is as under:-

Attested

Filed Today
Additional Registrar
21-7-14

ATTESTED

EXAMINER
Peshawar High Court,
Bannu Bench

"Whereas it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November 1993 to 30th day of November 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December 1998 on various grounds".

(Copy of Notification is annexed as annexure "D").

5. That in the light of above relief, the petitioner approaches to respondents No. 3, 4 & 5 for re-instatement with all back benefit on her regular service as sacked employee. Whereas, a meeting was held under the chairmanship of Deputy Commissioner, Lakki Marwat on 09-01-2013 and it was finally decided that eligible sacked employees (including petitioner) will be considered as of 30% available share of the Sacked Employees as per the Government of Khyber Pakhtunkhwa Scked Employees (Appointment) Act, 2012, as and when the post of PST (Female) are advertised. *(Copy of the minutes of the meeting dated 09-01-2013 is annexed as annexure "E").*

Attested
Advocate

6. That so many time, the petitioner approached to the respondents for her re-instatement as sacked employee but every time the petitioner was ignored by the respondents due to collusion with each other and due to malafide intention of the respondents authorities and used delay in tactics especially by respondents 03, 04 & 05. *(Copies of correspondence available to the petitioner are attached herewith as annexure "F").*

Filed Today
Additional Registrar
27-7-14

ATTESTED
EXAMINER
Peshawar High Court,
Bannu Bench

7. That the respondents / authorities are reluctant to supply relevant record to the petitioner.

8. That in the attendant circumstances, the petitioner is left with no other adequate remedy but to invoke the constitutional jurisdiction of this Hon'ble court, inter alia, on the following grounds:-

GROUNDS:-

A- That the act of respondents is against law, facts and circumstances of the petitioner's case, repugnant to the rule of equity and the respondents are also violated the settled principle of law & justice.

B- That the act of respondents is the result of colourful power of the authorities, because the petitioner is eligible for re-instatement /appointment / adjustment on the post nominated for the petitioner as sacked employee by the respondents. Moreover, 30 % share is also allotted by Provincial Govt: for sacked employees. The authorities / respondents have already issued re-instatement / adjustment / appointment order in respect of other employees.

Attested

Advocate

C- That august Supreme Court of Pakistan also decided the same nature case in favour of appellants in civil appeal No. 51-P and 52-P of 2009 vide order dated 25-05-2011. The appellants were re-instated on their service as they were untrained teacher (PST) and were terminated from their service in year 1997. *(Copy of judgment is annexed as annexure "G").*

Filed Today
Additional Registrar
21-7-14

ATTESTED
EXAMINER
Peshawar High Court.
Bannu Bench

D- That the petitioner counsel may be allowed to raise further grounds during course of hearing.

It is, therefore, humbly prayed that the instant writ petition may graciously be accepted and the respondents may be directed to re-instate / adjust the petitioner on her service as Primary School Teacher (PST) with all back benefit.

Yours Humble Petitioner,

(Begum Yasmin)

Dated 21 /07/2014

Through

Nawaz Khan s/o Quli Khan
r/o Tattar Khel District,
Lakki Marwat
(Special Attorney for petitioner)

Through counsel,

Fazal-ur-Rehman Khan
Advocate High Court,
Lakki Marwat.

Interim Relief :-

That the respondents may please be restrained from making appointments in violation of prescribed law till the disposal of main writ petition.

Filed Today
Additional Registrar
21-7-14

Counsel for Petitioner

Law books

1. *Constitution of Islamic republic of Pakistan.*
2. *The Government of Khyber Pakhtunkhwa Scked Employees (Appointment) Act, 2012.*
3. *Any other law books according to need.*

ATTESTED

EXAMINER
Peshawar High Court,
Bannu Bench

ANNEX:- G-1
Page-(27)

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, BANNU BENCH
(*Judicial Department*)

JUDGMENT

Date of hearing 29.4.2015

Appellant-Petitioner Begum Yasmeen by Fazal ur Rehman Khan Adv.

Respondent

MUHAMMAD YOUNUS THAHEEM J.--- By way of instant Constitutional petition, petitioner Mst. Begum Yasmeen seeks indulgence of this court to the effect that the respondents may be directed to re-instate/adjust the petitioner on her service as Primary School Teacher (PST) with all back benefits, as after two years of service, she has been terminated from her unblemished service on the ground of untrained teacher in the light of Enquiry Committee Decision under the Chairmanship of District Education Officer (male) Primary Karak, vide DEO (F) Primary Lakki Marwat Endst: No.151-64 dated 5.3.1997.

SEAL OF PESHAWAR HIGH COURT BANNU BENCH

ATTESTED
EXAMINER
Peshawar High Court.
Bannu Bench

2. Admittedly, the petitioner is a civil servant. Without dilating upon the merits of the case, suffice it to observe that the matter is pertaining to the re-instatement of service which relates to the terms and conditions of her service. Disputes about these matters fall within the exclusive jurisdiction of the Service Tribunal. The jurisdiction of the High Court is barred by the express provisions of Article 212 (2) of the Constitution of Islamic Republic of Pakistan, 1973. The petitioner can knock at the door of the Service Tribunal for redressal of her grievance. The constitutional jurisdiction under Article 199 of the Constitution can be invoked only, when there is no alternate remedy, available to the aggrieved party. Keeping in view the nature of grievance of the petitioner, she has the right to invoke the jurisdiction of the Service Tribunal, especially established for the purpose. The jurisdiction of this Court is barred expressly by the constitutional provisions.

ATTESTED

EXAMINER
Peshawar High Court,
Bannu Bench

29

3. Accordingly, this petition being not maintainable is dismissed in limine. However, petitioner is at liberty to approach the proper forum, if she wishes.

ANNOUNCED
29.4.2015

Sd/- Ikramullah Khan, J

Sd/-Muhammad Younis Thaheem, J

06/6/15

CERTIFIED TO BE TRUE COPY

26/10/2015

Examiner
Peshawar High Court Bannu Bench
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1984

S/No 6439
Date of Presentation of Application 26-10-15
No of Pages 08-P
Copying Fee 16-/
Urgent Fee 16-/
Total
Date of Preparation 26-10-15
Date Given for Delivery 26-10-15
Date of Delivery of Copy 26-10-15
Received By

ANNEX:- H

Page:- 30

Attested
Advocate

To

The District Education Officer (Female)
Lakki Marwat.

Subject: **Application / Departmental Appeal for re-instatement of applicant as PST being Sacked Employee.**

Respectfully sheweth:

1. That initially, the applicant was appointed as Primary School Teacher (PST) against the vacant post in Education Department, Lakki Marwat vide office order Endst; No. 133-35 dated 15-12-1994. Copy of the same is enclosed.
2. That the applicant was performing her duty to the best of her ability and to the entire satisfaction of her superiors. No complaint, whatsoever, was advanced against her in respect of her official duties during the service. Copies of certificates are enclosed.
3. That vide office order Endst; No. 151-64 dated 05-03-1997 the applicant was terminated from her unblemished service as untrained teacher in the light of Enquiry Committee decision under the Chairmanship of District Education officer (Male) Pry: Karak. Copy of termination order is enclosed.
4. That on 20th September, 2012 the Provincial Govt. of Khyber Pakhtunkhwa issued a notification vide No. PA/Khyber Pukhtunkhwa/Bills/2012/6077 to provide relief to those sacked

Attested (31)

employees in the Government service who were dismissed or removed or terminated from service by appointing them into the Government service. The reference is as under:

"**whereas it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1st day of November 1993 to 30th day of November 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November, 1996 to 31st day of December 1998 on various grounds.**" Copy of notification is enclosed.

5. That in the light of above notification, the applicant approached to official concerned for her re-instatement with all back benefits on regular service being sacked employee. Thereafter, a meeting was held under the Chairmanship of Deputy Commissioner, Lakki Marwat on 09-01-2013, and it was decided in that meeting that eligible sacked employees will be considered as of 30 % available share of the sacked employees as per Government of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 as and when the post of PST (Female) will advertised. The applicant also included in the eligible sacked employees as per meeting held on 09-01-2013. Copy of minutes of the meeting dated 09-01-2013 is enclosed.

Attested
Adv

(32)

6. That the applicant also filed the Writ Petition No. 377 of 2014 before Honourable Peshawar High Court, Bannu Bench for her redressal, but the same was dismissed being not maintainable on the ground that to that effect Service Tribunal having the exclusive jurisdiction to entertain the same. Copies of writ petition & order are enclosed.

7. That the august Supreme Court of Pakistan also decided the same nature case in favour of employees / appellants in Civil Appeals No. 51-P & 52-P of 2009 decided on 25-05-2011. The appellants of that cases were also untrained teachers (PST) and were terminated from their service in the year 1997. Copy of the said judgment is enclosed.

It is therefore, humble prayed that may be pleased to re-instate / adjust the applicant on her service as Primary School Teacher (PST) with all back benefits.

Your's Sincerely,

بیگم یاسمین

Dated : 21/12/2015

Begum Yasmin D/o
Mushk-e-Alam R/o
Village Tattar-Khel,
Tehsil & District
Lakki Marwat.

(1) Attested

Annex. 1
Page: (33)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
MR. JUSTICE NASIR-UL-MULK
MR. JUSTICE KHILJI ARIF HUSSAIN

CIVIL APPEALS NO. 51-P AND 52-P OF 2009
(on appeal from the judgment of the KPK Service Tribunal, Peshawar dated 27.01.2007 passed in Service Appeals No. 2189/Ncem and 2230/Ncem of 1997)

Mohammad Khurshid (in CA 51-P/09)
Noor Samad (in CA 52-P/09)
...Appellant.

VERSUS

Secretary Schools & Literacy NWFP (Now KPK) etc. **...Respondents.**

For the Appellants: Mr. Rooh-ul-Amin, ASC.

For the Respondents: Mr. Naveed Akhtar, Addl. AG, KPK
a/w Muhammad Saeed, EDO (Battagram)

Date of Hearing: 25.05.2011.

ORDER

NASIR-UL-MULK, J.— The appellants were Untrained P.T.C. teachers, whose employments were terminated in 1997, being untrained. Their appeals before the Service Tribunal failed. We had issued notice to the respondents in the light of arguments of the learned counsel for the appellants that the Untrained Teachers were still employed in the Union Council to which the appellants belong. On the last date of hearing the learned Additional Advocate General submitted that he would contact the Department to find out if there was possibility of adjustment of the appellants.

2. The learned Additional Advocate General is present along with Mr. Muhammad Saeed, E.D.O. (Battagram). They state that on humanitarian ground, the Department is ready to accommodate the appellants and appoint them straight away provided that within three

ATTESTED
Deputy Registrar
Supreme Court of Pakistan
Islamabad

(34)

Attested
Mad. D
Adv

years they acquire the requisite training and obtain FA/FSc qualification. The E.D.O. undertakes that the appellants will be provided opportunity of acquiring the requisite training.

3. In view of this statement, these appeals are disposed of in terms that the appellants shall be appointed as P.S.T. (Primary School Teacher) in their respective Union Councils immediately and in case the appellants fail to acquire the training and the said qualification within three years, their appointed shall stand terminated automatically.

Sd/- Nasir-ul-Mulk, J.
Sd/- Khilji Arif Hussain, J.

25th April, 2011.
Mudassar

Certified to be true copy
03.05.2013
Deputy Registrar,
Supreme Court of Pakistan,
Peshawar.

"Not approved for reporting."

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR D.I.KHAN BENCH

Appeal No. 500 of 2016

Begum Yasmin D/O Mushk-e-Alam Khan (Appellant)

Versus

Government of Khyber Pakhtunkhwa through Secretary, Education and others (Respondents)

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S.No	Description of documents	Annexure	Pages
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02	Affidavit	-------	04

Deponent

CNIC No. 12101-092467-0

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR D.I.KHAN BENCH

Appeal No. 500 of 2016

Begum Yasmin D/O Mushk-e-Alam Khan (Appellant)

Versus

Government of Khyber Pakhtunkhwa through Secretary, Education and others (Respondents)

AFFIDAVIT

I Mst Sabira Parveen District Education Officer (F) Lakki Marwat, do hereby solemnly affirm and declare on oath that the contents of accompanying Parawise comments on behalf of Respondents No. 4, are true and correct to the best of my knowledge and belief that nothing has been concealed from this Court.

Dated: 15/03/2018

Deponent

CNIC No. 12101-0920467-0

Identified by

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 500 of 2016

Bugum Yasmeen D/o Mushk-e-Alam Khan R/o Village Tittar Khel, Tehsil & District Lakki Marwat

(Appellant)

Versus:-

Government of Khyber Pakhtun- khwa through Secretary, Education and others

(Respondents)

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENT NO.1 to 4

PRELIMINARY OBJECTIONS.

1. That the appeal is not maintainable and incompetent in the eyes of Law in the present form.
2. That the appellant is estopped due to his own conduct to file this appeal.
3. That the appellant has got no cause of action and locus standi to file instant appeal.
4. That the appellant has not come to the Tribunal with clean hands and has suppressed all relevant facts.
5. That the appeal is bad for misjoinder/non-joinder of necessary parties.
6. That the appeal is badly time barred and the appellant has concealed the material facts from Honourable Tribunal.
7. That the Honourable Service Tribunal has no jurisdiction to entertain the instant appeal in its present form.
8. That the appeal has been mis-oriented, mis-constructed and mistakenly drawn and is incompetent in its present frame and context, and is liable for Rejection.
9. That the appeal is weak having no force, fabricated, fictitious, based on ill will, malafide and having no footings in the eyes of law.
10. That proceeding with the instant appeal would be a futile exercise and just wastage of the precious time of this Honourable Tribunal.
11. That as stated in the objections supra, the appeal is bereft of cause of action and is liable for dismissal.

RESPECTFULLY SHEWETH

ON FACTS.

Para.1. This para is pertained to record, hence, no comments.

Para. 2. This para is also pertained to record, hence, no comments.

Para. 3. This para is correct to the extent that the services of the appellant were terminated on the grounds that the neither advertisement was made nor proper selection committee was constituted.

Para. 4. This para is incorrect. The case of the appellant does not come under the Sacked Employees Act, 2002 hence she can't get the benefit of the mentioned notification.

Para. 5. Since the appointments were made in violations of rules without observing codal formalities and she also does not possess the degree of PST, hence, appellant was terminated on the grounds mentioned above.

Para. 6. This para is incorrect. The appellant has to qualify the NTS Exam as per existing Government policies and the appointment will be made according to the merit list.

Para. 7. This para is correct to the extent that the Writ Petition of the Appellant was dismissed by the Peshawar High Court, Bannu Bench on merit and according to Rule 23 of Services Tribunal Rules, 1974, 'The tribunal shall not entertain any appeal in which matter has already been decided by the court'.

Para. 8. The para is correct to the extent that the representation was preferred, examined, Considered and rejected. However no appeal was filed to the appellate authority. Therefore, the appellant has no legal or vested right to invoke the jurisdiction of Service Tribunal.

GROUNDS.

Para. A. Incorrect, perversely denied. The respondents have no ill-will and mala-fide in the instant case. The case of appellant doesn't come under the Sacked Employees Act, 2012 because she was terminated due to illegal appointment. So the refusal to re-instate the appellant is legal. just and lawful.

Para. B. Incorrect, vigorously denied. The order of the termination was legal and no political victimization was involved. In-fact the appellant was terminated in light of the findings of an enquiry committee that the appellant was not appointed according to the rules and regulations. No advertisement was made and no D.S.C was constituted, neither the vacancies were available nor the appellant was qualified for the post of PST. The appointment letter contains the provision regarding the termination of the appellant that "the appellant may be terminated

without notice and reasons". So the appeal is liable to be rejected. The appellant does not possess the degree of PST to fulfill the requirement for appointment as PST at the time of appointment and appeal for re-instatement.

Para. C. Incorrect, intensively denied. The Enclosed Judgment of the August Supreme Court shows that the case was not decided on merits but was decided on compromise. The case referred was not preferred under the Sacked Employees Act, 2012 and also the appellant has not fulfilled the requirements of PST within time.

Para. D. Incorrect forcibly denied. That the appointment of appellant was based on political basis and appellant was terminated legally and according to the rules and no victimization and mala-fide was involved on part of the Respondents.

Para. E. Incorrect, fervently denied. The appellant was treated in accordance with law after completion of all Codal formalities, hence, she has not right to be re-instated under Sacked Employees Act, 2012.

Para. F. Incorrect, vehemently denied. The appeal has not been preferred with in time.

Para. G. This para is legal. The Law off icer may also be allowed to raise any other defense at the time of arguments.

PRAYER

It is, therefore, most humbly prayed that on acceptance of this para-wise comments, the appeal being devoid of legal footings and merit may graciously be dismissed with cost.

(The Secretary)
Education Department
Government of Khyber Pakhtun Khawa
Peshawar
Respondent No 1 & 2

(The Director)
Elementary and Secondary Education
Government of Khyber Pakhtun Khawa
Peshawar
Respondent No 3

(District Education Officer Female)
Lakki Marwat
Respondent No 4

District Edu: Officer
(Male) Lakki Marwat

Vetted
District Attorney
D.I.Khan

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR D.I.KHAN BENCH

Appeal No. 500 of 2016

Begum Yasmin D/O Mushk-e-Alam Khan (Appellant)

Versus

Government of Khyber Pakhtunkhwa through Secretary, Education and others (Respondents)

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01	Para wise comments	-------	01-03
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Deponent

CNIC No. 12101-0924617-3

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR D.I.KHAN BENCH

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Begum Yasmin D/O Mushk-e-Alam Khan (Appellant)

Versus

Government of Khyber Pakhtunkhwa through Secretary, Education and others (Respondents)

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Dated: 15/03/2018

Deponent

CNIC No. 12101-0920467-0

Identified by

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 500 of 2016

Bugum Yasmeen D/o Mushk-e-Alam Khan R/o Village Tittar Khel, Tehsil & District Lakki Marwat

(Appellant)

Versus:-

Government of Khyber Pakhtun- khwa through Secretary, Education and others

(Respondents)

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PRELIMINARY OBJECTIONS.

1. That the appeal is not maintainable and incompetent in the eyes of Law in the present form.
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3. That the appellant has got no cause of action and locus standi to file instant appeal.
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Education Department
Government of Khyber Pakhtun Khawa
Peshawar
Respondent No 1 & 2

(The Director)
Elementary and Secondary Education
Government of Khyber Pakhtun Khawa
Peshawar
Respondent No 3

(District Education Officer Female)
Lakki Marwat
Respondent No 4

District Edu. Officer (Male) Lakki Marwat

Vetted
District Attorney D.I.Khan

KHYBER PAKHTUNKHWA BAR COUNCIL

ADVOCATE

MUHAMMAD MOUSHIR ALI
Advocate High Court
N.I.C. 12101-9808519-5
S.NO. BC-11-2785
Issued by Authority

وکالت نامہ

DILAWAR KHAN
Advocate
bc-10-3941
Date of Issue: 06-11-2015
Valid upto: 05-11-2018
Secretary
KP Bar Council

کورٹ فیس

35

بعدالت ضابطہ سروسز ٹریبونل خیبر پختونخواہ ڈیرہ اسماعیل خان

منجانب اپیلانٹ

بنام گورنمنٹ خیبر پختونخواہ وغیرہ

بیگم یاسمین

دعوی یا جرم اپیل

تفصیل دعوی یا جرم

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے پیروی و جواب دہی برائے پیشی یا تصفیہ مقدمہ بنام ڈیرہ اسماعیل خان کے لئے محمد حسن علی ایڈووکیٹ ہائی کورٹ، دلاور خان ایڈووکیٹ

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا رہوں گا اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر کچہری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے یا پیچھے پیش ہونے پر مظہر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا ہرجانہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے مجھ کو کل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہو گا اور صاحب موصوف کو عرض دعوی یا جواب دعوی یا درخواست اجراء اسمائے ڈگری نظر ثانی اپیل نگرانی و ہر قسم درخواست ہر قسم کے بیان دینے اور پرثالثی یا راضی نامہ و فیصلہ برحلف کرنے اقبال دعوی کا بھی اختیار ہو گا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مزکور بیرون از کچہری صدر پیروی مقدمہ مزکور نظر ثانی اپیل و نگرانی و برآمدگی مقدمہ یا منسوخی ڈگری یک طرفہ یا درخواست حکم امتناعی یا ترقی یا گرفتاری قبل از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ محنتانہ پیروی کا اختیار ہو گا اور تمام ساختہ پرداختہ صاحب موصوف مثل کردہ از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو کہ مقدمہ مزکورہ یا اس کے کسی جزو کی کاروائی یا بصورت درخواست نظر ثانی اپیل نگرانی یا دیگر معاملہ و مقدمہ مذکورہ کسی دوسرے وکیل یا بیرسٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہرجانہ التواء پڑے گا وہ صاحب موصوف کا حق ہو گا مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہٰذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے

مورخہ _____ ماہ _____

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

العبد _____ العبد _____ العبد _____

بیگم یاسمین

بیگم یاسمین

Accepted & Attested
Advocate

Accepted & Attested

حسن کامپیکس سنٹر اندرون سپن زر مارکیٹ بالمقابل جانز ہوٹل ڈیرہ اسماعیل خان

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 500 of 2016

Bugum Yasmeen D/o Mushk-e-Alam Khan R/o Village Tittar Khel, Tehsil & District Lakki Marwat

(Appellant)

Versus:-

Government of Khyber Pakhtun- khwa through Secretary, Education and others

(Respondents)

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENT NO.1 to 4

PRELIMINARY OBJECTIONS.

1. That the appeal is not maintainable and incompetent in the eyes of Law in the present form.
2. That the appellant is estopped due to his own conduct to file this appeal.
3. That the appellant has got no cause of action and locus standi to file instant appeal.
4. That the appellant has not come to the Tribunal with clean hands and has suppressed all relevant facts.
5. That the appeal is bad for misjoinder/non-joinder of necessary parties.
6. That the appeal is badly time barred and the appellant has concealed the material facts from Honourable Tribunal.
7. That the Honourable Service Tribunal has no jurisdiction to entertain the instant appeal in its present form.
8. That the appeal has been mis-oriented, mis-constructed and mistakenly drawn and is incompetent in its present frame and context, and is liable for Rejection.
9. That the appeal is weak having no force, fabricated, fictitious, based on ill will, malafide and having no footings in the eyes of law.
10. That proceeding with the instant appeal would be a futile exercise and just wastage of the precious time of this Honourable Tribunal.
11. That as stated in the objections supra, the appeal is bereft of cause of action and is liable for dismissal.

RESPECTFULLY SHEWETH

ON FACTS.

Para.1. This para is pertained to record, hence, no comments.

Para. 2. This para is also pertained to record, hence, no comments.

Para. 3. This para is correct to the extent that the services of the appellant were terminated on the grounds that the neither advertisement was made nor proper selection committee was constituted.

Para. 4. This para is incorrect. The case of the appellant does not come under the Sacked Employees Act, 2002 hence she can't get the benefit of the mentioned notification.

Para. 5. Since the appointments were made in violations of rules without observing codal formalities and she also does not possess the degree of PST, hence, appellant was terminated on the grounds mentioned above.

Para. 6. This para is incorrect. The appellant has to qualify the NTS Exam as per existing Government policies and the appointment will be made according to the merit list.

Para. 7. This para is correct to the extent that the Writ Petition of the Appellant was dismissed by the Peshawar High Court, Bannu Bench on merit and according to Rule 23 of Services Tribunal Rules, 1974 'The tribunal shall not entertain any appeal in which matter has already been decided by the court'.

Para. 8. The para is correct to the extent that the representation was preferred, examined, Considered and rejected. However no appeal was filed to the appellate authority. Therefore, the appellant has no legal or vested right to invoke the jurisdiction of Service Tribunal.

GROUNDS.

Para. A. Incorrect, perversely denied. The respondents have no ill-will and mala-fide in the instant case. The case of appellant doesn't come under the Sacked Employees Act, 2012 because she was terminated due to illegal appointment. So the refusal to re-instate the appellant is legal. just and lawful.

Para. B. Incorrect, vigorously denied. The order of the termination was legal and no political victimization was involved. In-fact the appellant was terminated in light of the findings of an enquiry committee that the appellant was not appointed according to the rules and regulations. No advertisement was made and no D.S.C was constituted, neither the vacancies were available nor the appellant was qualified for the post of PST. The appointment letter contains the provision regarding the termination of the appellant that "the appellant may be terminated

without notice and reasons". So the appeal is liable to be rejected. The appellant does not possess the degree of PST to fulfill the requirement for appointment as PST at the time of appointment and appeal for re-instatement.

Para. C. Incorrect, intensively denied. The Enclosed Judgment of the August Supreme Court shows that the case was not decided on merits but was decided on compromise. The case referred was not preferred under the Sacked Employees Act, 2012 and also the appellant has not fulfilled the requirements of PST within time.

Para. D. Incorrect forcibly denied. That the appointment of appellant was based on political basis and appellant was terminated legally and according to the rules and no victimization and mala-fide was involved on part of the Respondents.

Para. E. Incorrect, fervently denied. The appellant was treated in accordance with law after completion of all Codal formalities, hence, she has not right to be re-instated under Sacked Employees Act, 2012.

Para. F. Incorrect, vehemently denied. The appeal has not been preferred with in time.

Para. G. This para is legal. The Law off icer may also be allowed to raise any other defense at the time of arguments.

PRAYER

It is, therefore, most humbly prayed that on acceptance of this para-wise comments, the appeal being devoid of legal footings and merit may graciously be dismissed with cost.

(The Secretary)
Education Department
Government of Khyber Pakhtun Khawa
Peshawar
Respondent No 1 & 2

(The Director)
Elementary and Secondary Education
Government of Khyber Pakhtun Khawa
Peshawar
Respondent No 3

(District Education Officer Female)
Lakki Marwat
Respondent No 4

Vetted
District Attorney
D.I.Khan

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR D.I.KHAN BENCH

Appeal No. 500 of 2016

Begum Yasmin D/O Mushk-e-Alam Khan (Appellant)

Versus

Government of Khyber Pakhtunkhwa through Secretary, Education and others

(Respondents)

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02	Affidavit	-------	04

Deponent

CNIC No. 1210-0920467-0

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR D.I.KHAN BENCH

Appeal No. 500 of 2016

Begum Yasmin D/O Mushk-e-Alam Khan (Appellant)

Versus

Government of Khyber Pakhtunkhwa through Secretary, Education and others (Respondents)

AFFIDAVIT

I Mst Sabira Parveen District Education Officer (F) Lakki Marwat, do hereby solemnly affirm and declare on oath that the contents of accompanying Parawise comments on behalf of Respondents No. 4, are true and correct to the best of my knowledge and belief that nothing has been concealed from this Court.

Dated: 15/03/2018

Deponent

CNIC No. 12101-0920467-0

Identified by

ALLAMA IQBAL OPEN UNIVERSITY, ISLAMABAD

Serial No. 378583

PROVISIONAL RESULT CARD

Name BEGUM YASMIN
Father's Name MUSHKALAM KHAN
Address TABHEL VILL & P/O TITTER KHEL GULIGAN MOH DEWANKHEL
Tehsil LAKKI MARWAT
District LAKKI MARWAT

Roll No. BB676939
Registration No. 01NLM0081
Final Semester AUT-2015

has successfully completed PRIMARY TEACHING CERTIFICATE

The detail of passed courses is as under:

Semester	Course Code	Title of Course	Marks	
			Maximum	Obtained
AUT- 14	0614	EDUCATIONAL PSYCHOLOGY	100	65
AUT- 14	0613	PRINCIPLES OF EDUCATION	100	64
AUT- 14	0615	SCHOOL ORGANIZATION	100	60
AUT- 14	0616	SCHOOL COMMUNITY & PRACTICAL ARTS	100	55
SPR- 15	0617	TEACHING OF URDU	100	57
SPR- 15	0620	TEACHING OF ISLAMIAT & SOCIAL STUDIES	100	65
SPR- 15	0611	PRACTICAL WORKSHOP & TEACHING PRACTICE	100	74
SPR- 15	0619	TEACHING OF SCIENCES & PHYSICAL EDUCATION	100	73
AUT- 15	0618	TEACHING OF MATHEMATICS	100	61

CREDITS: 5

Total Marks / Obtained 900 / 574

Result Declared on JULY 11, 2016

Percentage / Grade 64 B

Date of issue JULY 29, 2016

Controller of Examinations

Disclaimer:
This result card is issued provisionally, errors and omission excepted, as a notice only. Any entry appearing in this card does not itself confer any right or privilege on a candidate for the grant of certificate/degree/diploma, which will be issued under the rules/regulations on the basis of the original record of the university student.

INSTRUCTIONS FOR ISSUANCE OF ORIGINAL CERTIFICATE/DIPLOMA/DEGREE

(i) After completion of programme successfully, a student will have to apply with complete requisite documents to the Controller of Examination for issuance of Certificate/Diploma/Degree.

(ii) Original Certificate/Diploma/Degree will be issued on his/her turn within a period of two years after submission of proper application and fulfillment of requirements.

(iii) Original Certificate/Diploma/Degree will be processed after clearing all the dues Outstanding against the students.

(iv) Admission was provisionally on the basis of result cards of Boards/Universities. Therefore, AIOU Certificate/Diploma/Degree will be issued after confirmation of the authenticity of the original Certificate/Diploma/Degree issued from the respective Board/University.

(v) Certificate/Diploma/Degree will be dispatched to the candidate by registered post at his/her given address available in the University record .

(vi) If at any stage from admission to issuance of Certificate/Diploma/Degree, the information given by the candidate in the admission form is found wrong or false/fake/tempered Certificate/Diploma/Degree attached at the time of first Admission in the programme, the University has a right to cancel his/her admission, and Certificate/Diploma/Degree as per regulations/rules of the University

نوٹ:

اصل سرٹیفکیٹ / ڈپلومہ / ڈگری کے حصول کے لئے درخواست بمعہ مکمل کوائف جمع کروانے لازمی ہیں اور باری آنے پر دو سال کے عرصہ میں اجرا کیا جائے گا۔ پروویژنل رزلٹ کارڈ میں پائی جانے والی غلطی کی تصحیح کے لئے 45 دن جبکہ تاریخ پیدائش کی تصحیح کیلئے معہ ثبوت کے 90 دن کے اندر رابطہ کیا جا سکتا ہے۔

JUDGMENT SHEET

PESHAWAR HIGH COURT, BANNU BENCH

Writ Petition No. 108-B/2015

Shabana Yaqoob
Vs
Govt of Pakistan & others.

JUDGMENT

Date of hearing 01-10-.2018

Petitioner(s) by Muhammad Tariq Qureshi & Shahid Saleem Mina Khel advocates

Respondent(s) by Shahid Hameed Qureshi Addl.A.G.

SHAKEEL AHMAD, J.--- The petitioner Mst. Shabana Yaqoob seeks Constitutional Jurisdiction of this Court praying:

> *"On acceptance of instant Constitutional Petition, the respondents may graciously be directed to appoint /consider the petitioner under sacked employees Act 2012 against the post of PST with such other relief as may be deems proper".*

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

2. Brief and essential facts of the case are that vide office order dated 17.08.1995, petitioner Mst. Shabana Yaqoob was appointed as PST after observing legal and codel formalities, however, vide office order

dated 05.03.1997, her services were terminated. The petitioner seeks re instatement in service under the provision of KPK sacked employees under the Act (ibid) being sacked employee but she was denied re-instatement in service by the respondents, hence this Writ petition.

3. It was argued by the learned counsel for the petitioner that the petitioner was appointed as PST on 17.05.1995 and her services were terminated on 05.03.1997, therefore her case falls within the ambit of Sacked Employees Act of KPK, 2012, as defined by Clause (g) of Section 2 of Act, therefore she is entitled to be re-instated in service as provided U/S 6 of the Act (ibid).

4. Learned Addl.A.G appearing on behalf of the respondents admitted that the case of the petitioner falls within the ambit of sacked employee as defined under Clause (g) of Section 2 of the Act (ibid).

5. We have heard arguments of learned counsel for the petitioner and learned AAG on behalf of official respondents and have gone through the record .

6. Perusal of the record reveals that KPK Sacked employees (appointment) Act, 2012 was promulgated to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of

the Khyber Pakthukhwa and who possessed the prescribed qualification and experience required for the said post, during the period from Ist day of November 1993 to the 30th day of November 1996 and were dismissed, removed or terminated from service during the period from Ist day of November, 1996 to 31st day of December 1998 on various grounds. The sacked employee has been defined in Clause (g) of Section 2 of the Act (ibid) which read as under:-.

> *(g) "sacked employee" means a person who was appointed on regular basis to a civil post in the Province of the Khyber Pakthukhwa and who possessed the prescribed qualification and experience required for the said post, at that time, during the period from Ist day of November 1993 to the 30th day of November 1996 (both days inclusive) and was dismissed, removed or terminated from service during the period from Ist day of November, 1996 to 31st day of December 1998 on ground of irregular appointment".*

7. Admittedly, the petitioner was appointed as PST on 17/8/1995, and her services were terminated on 05.03.1997, therefore her case falls within the definition of

the Sacked employee as her services were terminated during the period from Ist dat if November, 1996 to 31 December 1998. Section 6 of the ibid Act further provides that "*on the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age*".

8. The respondents in their para-wise comments though admitted that the 30% quota as provided under section 6 of the ibid Act could not be followed due to the inquiry pending in illegal appointment casses, however, we were informed by the learned counsel for the petitioner as well as by the learned Additional A.G that the inquiry has now been over. .

9. Learned counsel appearing on behalf of the petitioner also drew our attention to page-13, appended with the Writ petition, which would reflects that Meeting regarding sacked employees was held on 09-01-2013, wherein it was held that documents of the petitioner was checked and the respondents found her qualified and eligible for the post of PST, and her name was placed at S.No.1 and it was finally decided that she being sacked employee would be considered out of 30% available share

of the Sacked Employees under the ibid Act, as and when the post of PST (Female) are advertised.

10. When the learned counsel for the petitioner was confronted with the aforesaid minutes of the meeting, he stated that after 21-01-2013, many post of female PST were advertised but the petitioner was not considered against 30% available share of the sacked employees.

11. In view of the above, we admit and allow this petition and direct the respondents to consider the petitioner for appointment as PST (F) out of 30% available share of the Sacked employees, strictly in accordance with the provision, laid down in KPK Sacked Employees (appointment) Act, 2012 as and when the posts of PST female are advertised in near future.

This writ petition is disposed of accordingly.

Announced.
01.10.2018.

S/-Mr. Justice Muhammad Nasir Mahfooz,J
S/-Mr. Justice Shakeel Ahmad,J

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court Bannu Bench
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1984

18/10/18

15/11/18

تاج ملوک دکاندار

کو ملک محمد نواز

کو ملے -

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