

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

*Execution Petition no. 553/2023*

Abdul Manan son of Syed Imran, TT, resident of Khothera P.O Phurla,  
Tehsil & District Mansehra.

...APPELLANT/PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary and  
Secondary Education Peshawar & others.

...RESPONDENTS

**APPLICATION**

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... PETITIONER

Dated: \_\_\_\_\_/2023

Through

*(Signature)*  
**(Muhammad Arshad Khan Tanoli)**  
Advocate Supreme Court of Pakistan  
Abbottabad

&

*(Signature)*  
**(Muhammad Ibrahim Khan)**  
Advocate High Court, Abbottabad

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

*Execution petition no 553/23*

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 6811

Dated 02/08/23

Abdul Manan son of Syed Imran, TT, resident of Khothera P.O Phurla,  
Tehsil & District Mansehra.

...APPELLANT/PETITIONER

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Mansehra.

...RESPONDENTS

**IMPLEMENTATION PETITION IN SERVICE**

APPEAL NO. 4517 OF 2020

---

Respectfully Sheweth:-

That the facts forming the backgrounds of the instant petition are arrayed as under;-

1. That the appellant/petitioner filed appeal No. 4517 of 2020 regarding counting of his former service w.e.f 05/06/1996 to 13/02/1997 and 20/09/2012 to 06/12/2017. Copy of service appeal No. 4517 of 2020 is attached as Annexure "A".

2. That this Honourable Tribunal directed the respondent department to decide the departmental appeal in the light of Judgment of August Supreme Court of Pakistan within period of 3 months. Copy of order dated 22/07/2022 of this Honourable Tribunal as well as Judgment of August Supreme Court of Pakistan is attached as Annexure "B".
3. That the relevant documents i.e. appointment order and KP Sacked Employees Act 2012 are attached as Annexure "C" & "D".
4. That the respondents' department was supposed to decide the matter of counting of former service of the appellant/vide petitioner order dated 22/07/2022 in the light of judgment of August Supreme Court of Pakistan within period of 3 months, but respondents are not willfully obeying the order dated 22/07/2022 of this Honourable Tribunal which amounts to contempt of court.

In view of the above it is prayed that respondent may be directed to count the service of the appellant/petitioner w.e.f 05/06/1996 to


13/02/1997 to 20/09/2012 to 06/12/2017 towards calculation of pension etc. failing which contempt of court proceedings may also be initiated against the respondents.



... PETITIONER


Dated: \_\_\_\_\_/2023

Through



**(Muhammad Arshad Khan Tanoli)**  
Advocate Supreme Court of Pakistan  
District Abbottabad  
Abbottabad

&



**(Muhammad Ibrahim Khan)**  
Advocate High Court, Abbottabad

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

Abdul Manan son of Syed Imran, TT, resident of Khothera P.O Phurla,  
 Tehsil & District Mansehra.

...APPELLANT/PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary and  
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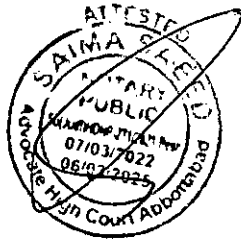
...RESPONDENTS

**APPLICATION**

**AFFIDAVIT**

I, *Abdul Manan son of Syed Imran, TT, resident of Khothera P.O Phurla, Tehsil & District Mansehra*, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

  
**DEPONENT**



01/08/23

Annex-A

**BEFORE THE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHUWA, PESHAWAR**

P-4

Service Appeal No. 4517/2020

Abdul Manan son of Syed Imran, (Syed Rehman), TT, resident of Kothehra, Post Office, Kurla, Tehsil & District Mansehra.

...APPELLANT

VERSUS

1. Government of KPK through Secretary Elementary and Secondary Education, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) District Mansehra.

...RESPONDENTS

**SERVICE APPEAL** UNDER SECTION 4 OF  
SERVICE TRIBUNAL ACT 1974 FOR  
DECLARATION TO THE EFFECT THAT THE  
APPELLANT WAS REINSTATED IN SERVICE  
WITH EFFECT FROM 04/12/2017 VIDE  
APPOINTMENT ORDER ENDST NO. 19777-85  
DATED 14.01.2017 UNDER THE KHYBER  
PAKHTUNKHWA SACKED EMPLOYEES  
APPOINTMENT ACT 2012, AS WELL AS IN THE  
LIGHT OF JUDGEMENT OF PESHAWAR HIGH

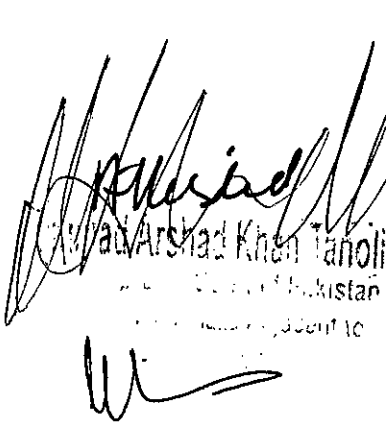
Office to Jinnah Plaza adjacent to  
District Office Abbottabad

COURT BENCH ABBOTTABAD IN WRIT PETITION  
 NO. 516-A/2013 DECIDED ON 24/05/2016 THE  
 APPELLANT WAS TO BE REINSTATED IN  
 SERVICE I.E. HIS DATE OF TERMINATION FROM  
 SERVICE I.E. 06/03/1996 OR FROM THE DATE OF  
 PROMULGATION OF THE ACT, 2012 WITH ALL  
 SERVICE BACK BENEFITS BUT RESPONDENT  
 NON.3 APPOINTED / REINSTATED THE  
 APPELLANT IN SERVICE ON 04/12/2017 WHICH  
 IS DISCRIMINATORY, PERVERSE AGAINST THE  
 LAW.

---

**PRAYER:** ON ACCEPTANCE OF THE INSTANT  
 SERVICE APPEAL, RESPONDENTS MAY  
 GRACIOUSLY BE DIRECTED TO REINSTATE THE  
 APPELLANT EITHER 06/03/1996 OR FROM THE  
 DATE OF PROMULGATION OF SACKED  
 EMPLOYEES APPOINTMENT ACT, 2012 WITH ALL  
 SERVICE BACK BENEFITS AND THE SAID  
 PERIOD MAY ALSO BE COUNTED TOWARDS  
 PENSIONARY BENEFITS. ANY OTHER RELIEF  
 WHICH THIS HONOURABLE TRIBUNAL DEEMS  
 APPROPRIATE MAY ALSO BE GRANTED TO THE  
 APPELLANT.

---

  
 Arshad Khan Taholi  
 Member, Court of Sindh  
 Government of Sindh  
 Hyderabad

Respectfully Sheweth;-

Brief Facts of the case are as under:-

1. That the appellant was appointed as TT in the year 1993-94 and was terminated from service in the year 1997-98. Copies of appointment order and termination order are annexed as Annexure "A" & "B".

2. That Govt. of Khyber Pakhtunkhwa announced KPK Sacked Employees Appointment Act, 2012 wherein all the sacked employees who were appointed in the year 1993-1996 and terminated from service in the year 1997-1998 are to be reinstated in service. Copy of Khyber Pakhtunkhwa Sacked Employment Act, 2012 is attached as Annexure "C".

*Attested*  
 Court of Pakistan  
 Main Plaza Adjacent to  
 Dist. Bar, Abbottabad

That the respondent No. 3 did not appoint the petitioner as per KPK Sacked Employees Act, 2012 in time. Hence, the appellant filed writ petition 516-A/2013 before Honourable High Court, Bench Abbottabad for his appointment under the said Act. Copy of Writ Petition is attached as Annexure "D".



4. That during the pendency of the writ petition, respondent No 3 issued appointment order vide No 20672-702 dated 04/12/2017. Copy of appointment order dated 04/12/2017 of the appellant is attached as Annexure "E".

5. That the respondent No.3 also appointed some similar employees under the said Act in the year 2012-13 but appointed the appellant on 04/12/2017 which is discriminatory, perverse, against the law and the appointment order of the appellant should have been issued either from the date of termination from service in the year 1997-98 or from the dated Promulgation Sacked Employees Appointment Act 2012. The appellant filed departmental appeal to respondent No.2 for redressal of his grievance in December 2017 but respondent No.2 did not bother to reply the appellant so far. Copy of departmental appeal is attached as Annexure "F".

Attested  
[Signature]  
[Stamp: District Court, Faisalabad, adjacent to... Abbottabad]

6. That feeling aggrieved, the instant appeal is filed inter-alia, on the following grounds:-

GROUNDS:

a) That respondent No.3 was supposed to appoint the appellant under KPK Sacked Employees Appointment Act 2012, as and when the said Act was promulgated in the Year 2012 but respondent No.3 finally issued appointment order of the appellant 04/12/2017 which is against the law and discriminatory. Hence the appellant is entitled to have all the service back benefits w.e.f the date of termination of service in the Year 1997-98 as has been granted by the Federal Govt. to its employees in the Year 2010.

*Attested*  
 [Signature]  
 District Education Officer  
 Government Court of Education  
 Bannu Plaza Adjacent to  
 Bannu Abbottabad

b) That respondent No.3 appointed some similar employees who are juniors in age from the appellant, whereas the appellant has been appointed/reinstated in service on 04/12/2017 which is against the principle of equality and natural justice as well as principle of good governance.

c) That District Education Officer under the control of respondents No.1 & 2 issued

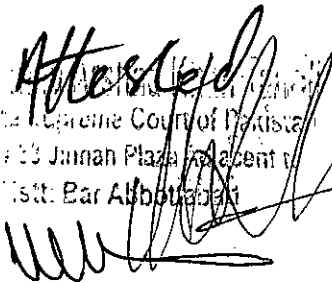
appointment orders of similar employees in other districts under the said Act in the year 2013. Copies of similar employees who were appointed in other districts are attached as Annexure "G".

d) That the appellant is to be given all service back benefits i.e salary either the date of termination and period of service i.e. in the year 1997-98 to 04/12/2017 is to be counted towards length of qualifying service for pensionary benefits.

e) That respondents-department has led the appellant to the place which is utterly unknown to the principle of jurisprudence and natural justice. The appellant is to be treated at par with other employees under the control of the respondents-department.

f) That when the law prescribe something which is to be done in a particular manner that must be done in that manner and not otherwise.

Attorney General  
The Supreme Court of Pakistan  
Plot # 103 Jinnah Plaza, Islamabad  
Distt: Bar Attock



- g) That there is no other efficacious and adequate remedy available to the appellant, except the present appeal.
- h) That other points shall be raised before the Honourable Tribunal at the time of arguments.

It is, therefore, humbly prayed that, on acceptant of the instant service appeal, respondents may graciously be directed to reinstate the appellant either from the year 1997-98 or from the date of promulgation of Sacked Employees Appointment Act, 2012 with all service back benefits and the said period may also be counted towards pensionary benefits. Any other relief which this Honourable Tribunal deems appropriate may also be granted to the appellant.

*[Handwritten signature]*  
 Hon'ble Court of Pakistan  
 Jinnah Plaza adjacent to  
 Distt Bar Abbottabad

*[Handwritten signature]*

...APPELLANT

Through

*[Handwritten signature]*  
 (Muhammad Arshad Khan Tanoli)  
 Advocate High Court, Abbottabad  
 Advocate High Court  
 Office No. 33 Adjacent  
 Distt Bar Abbottabad

Dated: \_\_\_\_\_/2020

**VERIFICATION:-**

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

*[Handwritten signature]*

...APPELLANT

P-11

**BEFORE THE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHUWA, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2020

Abdul Manan son of Syed Imran, (Syed Rehman), TT, resident of Kothehra, Post Office, Kurla, Tehsil & District Mansehra.

...APPELLANT

**VERSUS**

Government of KPK through Secretary Elementary and Secondary Education, Peshawar.

...RESPONDENTS

**SERVICE APPEAL**

**AFFIDAVIT**

I, Abdul Manan son of Syed Imran, (Syed Rehman), TT, resident of Kothehra, Post Office, Kurla, Tehsil & District Mansehra., do hereby solemnly affirm and declare that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

*Attested*  
Signature of Abdul Manan  
District Bar Abbottabad

*Signature*  
**DEPONENT**

Annex - B

P-12

**BEFORE THE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHUWA, PESHAWAR**

4517 1336  
26/10/20

Service Appeal No. \_\_\_\_\_/2020

Abdul Manan son of Syed Imran, (Syed Rehman), TT, resident of Kothelra, Post Office, Kurla, Tehsil & District Mansehra.

...APPELLANT

VERSUS

1. Government of KPK through Secretary Elementary and Secondary Education, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) District Mansehra.

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PAKHTUNKHWA SACKED EMPLOYEES  
APPOINTMENT ACT 2012, AS WELL AS IN THE  
LIGHT OF JUDGEMENT OF PESHAWAR HIGH

Re-submitted to -day  
and filed.

Registrar

31/03/2021

17.05.2022

Counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Hamid Mansoor. Assistant for the respondents present.



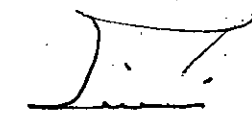
Written reply/comments on behalf of respondents submitted which is placed on file. Copy of the same is handed over to the learned counsel for the appellant. To come up for rejoinder as well as arguments before D.B on 21.07.2022 at camp court Abbottabad.

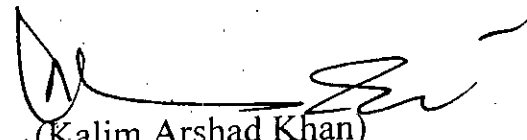
(Fareeha Paul)  
Member (E)  
Camp Court Abbottabad

22<sup>nd</sup> July 2022 1. Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for the respondents present.

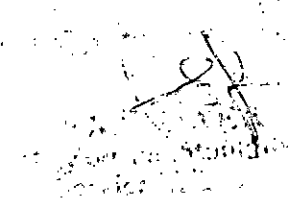
2. Learned counsel for the appellant submits that the appellant would be satisfied if the departmental appeal, which was not decided by the department, is remitted to the department for decision in the light of the latest judgment of the august Supreme Court of Pakistan within three months. Disposed of accordingly. Consign.

3. *Pronounced in open court in Camp Court Abbottabad and given under our hands and seal of the Tribunal on this 22<sup>nd</sup> day of July, 2022.*

  
(Salah Ud Din)  
Member (Judicial)

  
(Kalim Arshad Khan)  
Chairman  
Camp Court Abbottabad

Handwritten notes and dates on the left margin:  
28-08-2022  
26-8-2022  
14-08-2022  
14-08-2022  
13-08-2022  
26-8-2022



IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

P-14

PRESENT:

MR. JUSTICE GULZAR AHMED, HCJ  
MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITIONS NO.468-P, 469-P, 471-P & 472-P OF  
2016.

(Against the judgment dated 12.07.2016 passed by the Khyber Pakhtunkhwa  
Service Tribunal Camp Court, Suit in Appeals No.1202 and 1203 of 2013).

Muhammad Sheryar.

(in CP 468 P & 469 P)

Anwar Zeb.

(in CP 471 P & 472 P)

The Secretary to Education (E&S), Government of Khyber  
Pakhtunkhwa, Peshawar and others.

(in CPs 471 P & 472 P/16)

...Petitioner(s)

Versus

The Secretary to Education (E&S), Government of Khyber  
Pakhtunkhwa, Peshawar and others.

(in CPs 468 P & 469 P/16)

Muhammad Sheryar.

(in CP 471 P/16)

Anwar Zeb.

(in CP 472 P/16)

...Respondent(s)

For the Petitioner(s):

Mr. M. Asif, ASC.

(For Petitioners in CPs 468-P & 469-P/16 &  
For Respondents in CPs 471-P & 472-P/16)

Barrister Qasim Wadood, Addl.  
A.G. KP.

(in CPs 471-P & 472-P/16)

Date of Hearing:

27.03.2020.

ORDER

ATTESTED

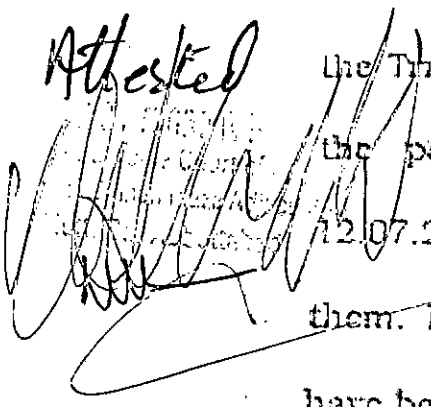
GULZAR AHMED, CJ. - We have heard the learned  
Additional Advocate General, Khyber Pakhtunkhwa appearing  
for the petitioners in Civil Petitions No.471-P and 472-P of

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad



2016 as well as Mr. Muhammad Asif, Assistant ASC by the petitioners in Civil Petitions No. 468-P and 469-P of 2016. The petitioners in Civil Petitions No. 468-P and 469-P of 2016 (to be referred as the petitioners) were employed as TV Teachers. Their services were terminated in the year 1997 against which they filed service appeals before the Khyber Pakhtunkhwa Service Tribunal (the Tribunal) which vide judgment dated 04.01.2013 accepted the appeals with direction to the Respondents to consider their grievances. Pursuant to this direction of the Tribunal, the petitioners were reinstated in service, vide Office Order dated 05.07.2013 from the date of their taking charge but back benefits were not allowed to them for the period they remained out of service. The petitioners again filed service appeals before the Tribunal which vide impugned judgment dated 12.07.2016 accepted the appeals.

2. The learned counsel for the petitioners contends that the petitioners were entitled to grant of back benefits but we are unable to see as to how such back benefits could have been allowed to them more so when in the earlier judgment of the Tribunal dated 04.01.2013 no such relief was allowed to the petitioners and by the impugned judgment dated 12.07.2016 also apparently no such relief has been granted to them. He adds that some other similarly placed employees have been given back benefits.

Attested  


**ATTESTED**  
 Senior Court Associate  
 Supreme Court of Pakistan  
 Islamabad

3. We have asked the learned counsel for the petitioners to show us as to whether in the memo of appeal

12081/20

GR No: \_\_\_\_\_ Civil/Criminal

Date of Preparation: 26.8.20

No of Words: 400

No of Pages: 1

Required by: S.P.

Copy Fee: S.P.

Court Fee Stamp: 10.28

Date of Completion: 26.8.20

Date of Delivery of Copy: 26.8.20

Compared by/Prepared by: \_\_\_\_\_

Received by: M. B. ...

*[Handwritten signatures and notes]*  
M. B. ...

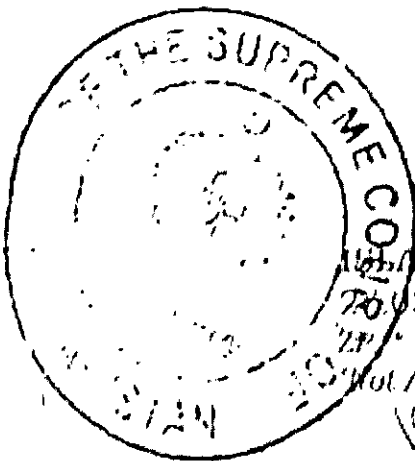
before the Tribunal such point has been urged or any other ground in this regard was taken. He went through the memo of appeal and conceded that no such assertion in the memo of appeal was taken by the petitioners. The Tribunal has disallowed back benefits to the petitioners twice and it is obvious that such has been disallowed to the petitioners for the reason that they have not served the department for the said period and there is no material on record on the basis of which relief of back benefits could be allowed to them. There appears no illegality in the impugned judgment. Even otherwise, no substantial question of law of public importance in terms of Article 212(3) of the Constitution of the Islamic Republic of Pakistan, 1973 has been raised.

5. For what has been discussed above, all the listed petitions being devoid of merit stand dismissed and leave to appeal is refused.

It is however observed that the petitioners will be allowed counting of their service for the protected period for payment of pensionary benefits.

*Attested*  
*[Signature]*

*[Signature]*  
*[Signature]*  
Certified to be True Copy  
*[Signature]*  
Senior Court Associate  
Supreme Court of Pakistan  
Islamabad



ISLAMABAD.  
20/03/2020.

Not Approved For Reporting'

*[Handwritten notes]*  
17/4/20  
2/4/19

Annex-C

Annex-C<sup>4</sup>

P-17



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MANSEHRA

P-~~17~~

## APPOINTMENT

In pursuance of Khyber Pakhtunkhwa Sacked Employees (Appointment) 2012 and Judgement passed by Honorable Peshawar High Court Abbottabad Bench Abbottabad, In Consolidate Judgment Vide Dated 24-05-2016, in W/P No 516-A/2013, 676-A/2015, 20-A/2014, 216-A/2015, 1155-A/2015, 702-A/2014, 115-A/2014, and directions of Honorable Court in COC No. 22-A/2016, COC No. 47-A/2016, COC No. 58-A/2016, COC No. 83-A/2016 2014, consequent upon recommendation of the Departmental Selection Committee, appointment of the following candidates are hereby ordered against the post of TT, School based and in BPS-15 (Rs.16120-13330-56020) plus usual allowances as admissible under the rules, under the existing policy of the Provincial Government, on the terms and condition given below with effect from the date of their taking over charge:-

S.#	Name	Father's Name	Domicile	Permanent Address	Place of posting
1.	MUHAMMAD SIDDIQUE	MUHAMMAD MISKEEN	26-06-71	Village Naran The Balakot Distt: Mansehra	GMS Halkaloo
2.	IFTIKHAR AHMED	ANEES UR REHMAN	01-01-73	Village Ichrina Mansehra	GMS BalhagPayeen
3.	Abdul Manan	Syed Rehman	01-01-78	Village Phulra Mansehra	GMS Chak Pansial

### TERMS & CONDITIONS.

1. NO TA/DA etc is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. Their Appointment are subject are condition that, their certificates/document and domicial be verify from the concerned authority before releasing their salary in the light of Section 3 of the said ACT.
4. They will be governed by such rules & regulation enforce and as may be prescribed by the Government time to time for the category of the Government savant to which they belon.
5. Their appointment has been made in pursuance of Khyber Pakhtunkhawa, Sacked Employee (appointment) ACT 2012. Hence under Section 5 of the said ACT they shall not be entitled to any claim of the seniority, promotion and back benefits.
6. Their appointment has been made in pursuance of Khyber Pakhtunkhawa, Sacked Employee (appointment) ACT 2012. Hence Section 4 of the said ACT period during which they remained dismissed, removed or terminated from services, till the date of their appointment shall have been deemed atomically relaxed.
7. Their Appointment is subject to the condition that the certificates/documents must be verified from the concerned authorities by the DEO. Anyone found producing bogus Certificate will be reported to the law enforcing agencies for further action.
8. Their services are liable to termination on one month's prior notice from either side. In case of resignation without notice his one-month pay/allowances shall be forfeited to the Government.
9. Their pay will not be drawn until and unless a certificate to the effect by DEO is issued that his certificates/degrees are verified from the concerned board/university.
10. The Principal / Headmaster School concern is directed to submit their Degrees /Certificates etc to this office for verification from Board /University/Institutions before any payment made to them.
11. They should join their post within 15 days of the issuance of this notification. In case of failure to join their post within 15 days of the issuance of this notification, his appointment will expire automatically and no subsequent appeal etc shall be entertained.
12. Health and Age Certificate should be produced from the Medical Superintendent King Abdullah Teaching Hospital Mansehra before taking over charge.
13. They will be governed by such rules and regulations as may be issued from time to time by the Gout.
14. Their services shall be terminated at any time, in case his performance is found unsatisfactory during their contract period. In case of misconduct, they shall be proceeded under the rules framed from time to time.
15. Their appointments are made on School based, they will have to serve at the place of posting, and their service is not transferable to any other station.
16. In case of having less qualification which ever is prescribed Acadeic SSC for TT as well as classical certificate as profession the candidate must be qualified the above prescribed

Attested

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P-80

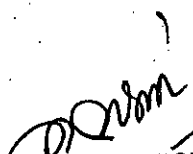
- qualification i.e Academic/Professional within 3 years after issue of this appointment order, failing which their appointment order shall stand terminated atomically, without any further notice.
17. Before handing over charge once again their documents may be checked if they have not the required qualifications they may not be handed over charge.
  18. Before handing over charge they will sign an agreement with the department, otherwise this order will not be valid.
  19. The competent authority reserve to right to rectify the error / omission, if any noted /observed at any stage in instant order issued erroneously.

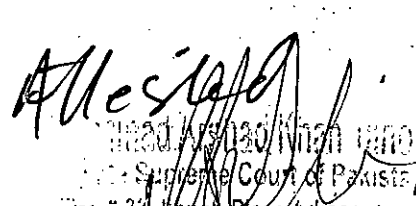
DISTRICT EDUCATION OFFICER,  
(MALE)MANSEHRA

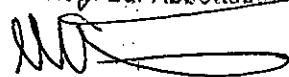
19777-85  
Endst: No. /File No./TT/Sacked Apptt:/2017/Dated Mansehra the 14/11 2017

Copy forwarded for information and necessary action to the: -

1. Registrar Honorable Peshawar High Court Abbottabad Bench.
2. Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. PS to Secretary Khyber Pakhtunkhwa E&SE Department Peshawar.
4. District Accounts Officer Mansehra.
5. Principal / Head Master Schools concerned.
6. Budget & Account Officer Local Office.
7. Officials Concerned.
8. Office Order File.

  
- DY: DISTRICT EDUCATION OFFICER  
(MALE)MANSEHRA

  
Head Office/Mansehra  
Supreme Court of Pakistan  
Plot # 23, Jinnah Plaza Adjacent  
Distt Bar Abbottabad



# Annex - D

(5)

P-19

## THE KHYBER PAKHTUNKHWA SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

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#### PREAMBLE

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*Attested*  
Arshad Khan  
The Supreme Court of Pakistan  
33 Jinnah Plaza, Islamabad  
Distt: Bar Abbott  
*Arshad Khan*

THE KHYBER PAKHTUNKHWA  
SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

*[first published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 20<sup>th</sup> 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 1<sup>st</sup> day of November 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November 1996 to 31<sup>st</sup> 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 appoint these 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 Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.

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

(3) It shall come into force at once.

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

Attested  
Muhammad Arshad Khan  
The Supreme Court of Pakistan  
73 Jinnah Plaza, Islamabad  
Distt: Bar Abotobad

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- (a) "civil post" means a post created by the Finance Department of Government for the members of civil service of the Province;
- (b) "Department" means the Department and the Attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, 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 basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1<sup>st</sup> day of November 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November 1996 to 31<sup>st</sup> day of December 1998 on the ground of irregular appointments;

3. Appointment of sacked employees.--- Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

Provided further that the appointment of sacked employees shall be subject to the medical fitness and verification of their character antecedents to the satisfaction of the concerned competent authority.

4. Age 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.

Attested by  
 The District Judge  
 District: Barakzai  
 Distt: Barakzai



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 six months 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.

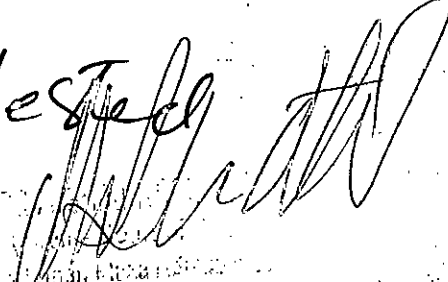
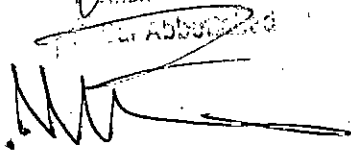
8. Removal of difficulties.--- If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act as may appear to him to be necessary for the purpose of removing the difficulty:

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

*Attested*  
*[Signature]*

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 purposes of this Act.

Attested  
  
Secretary  


کورٹ فیس

# وکالت نامہ

بعدالت Service Tribunal of Peshawar

عنوان: Govt of Pk etc نام Abdul Manan

منجانب: Appellant/Petitioner

نوعیت مقدمہ:

## باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آن مقام

Attd: M. Arshad Khan Tanoli Asc of Peshawar at

کو وکیل مقرر کر کے اقرار کرنا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پر داختمہ مجھ کو منظور قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت نالش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

المرقوم:

Acceptance

Muhammad Ishaq  
Advocate  
High Court

دھاس فونوٹیشن پیمبری (ایٹ آباد)

بمقام:

Arshad Khan

Asc of Peshawar at. etc