# BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 111/2023

Israr Hussain, SST (BPS-16) GHS Bughdi Parachinar District Kurram

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## VERSUS

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bal Khan) DIRECTOR

E&SE Department Khyber Pakhtunkhwa, Peshawar

## BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

## Service Appeal No: 111/2023

Israr Hussain, SST (BPS-16) GHS Bughdi Parachinar District Kurram....Appellant

## VERSUS

### JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No: 13

<u>Respectfully Sheweth</u>,

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#### PRELIMINARY OBJECTIONS.

Kantor Faldershwa Service Fribual Diary No. 9808

- 1 That the Appellant has got no cause of action/locus standito file instant appeal.
- 2 That the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article 212 of the constitution of Islamic Republic of Pakistan 1973.
- **3** That the appellant has concealed material facts from the ambit of this Honorable Tribunal.
- 4 That the appellant has not come to this Honorable Tribunal with clean hands.
- 5 That the appeal in hand is based on mala fide intentions for gaining illegal service benefits from the Department w.e.f 24-07-2014, a period wherein, the appellant was not at the strength of Khyber Pakhtunkhwa & was serving under the Ex-FATA Directorate of Education.
- 6 That the appeal in hand is barred by law and limitation.
- 7 That the appeal in hand is bad for mis-joinder and non-joinder of the necessary parties.
- 8 That the appellant was an employee of EX-FATA till 2009 under the authority of the Federal Government & has been merged in Khyber Pakhtunkhwa through the 18<sup>th</sup> amendment in the constitution of 1973.
- 9 That the benefits of order dated 31-10-2014 of District Hangu can not be extended to the appellant under the Rules & policy in vogue.
- 10 That the order of promotion of the appellant dated 11-10-2017 is legal & liable to be maintained in favor of the Department.
- 11 That aggrieved from the Notification dated 11-10-2017, the appellant has filed a time bared Departmental appeal dated 15-01-2018 to the Respondent No. 2 which was seen & filed on the grounds of limitation as well as violative of the Law & Rules.
- 12 That the appellant is not entitled for anti dation of promotion to the post of SST w.e.f 24-07-2014 under the relevant provision of APT Rules 1989.

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## ON FACTS.

- 1 That Para 1 pertains to the residential & academic record of the appellant.
- 2 That Para-2 pertains to the appointment against the CT (M) post of the appellant vide order dated 02-03-1992 & his further promotion as SST with his adjustment at GHS Bughdi Parachinar District Kurram which is subject to the proper proof & record on the part of the appellant.
- **3** That Para-3 is correct to the extent of Notification bearing No. SO(PE)/4-5/SSRC/Meeting/2013/TC dated 24 07-2014, whereby, the criteria for promotion in the upper scales for the Teaching Cadre working in the Khyber Pakhtunkhwa was framed & Notified excluding the Teaching Staff of Ex-FATA/NMDs which was directly falls within the administrative authority of the Federal Government & was merged into Khyber Pakhtunkhwa through the 18<sup>th</sup> amendment in the constitution of 1973 passed by the National Assembly & approved by the president of Pakistan.

Therefore, the appellant does not fall within the ambit of aforesaid promotion service rules dated 24-07-2014 as the cases have been proceed by the Director Ex-FATA in the year 2017 after the approval of the Federal Government as evident from the letter No. 12492 dated 30-08-2021 of the Deputy Director FATA. (Copy of the Notification dated 24-07-2014 is Annex-A).

- 4 That Para 4 is correct to the extent of the letter dated 07-08-2014 of the then Deputy Director Khyber Pakhtunkhwa whereby, all the DEOs (M/F) throughout Khyber Pakhtunkhwa excluding the Ex-FATA have been directed to process the cases of Teaching Cadre in view of the service rules as cited above. (Copy of the letter is Annexure-B).
- 5 That Para-5 is incorrect as the Respondent No.2 is mainly responsible for processing the Promotion & upgradation cases of Teachers working in the Khyber Pakhtunkhwa (Settled Areas) during the period w.e.f. 2014 to 2017 & not for Ex-FATA/NMDs Directorate has still a separate administrative setup for the said purpose.
- 6 That Para-6 is incorrect as the DEO (M) Hangu is not competent to grant promotion against the SST in BPS-16 post rather he is a recommending authority in the said cadre in the Department, however, he may adjust an already promoted SST post in his District under the rules & policy
- 7 That Pra-7 is correct to the extent of letter dated 09-03-2015 which was applicable upon the employees of Khyber Pakhtunkhwa & not on FATA till 2017 of being two different Directorates of Education working under the domain of provincial Govt; (settled areas) & Federal Government FATA.
- 8 That Para-8 is also incorrect as the act of the Respondents No. 3 with regard to the Notification dated 24-07-2014 & 11-10-2017 is within legal sphere & liable to be maintained in favor of the Department *attached as Annex-C.*
- 9 That Para-9 is incorrect as the act of the Respondent No.3 with regard to the Seniority & promotion of the appellant & all other Teachers working Ex-FATA/NMDs is within legal parameter with further submission that the service rules dated 13-11-2012 has been done away/substituted with the service rules dated 24-07-2014 by the Department, hence, the appellant can not take shelter under the Service Rules dated 13-11-2012 over-ridded by the current service Rules dated 24-07-2014 in the Department.

10 That Para-10 is incorrect & denied in view of the fore made facts of the case submitted by the Respondents in the instant reply.

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- 11 That Para 11 is also incorrect as the service rules dated 24-07-2014 was not extended to the Ex-FATA/NMDs during the period of 2014 to 2017, whereby, the appellant was promoted to the post of SST in BPS-16 vide order dated 11-10-2017 by the Department under the Rules & policy in vogue.
- 12 That Para-12 is correct to the extent of filing of Departmental appeal dated 15-01-2018 against the Notification dated 11-10-2017 by the appellant to the Respondent No. 2 which was seen & filed on the grounds of being time barred as evident from the period w.e.f 11-10-2017 to 15-01-2018 by the competent authority *attached as Annex-D*.
- 13 That Para-13 is incorrect as replied to this Para has been given above.
- 14 That Para-14 is also incorrect & is subject to the proof & record on the part of the appellant in view of the above made submissions by the Respondents in the present reply before this Honorable Tribunal.
- 15 That Para 15 is correct to the extent of the judgment dated 14-07-2021 of this Honorable Tribunal rendered in Service Appeal No. 1266/2018 Afzal Shah SST VS Govt; already available on judicial file which is not applicable upon the case of the appellant of being different in both question of law & facts of the case from the titled appeal *attached as Annex-E*.
- 16 That para-16 is incorrect as the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973 has got no cause of action to approached this Honorable Tribunal in the titled appeal against the Respondents, therefore, the case in hand is liable to dismissed on the following grounds inter alia:

## ON GROUNDS.

- I. <u>Incorrect & not admitted</u>, the appellant has been treated as per law & rules by the Respondent Department in the titled appeal.
- II. <u>Incorrect & not admitted.</u> The stand of the appellant is against the facts & legal proposition made by the Respondents in the fore going paras of the present reply, hence, liable to be rejected.
- III. <u>Incorrect & not admitted</u>. The appellant is not entitled for anti dation of promotion to the post of SST w.e.f 24-07-2014 under the relevant provision of APT Rules 1989 in the Respondent Department.
- IV. <u>Incorrect & not admitted.</u> The act of the Department is legal with no discrimination to words the appellant in the titled case.
- V. <u>Incorrect & not admitted.</u> The Notification dated 24-07-2014 is not applicable upon the case of the appellant under the rules, criteria policy in vogue.
- VI. <u>Incorrect & not admitted.</u> As reply to this ground has been given above.
- VII. <u>Incorrect & not admitted</u>. The appellant is not entitled for anti dation of promotion to the post of SST w.e.f 24-07-2014 under the relevant provision of APT Rules 1989 in the Respondent Department.

- VIII. <u>Incorrect & not admitted.</u> The stand of the appellant is illegal as he is not entitled for promotion as SST w.e.f. 24-07-2014 under the rules.
  - IX. <u>Incorrect & not admitted.</u> However, the Respondents also seek leave to this Learned Bench to submit additional grounds record & case law at the time on date of hearing.

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

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l Khan) CTOR

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

(Motasim Billah-Shah)

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

## BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

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## Service Appeal No: 111/2023

Israr Hussain, SST (BPS-16) GHS Bughdi Parachinar District Kurram....Appellant

### VERSUS

#### <u>AFFIDAVIT</u>

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

ØNENT





**NOTIFICATION** 

## GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

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Peshawar, dated the 24th July, 2014.

## <u>No.SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre</u>:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No.SO(G)S&LD/1-28/2003/Vol-II dated, 09-04-2004, Notification No.SO(G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and Notification No.SO(PE) 4-5/SSRC/Meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

## In the Appendix,-

## **AMENDMENTS**

(i) Serial No. 1 shall be renumbered as 1B and before Serial No. 1B, as so renumbered, the following new entries shall be inserted in respective columns, namely:

	1		10			
	<u> </u>	2 Subject Specialist (BPS-17)		At least second class Master's Degree or four years BS Degree in the relevant subject; and Bachelor of Education or Master of Education (Industrial Art or Business	years	5 (a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16), with at least five years service as such and having qualification
CERTIFIED TO BE TRUE COP		AN C		Education) or M.A Education or equivalent qualification from a recognized University.		mentioned in column No. 3. Note: If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial
<b>•</b> •						

Barrister Dr. Adnan Khan Advocate High Court

recruitment; and *(b)* fifty percent by initial recruitment. Director Physical At least second class Master's Degree in IA (a) Fifty percent by promotion, on the basis of 22-35 Education Physical Education from a recognized years seniority-cum-fitness, from amongst Senior (BPS-17) University, Physical Education Teachers (BPS-16), with at least five years service as Senior Physical Education Teacher and Physical Education Teacher and having qualification mentioned in column No. 3: Provided that if no suitable person is available from amongst Senior Physical Education Teachers for promotion then the post shall be filled by promotion, on the of seniority-cum-fitness, from basis amongst the Physical Education Teachers, with at least five years service as such and having qualification mentioned in column No. 3; Note:- If no suitable candidate is available in the relevant cadres of the above teachers ,the post falling in their promotion quota shall be filled by initial recruitment; and **CERTIFIED TO** (b) fifty percent by initial recruitment "; and BE TRUE COPY Barrister Dr. Adnan Khan Advocate High Court (2)

against Serial No. 1B, as so renumbered, for the existing entries, the following Shall be substituted, in respective columns, *(ii)* namely: (ZZ)

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Provided that if no suitable condidate is available from amongst Senior Drawing Masters for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3; (c) four per cent from amongst the Senior Arabic Teachers(BPS-16), with at least five years service as Senior Arabic Teachers and Arabic Teachers, and having qualification mentioned in column No.3: Provided that if no suitable candidate is available from amongst Senior Arabic Teachers for promotion CERTIFIED TO BE TRUE COPY then the post shall be filled by promotion, on the basis of senioritycum-fitness, from Arabic Teachers with at least five years service as such and having qualification mentioned in column No. 3; Barrister Dr. Adnan Khas Advocate High Court four per cent from amongst the Senior (d) Theology Teachers(BPS-16), with at least five years service as Senior Theology Teachers and Theology Teachers and having qualification mentioned in No.3: column

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d Provided that if no suitable candidate is available from amonast Senior Theology Teachers for promotion then the post shall be filled by promotion. on the basis of seniority-cum-fitness, from amongst Theology Teachers with at least five years service as such and having qualification mentioned in column No. 3: (e) three per cent from amongst the Senior Oaris (BPS-16), with at least five years service as Senior Qari and Qari and having qualification mentioned in column No.3: Provided that if no suitable candidate is available from amonast the Senior Oaris then the post shall be filled by promotion, on the basis of senioritycum-fitness, from Qaris with at least five years service as such and having **CERTIFIED TO** qualification mentioned in column No. 3: **BE TRUE COPY** twenty per cent from amongst the Primary School Head Teachers (BPS-16), with at least seven years service as Barrister Dr. Adnan Khan Advocate High Court Primary School Head Teachers and Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3: Provided that if no suitable candidate is available from amongst (5)

Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cumfitness, from amongst Senior Primary School Teachers with at least seven years service as Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No.3; Provided further that if no suitable candidate is available from amongst Senior Primary School Teachers for promotion then the post shall be filled from amongst Primary School Teachers with at least seven years service as such and having qualification mentioned in column No. 3; and CERTIFIED TO twenty Five percent by initial (ii) **BE TRUE COPY** recruitment. Note: If no suitable candidate is available in L the relevant cadre of the above teachers. Barrister the post falling in their promotion quota Dr. Adman Khan Advocate High Court shall be filled by initial recruitment. Posts of General SST and SSTs-1 Science П. and SST-2 Science shall be filled by promotion or initial recruitment, each on need basis separately.". Need base



#### SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

## Endst : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar,

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- The Secretary to Government of Khyber Pakhtunkhwa. Finance Department Peshawar.
- 3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar
- 4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar,
- 5. The Accountant General Khyber Pakhtunkhwa Peshawar.
- 6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
- 7. The Director of Education (FATA) Peshawar.
- 8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
- 9. The Director, (PITE) Khuber Pakhtunkhwa Peshawar,
- 10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
- 11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
- 12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
- 13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.

14. All District Account Officer in Khyber Pakhtunkhwa.

- 15. All Agency Education Officer in FATA BELIKUELUHY
  - 16. All Agency Account Officer in FATA.
  - 17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
  - 18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
  - 19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
  - 20.PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.

21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar. 22.Master file

(ZAMIN KHAN MOMAND) SECTION OFFICER (PRIMARY)

Barrister

Mr. Adnan Khan Advocate High Court

CERTIFIED TO

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Directorate of Elementary & Secy: Education Khyber Pakhtunkhwa, Peshawar. 495M/F.No. SST Promation to SS Posts Dated Peshawar the 2014

The Director of Education (FATA), FATA Secretariat Warsak Road, Peshawar.

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DEPARTMENTAL PROMOTION FROM SCTS/CT/SDM/DM/ SAT/ Subject: -AT/STT/TT & S, QARIES/QARIES TO THE POST OF SSTS (BS-16 REGULAR.

In continuation of this Directorate letter No. 4874 dated 06-08-2014 on the subject cited above and to request you to fill the vacant posts of SST (General/Science) in Government Higher Secondary/High & Middle Schools (M&F) FATA by promotion of in-service teachers under the existing rules already conveyed to you under the above cited letter number and date under intimation to all concerned.

Endst: No.

То

Memo;

Copy of the above is forwarded for information to:-

- 1. PS to Minister for E&SE Khyber Pokhtunkhwa.
- 2. PS to Secretary to Govt. of Khyber Pakhtunkhwa, E&SE Department.
- 3. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.

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Deputy Director (Estb) Elementary & Secy: Education Khyber Pakhtunkhwa

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25	<u>°ROI</u> tal N % shi	<u>4OTION (</u> o. of SST we initial	<u>w-Math</u> <u>OF SCT/CT</u> vacant pos l recruitme	<u>ÍÖ SST (</u> Lof SST (	<u>Mph/Matl</u> Phy-Mahl	<u>is) BPS-;</u> s)	<u>16.</u>		2:4
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5.N 0	51:N 0,	Nume of Officials	Place of posting	D/O Birth	Date of Apport; regular CT	Qualif- vation	Remarks		•
1./	60	Sardar Hussain	GHS Zeran	19/3/1958	25/12/1993	B6c/B.Ed	Services placed at Kurram for further Phy/Math (BPS-16	- nH	dting againsh core
2	61	Inayat Hussain	GISHS Parachinar	2/4/1968	25/12/1993	BSc/B.Ed	Services placed at Kurram for further Phy/Math (BPS-16	thé pô	disposal of AEO
3 ~	63 -	Majeed Hussain	GHS Luqmankhe 1	17/4/1969	25/12/1993	BSc/M.Ed	Services placed at Kurram for further Phy/Math (BPS-16)	the bri	disposal of AEO
1	64	S.Sajjad Hussain	GISHS Parachinar	26/4/1969	25/12/1993	BSc/M.Ed	Services placed at 1 Kurram for further Phy/Math (BPS <sub>r</sub> 16)	20a	ting against ssr
	75	Muhammad Sadiq Khan	GHS Məkhizai	18/2/1970	5/10/1995	BSc/B.Ed	Services placed at t Kurram for further Phy/Math (BPS-16)	he a	lisposal of AEO
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61	106	Hussain	Parachina	r 4/10/196	7 21/9/199	)8 MSc/M.E	Kurram for	furthe	postin	g against SSI
i		Chaubanah	GHS	<u>ii</u>			Phy/Math (	BPS-16	) gost.	posal of AEO
7	107 <sup>V</sup>	S.Mubarak Shah	GHS Tikot	16/4/196	8 21/9/199	08   85c/M.E	d Kurram for	furthe	gpstin	g against SST
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8 ·	112.	Ashiq Hussain	GHS Kirma	an 8/2/1966	1/10/199	IS BS¢/B.Ed	<ul> <li>Services pla</li> <li>Kurram for</li> </ul>	.ced at furthei	tine dis Infostrio	posal of AEO
<u> </u>					<u> </u> ]		Phy/Math (	BP\$-16	) <u>p</u> ost.	g against SST
9	113	Kamal Uussain	GHS	4/4/1965	3/11/199	8 BSc/B.Ed	Services pla	.cedlat furthe	tiid His nastin	posal of AEO g against SST
·			Mirjamat				Phy/Math (	BPS+16	) Dust.	
10	125	Muhib Ali	GHS	5/4/1966	1 11/11/20	00   \$Sc/B.Ed				posal of AEO g against SST
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·		h Jan	Sehra		1 2/1/1222	BSc/B.Ed	Kurram for f Phy/Math (B	urther PS-161	fosting	against SST
	140	S.Shahid	GPS Dand	10/11/196	27/2/199		Services plac	ed at t	heldispo	osal of AEO
2	148	lqbal	Dad Mir	<b> </b> · · · · F==		1 95~/0 54	Kurram for fi	بأواجا أرجع		against TCT
	ł	Shah		14	8	BSc/B.Ed	Kurram for fu		រមុនយោទ	eBanisr 221
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3	305	Javid	· .	4			Phy/Math (Bl Services place	PS-16∦ ed at ti	pdst. ie dispo	osal of AEO
3	305		GMS	1/1/1977	8 1/9/2005		Phy/Math (Bl	PS-16) ed at ti ofther j	pdst. Te'dispo opsting	osal of AEO
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	305 1 NO	Javid Hussain . <u>.3. P1</u> Ri	GMS Parachina r <u>20MOTIC</u> EGULAR	<u>DN' OF</u> BASIS	1/9/2005 STT/IT	BSc/B.Ed	Phy/Math (Bl Services plac Kurram for fu Phy/Math (B	PS-16) ed at ti htther PS-16) b/15)	pdst. ie dispa posting post. . <u>BP</u> .	osal of AEO against SST S-16 OI
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$\begin{array}{c} \hline TEN \\ \hline Tota \\ \hline 25\% \\ \hline 25\% \\ \hline 75\% \\ \hline 049 \\ \hline 905 $	dered al No shan shan shan shan shan o shan o 163	Javid Hussain <u>3.</u> <u>P1</u> <u>Ri</u> <u>The</u> and the D of SST u re initial re for Pro ailable fa ailable fa d throug Muzahir Ali <u>Gener</u> <u>DTION OI</u> of SST (	GMS Parachina r <u>COMOTIC</u> <u>EGULAR</u> case of pr <u>PC recomm</u> <u>pC reco</u>	DN OF BASIS. omotion o nended as sst of SST ent of Senior tion der bjo uinth diar 27 TO SST	1/9/2005 STT/11 f STT/11 f STT/10 f STT/11 f STT/11	BSC/B.Ed TO SST to the post of aths) Qualif- calion BSc/M.Ed	Phy/Math (B) Services plac Kurram for fu Phy/Math (B OF SST (Phy) SST (Phy) Contemporal Co	-Infatter	pdst. P dispo posting post. BP. hs) B. disp disp disp ost. 48	Dsal of AEO           against SST           S-16         OI           PS-16         WG           24         O6           18         O1           D1         O1           D31         O1           D31         O31
C. <u>S</u> 75% 75% 949 Pos. Prot 25% 1	dered al No shar shar shar slav o. Slav o. Slav o. Slav o. Slav slav shar shar	Javid Hussain Hussain <u>Ri</u> <u>Ri</u> The and the D of SST 1 re initial re for Pro ailable for d throug Muine of Official Muzahir Ali <u>Gener</u> DTION OI of SST 0 re initial re for Pro	GMS Parachina r <u>COMOTIC</u> <u>EGULAR</u> case of pr <u>PC recommended</u> <u>Case of proposition</u> <u>Case of proposition</u> <u>PC recommended</u> <u>Case of proposition</u> <u>PC recommended</u> <u>Case of proposition</u> <u>Case of proposition</u> <u>Place of promotion</u> <u>Place of promotion</u> <u>Place of promotion</u> <u>Case of promotion</u>	DN OF BASIS. comotion on mended as ost of SST ent of Senior tion der blo wirth Al4/1975	1/9/2005 STT/TT f STT/TT f STT/ST f STT/ST f STT/TT f STT/TT f STT/ST f STT/ST f STT/ST f STT/TT f STT/ST f ST f STT/ST f ST f STT/ST f ST f STT/ST f ST f STT/ST f ST f ST f STT/ST f ST f ST f STT/ST f ST f STT/ST f ST f STT/ST f ST f STT/ST f ST	BSC/B.Ed TO SST to the post of aths) Qualif- calion BSc/M.Ed	Phy/Math (B) Services plac Kurram for fu Phy/Math (B OF SST (Phy) SST (Phy) Contemporal Co	-Infatter	pdst. P dispo posting Rost. BP. hs) B. Cost.	Dsal of AEO           against SST           S-16         OI           PS-16         WG           24         O6           18         O1           D1         O1           D31         O1           D31         O31
TEN Tota 25% 75% 049 Prot 5.N 1 1 C. S PR 75% 40%	dered al No i shar i shar % Sha i shar shar 6 Sha i Shar 6 Sha	Javid Hussain Hussain Hussain Hussain Hussain Hussain Hussain Hussain Hussain Husain Husain Musahir Ali Husahir Ali Husahir Ali Husahir Ali Husahir Hu	GMS Parachina r <u>20MOTIC</u> <u>EGULAR</u> case of pr <u>PC recomm</u> <u>pactant po</u> <u>recruitm</u> <u>posting</u> <u>Place of</u> <u>posting</u> <u>Place of</u> <u>posting</u> <u>GHS</u> <u>Pewar</u> <u>Cal</u> <u>7 Sr; CT/C</u> <u>General (I</u> <u>recruitme</u> <u>motion.</u> <u>motion o</u>	DN OF BASIS. omotion o nended as ost of SST ent fon der blo uimh der Lion der der Lion der der der der der der der der der der	1/9/2005 STT/TT f STT/TT f STT/ST f STT/ST f STT/TT f STT/TT f STT/ST f STT/ST f STT/ST f STT/TT f STT/ST f ST f STT/ST f ST f STT/ST f ST f STT/ST f ST f STT/ST f ST f ST f STT/ST f ST f ST f STT/ST f ST f STT/ST f ST f STT/ST f ST f STT/ST f ST	BSC/B.Ed TO SST to the post of aths) Qualif- calion BSc/M.Ed	Phy/Math (B) Services plac Kurram for fu Phy/Math (B OF SST (Phy) SST (Phy) Contemporal Co	-Infatter	pdst. P disposing sost. BP. hs) B. eidisp disp	Dsal of AEO           against SST           S-16         OI           PS-16         WG           24         O6           18         O1           D1         O1           D31         O1           D31         O31
TEM Tota 25% 75% 049 Pos. Prov Prov 25% 1 C. <u>S</u> PR 75% 40% Post	dered al No i shan i shan i shan i shan shan shan i shan shan i shan i shan i shan i shan	Javid Hussain Hussain Hussain Hussain The All Hussain Hussain Hussain Hussain Musain Ali Husain Ali Husain Husain Ali Husain Hus	GMS Parachina r <u>20MOTIC</u> <u>EGULAR</u> case of pr <u>PC recomm</u> <u>pacant po</u> <u>recruitm</u> <u>posting</u> GHS Pewar <u>Cal</u> <u>7 Sr; CT/C</u> <u>General (In</u> <u>recruitme</u> <u>motion.</u> <u>motion o</u> <u>r promotion</u>	$\frac{DN  OF}{BASIS.}$ connotion o nended as set of SST ent f Senior tion f Senior f Senior f Senior f Senior f Sr; CT/C ion	1/9/2005 STT/TT f STT/TT f STT/ST f STT/ST f STT/TT f STT/TT f STT/ST f STT/ST f STT/ST f STT/TT f STT/ST f ST f STT/ST f ST f STT/ST f ST f STT/ST f ST f STT/ST f ST f ST f STT/ST f ST f ST f STT/ST f ST f STT/ST f ST f STT/ST f ST f STT/ST f ST	BSC/B.Ed TO SST to the post of aths) Qualif- calion BSc/M.Ed	Phy/Math (B) Services plac Kurram for fu Phy/Math (B OF SST (Phy) SST (Phy) Contemporal Co	-Infatter	hs) B disposed ost. BB. hs) B disposed b disposed di disposed disposed disposed disposed disp	Dsal of AEO           against SST           S-16         OI           PS-16         WG           24         O6           18         O1           D1         O1           D31         O1           D31         O31
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TEM 0015810 TOTO 25% 25% 25% 25% 25% 25% 25% 25%	dered al No i shan i shan i shan i shan shan shan i shan i shan i shan i shan i shan i shan i shan	Javid Hussain Hussain Hussain Hussain The All Hussain Hussain Hussain Hussain Hussain Husahir Ali Husahir Ali Husahir Ali Husahir Ali Husahir	GMS Parachina r <u>COMOTIC</u> <u>EGULAR</u> case of pr <u>PC recomm</u> <u>pacant po</u> <u>recruitm</u> <u>omotion</u> . <u>onotion of</u> <u>promotion</u> <u>promotion</u> <u>Place of</u> <u>posting</u> GHS <u>Pewar</u> <u>Cal</u> <u>Concral (Il</u> <u>recruitme</u> <u>motion of</u> <u>r promotion</u> . <u>motion of</u> <u>r promotion</u> .	$\frac{DN  OF}{BASIS.}$ connotion o nended as sst of SST ent $\frac{D}{Senior}$ tion $\frac{D}{Senior}$ $\frac{D}{Sen$	1/9/2005 STT/IT f STT/IT f STT/IT f STT/IT inder:- s (Phy-Ma IT/IT Date of Apport; regular IT 1/9/2003 CCT	BSC/B.Ed TO SST to the post of aths) Qualif- calion BSc/M.Ed	Phy/Math (B) Services plac Kurram for fu Phy/Math (B OF SST (Phy) SST (Phy) Contemporal Co	25-16) ed at ti in ther PS-16) -Nat -	prost. Provide disposition of the disposition of t	Dsal of AEO           against SST           S-16         OI           PS-16         WG           24         O6           18         O1           D1         O1           D31         O1           D31         O31
TEM Tota 25% 75% 049 Pos. Prov Prov 25% 1 C. <u>S</u> PR 75% 40% Post	dered al No i shan i shan i shan i shan shan shan i shan i shan i shan i shan i shan i shan i shan	Javid Hussain Hussain Hussain Hussain The All Hussain Hussain Hussain Hussain Hussain Husahir Ali Husahir Ali Husahir Ali Husahir Ali Husahir	GMS Parachina r <u>COMOTIC</u> <u>EGULAR</u> case of pr <u>PC recomm</u> <u>pacant po</u> <u>recruitm</u> <u>omotion</u> . <u>onotion of</u> <u>promotion</u> <u>promotion</u> <u>Place of</u> <u>posting</u> GHS <u>Pewar</u> <u>Cal</u> <u>Concral (Il</u> <u>recruitme</u> <u>motion of</u> <u>r promotion</u> . <u>motion of</u> <u>r promotion</u> .	DN OF BASIS. omotion on nended as ost of SST ent of Senior tion tion tion tion tion ter DIO Birth 4/4/1975 CT TO SST VI) Posts to ent fSr; CT/C ion	1/9/2005 STT/IT f STT/IT f STT/IT f STT/IT inder:- s (Phy-Ma IT/IT Date of Apport; regular IT 1/9/2003 CCT	BSC/B.Ed TO SST to the post of aths) Qualif- calion BSc/M.Ed	Phy/Math (B) Services plac Kurram for fu Phy/Math (B OF SST (Phy) SST (Phy) Contemporal Co	25-16) ed at ti inther p5-16 <i>Uls</i> - <i>IVat</i> - <i>Ulat</i> ther - <i>IVat</i> - <i>IVat</i>	Project. Project disposition of the second	Desai of AEO against SST S-16 01 PS-16 wa 24 D6 18 D1 D1 D1 D1 D1 D1 D1 D1 D1 D1

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• . •	5. No 	5.1. No	Nume of Official	Place of Posting	Data of Birth	    -	Date of Apport: c Regular		Qualifi ion	cal Remarks	<u>}</u>
	1	7	S.Hussain Afzal	GSNHHSS Shalozan	15/7/1	962.			ВА/В.Е	a   Kurram for fur	at the disposal of AEO
	2	8	Amir Habibullah Khan	GI∕IHS Sadda	20/µ/1	964∙	8/7/198	 7	BA/8.E	d   Kurram for fur	at the disposal of AEO
	3	9	Mehboob Ali	GHS Bork	20/4/19	58	29/11/19	937	MA/B.E	0   Kurram fdr furl	at the disposal of AEO
-	4 	14	lsrar Hussain	GSNHHSS Shalozan	12/4/19	63	 29/11/19	087¦	MA/B.E	Services placed	at the disposal of AEO
!	5	20	Dildar Hussain	GISHS Parachina r	-6/9/19b	5	17/10/19	189	DA/B.Ed	Services placed	a) post. at the disposal of AEO at posting against SST ) post.
	5	25	Khadim Hussain	GHS Kunj Ali Zai	7/5/196	D	14/11/19	90	BA/B.Ed	Services placed Kurram for funt	at the disposal of AEO
7	,	29	Jehan Muhamma d	GHS Chappri	20/2/19	53	14/11/19	90	MĄ/M.E d	Services placed	) post. It the disposal of AEO IEF posting against SST
8		30	S.Muham mad Ali Shah	GHS Kirman	3/3/196	3	14/11/19	90	MA/M.E	Services placed Kurram for furth	at the disposal of AEO
5		35	Zinat Hussain	GISHS Parachina r	6/4/196		22/10/199	 91	ЕА/В.ЕД	Services placed a Kurram for furth	the disposal of AEO
1	0	10	S.Ahmad Raza	GISHS Parachina	5/2/1965	 ;	5/3/1992		MA/M.E	Services placed a Kurram for furthe	post. the disposal of AEO
1	1	41	Mansab Ali	GHS Kirman	1/3/1966		5/4/1992		MA/M.E	Services placed a Kurram for furthe	post. the disposal of AEO
12	· 2 2	12	S.iqbal Hussain	- GISHS Parachina r	1/2/1966		27/5/1992		 MA/M.E d	Services placed a	the disposal of AEO
13	4		AbdulGhay ur Khan	GHS Bilyamin	1/11/957		22/11/199	2	BA/B.Ed	Services placed a Kurram for furth	the disposal of AEO
14		4 ,	S.Imdad Hussain	GHS Qubadsha khet	8/3/1971		2/3/1993		MA/B.Ed	Services placedia	post. the disposal of AEO
15	4	5.	Janan Hussain	Alizai	11/11/19 7		7/3/1993	╶╌┟╌╴ ╵ ╵	MA/B.Ed	Services placed a	the disposal of AEO
16	4	ŭΪ		GHS Mali Kali	25/8/196	)	27/4/1993		A/M.Ed	Services placed at	the disposal of AEO riposting against SST
	PR	OM(	OTION QF	' 'PSHT/SĮ	2817PS1	$TT_{1}$	2.SST YG		[0]] Bral) B	7- RS-16	
25	5% :	shee	re initial 1	eccruitine	モチョアハミアの	να	cant Pos	its			48
25	<u>%</u> s	shar	re for Proi	notion.		:	·····		<u> </u>		12
1 1 1	1215	s uvi	tre of prov ailable for	" promoti	ion l	<u>SPS</u>	ST/PST			· · · · · · · · · · · · · · · · · · ·	8
<u>  P1</u>	:011	101e	d through	this orde	יר2 .			· <del>· · ·</del>			8
S.N Q	5	'l:N	Name of Official	Place of posting	D/O Birth	A	ate of opoli; gula: PST	Qua cati		Remarks	
1		5	Muhd Yaqoob Khan	GPS Khapyang a	6/5/1963		<u>911a PST</u> /1/1986		M.Ėd k	ervices placed at th urram for further p	OSting against SST
					─ <del>~~</del> ~~ <u>+</u> ↓↓	. احمد ا	- 10 1		10	eneral (BPS-16) And	+

MA/M.Ed Services placed at tife disposal of AEO Kurram for further posting against SST General (BPS-16) Ahr.

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	_ ₽.₽	16	Khan Muhammad	GPS Tangai	25/12/19 62	20/8/1986	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) posting
	3	25	irshad Hussain	GPS Alamkhei	6/4/1967	17/9/1987	MA/M.Ed	Services placed at the isposal of AEO Kurram for further posting against SST General (BPS-16) post
	4	33	Muhammad Rehman	GPS Sakhi Ahmad Shah	27/1/197	17/1/1990	BA/B.Eb	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post
•	5	42	Abid Hussain khan Kali	GPS Abdullah	20/2/196 9	24/9/1991	BA/B.¢ď	Services placed at the disposal of AEO Kurram for further potting against SST General (BPS-16) post
	6	46	Rashid Ali	GPS College Colony	15/3/196 · 8	22/10/:391	BAM.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post
	7	49	Gul Hussain	GPS Noorki	22/4/196 5	4/3/1992	BA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post
or arother	8	52	Muhammad Ibrahim	GPS No-2 Párachina r	29/1/197 1	4/3/1992	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) posts
	<u>.</u> <u>3. </u> j	PROA	<u>10TION O</u>	<u>F SDM/D</u>	<u>Mrolss</u>	<u>T (Genera</u>	<u>(l) BPS</u> .	

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Total No. of SST General (M) Posts vacant P	osts		1 24	
25% share initial recruitment	1	1.1	6	
75% share for Promotion.	<sup>1</sup>		<u>i8</u>	
4 % Share of promotion of \$DM/DM	· · · · · · · · · · · · · · · · · · ·		1 1	· . ·
Posts available for promotion				{
Promoted through this order			1	
	· · · · · · · · · · · · · · · · · · ·		1	

S. No	S.I. No	Name of Official	Place of Posting	Date of Birth	Date of Appoit: us Regular DM,	Qualifi- cation	Remarks
1	1	Aleem Khan	GHS Kirman	24/12/1 957	19/10/1978	MA/ B.Ed	Services placed at the disposal of AEO Kurram for further posting against SST General (BPS-16) post.

4. PROMOTION OF SAT/AT TO SST (General) BPS-16 ON REGUTAR BASIS The case of promotion of SAT/AT to the post of SST (General) BPS-16 was

considered and the DPC recommended as under:-

Total No. of vacant Posts of SST (General	$\boldsymbol{b}$	24
25% share initial recruitment	·····	6
75% share for Promotion.		18
4 % Share of promotion of SAT/AT	(")	
Posts available for promotion	Bord y	·
Promoted through this order	1 117	
		<u></u>

S. No	S.L No	Name of O∬icial	Place of Posting	Date of Birth	Date of Appoit: as Regular AT	Qualifi- cation	Remarks
1	23 -	S.Nabi Hussaia	- Kunj Ali Zai	1/1/1969	1/9/2000	MA/B.Ed	Services placed at the disposal of AEO Kurram. for further posting against SST General (BPS-16) post.

5. PROMOTION OF STIVTI TO SST (General) BPS-16.

Iotal No. of vacant Posts of SST (General)	24.
25% share initial recruitment	6
75% share for Promotion.	1 18
4 % Share of promotion of ST1/1T	
Posts available for promotion	
Promoted through this order	
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•		5.1. No	Name of Qfficial	Place of Posting	Dute of Birth	Date of Appott: as Regular TT	Qualifi- cation	Kenjarks,
ĺ	1 ·	51	Arbab Hussain	GISHS Parachinar	1/4/1970	26/11/198 9	IVA/B.Ed	Services placed at the disposal of AEO Kurram for further posting
r L	<u>. PR(</u>	<u>2140</u> 1	TION OI	FS.0ari/0		ST (Canund	•	against SST Gériqral (BPS-16) post.

# PROMOTION OF S. Qari/Qari TO SST (General) BPS-16.

25% share initial recruitment		24
75% share for Promotion		6
4 % Share of promotion of S.Owillow:	╶╌╢	: 18
Posts available for promotion		
Promoted through this order	i	1

Ì	S.No	S.L Nu	Name of Official	Place of Posting	Date of Birth	Date of Apport: as Regular TT	Qualifi- cation	Remarks (
	1	10	Aziz Ahmad	GHS Ghuzghari	10/7/197 8	1/9/2004	MA/B.Ed	Services placed at the disposal of AEO Kurram for further posting
	· · · ·			<u> </u>	L		[	against SST General (BPS-16) post.

## Terms and conditions;-.

They would be on probation for a period of one yeal extendable for a filrther period of one They will be r 👾

- They will be a strength of the stand regulation as and when issued from time to time by . 3
- Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they shall be proceeded under the rules framed from time to time.
- Charge report should be submitted to all concerned. 4.
- No TA DA is allowed for joining his duty. 5 6
- They will give an under taking to be recorded in their service book to the effect that if any over payment is made to him/har in the light of this order will be recovered and if he, she is wrongly promoted, he/She will be reverted. 7
- Before handing over charge once again their document may be checked if they have not the
- prescribed qualifications as per rules, they may not be handed over charge of the post. The prescribed qualifications/ documents may be verified from the concerned Universities/ Institutions by the AEO concerned.

16101-50 Endst: No.

(Hashim Khan) Director Education FATA

Dated Peshawaf, the/1 / 10/2017. Copy forwarded for information and necessary action to the: -Accountant General (PR) Sub Office, Peshawari
 Director E&SE Khipber Pakhlunkhwa, Peshawari

- - PŠ 10 ĀCS FATA. 5.
  - 6. PS to the Secretary SSD, FATA Secretariat, Peshawar.
  - PS to the Secretary Finance pepartment FATA Sectretariat Peshawar. 8.

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- PA to Director Education, PATA.
- 9. Promotees Concerned. 10. M/File,

Hostec

Addl: Director (Estab) Directorate of Education, FATA

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Anne

THE DIRECTOR EDUCATION FATA FATA SECRETARIAT DIRECTORATE OF EDUCATION KHYBER PAKHTUNKHWA, WARSAK ROAD PESHAWAR.

REMINDER FOR CONSIDERATION OF DEPARTMENTAL APPEAL AGAINST UNJUST ORDER DATED 11.10.2017 FOR DISCRIMINATION, VIOLATION OF FUNDAMENTAL RIGHT AND NON OBSERVANCE OF PROMOTION/SENIOROTY OF THE APPELLANT FROM THE DATE OF NOTIFICATION NO.SO(PE)/4-5/SSRC/MEETING/2013/TEACHING CADRE DATED 24<sup>TH</sup> JULY, 2014 FOR PROMOTION OF Sr:CT/CT TO SST (General) BPS-16.

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## RESPECTED SIR!

Appellant submits as under:

That in continuation of the departmental appeal dated 25.10.2017 on the subject cited above and to request you that the promotion order of the Applicant may kindly be ordered from the date of Notification i.e 24<sup>th</sup> July,2014 because your August office has not observed the applicant promotion from his due date i.e 24th July,2014 according to Notification and has order the same through letter Endst No.16101-50 dated 11.10.2017, So Applicant has not been treated in accordance with law, and applicant rights secured and guaranteed under the law and constitution have been violated. Furthermore this order of your office has affected the Seniority/promotion of the Applicant because the Seniority of the SST teachers in Khyber Pakhtunkhwa and FATA are the same and not considering the applicant from the due date adversely affect the applicant right for seniority in Subject Specialist in Higher Secondary School as well as Headmasters in High Schools which is clear violation of fundamental rights of Applicant.

Standit is therefore requested that applicant promotion order may kindly be reviewed in the light of the departmental appeal dated:25.10.2017 in the best interest of justice.

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DATED:15-01-2018

APPLICANT

APPLICANT ISRAR HUSSAIN S/O LAL HUSSAIN R/O VILLAGE SHELOZAN P.O & TEHSIL PARACHINAR UPPER DISTRICT KURRAM.



TO,

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

Service Appea	No. 1266/2018	

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inter.

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Date of Institution	•••	09.10.2018
Date of Decision		14.07.2021
•		

Afzal Shah SST (BIO/CHEM BPS-16) Government High School Sandu Khel Mohmand Agency Government of Khyber Pakhtunkhwa Education Department. ... (Appellant) VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and eight others.

... (Respondents)

MR. HIDAYAT ULLAH KHATTAK & MR. ABDUR REHMAN MOHMAND Advocates

MR. MUHAMMAD RIAZ AHMED PAINDAKHEIL Assistant Advocate General ...

MR. SALAH-UD-DIN MR. ATIQ-UR-REHMAN WAZIR

MEMBER (JUDICIAL) MEMBER (EXECUTIVE)

ENTER

For Respondents

For Appellants

JUDGMENT

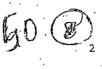
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ATIQ-UR-REHMAN WAZIR MEMBER (E):- This judgment shall dispose of the instant Service Appeal as well as the following connected Service Appeals as common question of law and facts are involved therein.

1) Service Appeal bearing No.1267/2018 titled "Abi Hayat Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education

Secretariat building Peshawar and others",

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- Service Appeal bearing No. 1268/2018 titiled "Shams Ur -Rahman Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- Service Appeal bearing No. 1269/2018 titled "Karim Khan Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- Service Appeal bearing No. 1270/2018 titiled "Abdul Hakim Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- Service Appeal bearing No. 1271/2018 titiled "Stana Gul Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 6) Service Appeal bearing No. 1272/2018 titiled "Mohammad Idress Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 7) Service Appeal bearing No. 1273/2018 titled "Mansoor Ahmad Khan Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- Service Appeal bearing No. 1274/2018 titiled "Khial Zada Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 9) Service Appeal bearing No. 1275/2018 titled "Nizam-ud-Din Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 10) Service Appeal bearing No. 1276/2018 titled "Sher Mohammad Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".

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- 11) Service Appeal bearing No. 1277/2018 titled "Rahmat Said Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 12) Service Appeal bearing No. 1278/2018 titled "Javid Akhter Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
  - 13) Service Appeal bearing No. 1279/2018 titled "Munawar Khan Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
  - 14) Service Appeal bearing No. 1280/2018 titiled "Said Alam Shah Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
  - 15) Service Appeal bearing No. 1281/2018 titled "Lateef Ullah Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".

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- 16) Service Appeal bearing No. 1282/2018 titled "Mst. Khalida Safi Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 17) Service Appeal bearing No. 1283/2018 titiled "Zar Gul Government of Khyber Pachtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 18) Service Appeal bearing No. 1284/2018 titled "Imtiaz Gul Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Secretariat building Peshawar and others".
- 19) Khaista Sher Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".

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- 20) Service Appeal bearing No. 327/2019 titled "Abdul Hamid Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 21) Service Appeal bearing No. 651/2018 titled "Sabeel Hassan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 22) Service Appeal bearing No. 652/2018 titled "Anwar Ali Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 23) Service Appeal bearing No. 653/2018 titled "Javed Hassan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 24) Service appeal bearing No. 654/2018 titled "Lugman Hakeem Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 25) Service Appeal bearing No. 655/2018 titled "Aziz-ur-Rehman Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 26) Service Appeal bearing No. 656/2018 titled "Muhammad Muneer Khan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 27) Service Appeal bearing No. 657/2018 titled "Mst. Shah Begum Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 28) Service Appeal bearing No. 658/2018 titled "Munir Khan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 29) Service Appeal bearing No. 659/2018 titled "Mst. Fahmeeda Begum Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 30) Service Appeal bearing No. 660/2018 titled "Muhammad Baz Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 31) Service Appeal bearing No. 661/2018 titled "Hanif Jan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 32) Service Appeal bearing No. 662/2018 titled "Sher Afzal Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".

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- 33) Service Appeal bearing No. 663/2018 titled Mst. Dil Taj Begum Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 34) Service Appeal bearing No. 664/2018 titled "Raees Khan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 35) Service Appeal bearing No. 665/2018 titled "Syed Hijab Hussain Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 36) Service Appeal bearing No. 666/2018 titled "Eid Muhammad Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 37) Service Appeal bearing No. 667/2018 titled "Fazal Hakeem Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 38) Service Appeal bearing No. 668/2018 tittled "Syed Zamir Hussain Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 39) Service Appeal bearing No. 669/2018 titled "Janat Khan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 40) Service Appeal bearing No. 670/2018 titled "Ayan Ali Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".
- 41) Service Appeal bearing No. 671/2018 titled "Sohail Khan Versus Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and others".

02. Brief facts of the case are that the appeliants are primarily aggrieved by inaction of the respondents to the effect that promotions of the appellants were delayed for no good reason, which adversely affected their seniority positions as well as sustained financial loss. The appellant, Mr. Afzal Shah and 18 others were serving under Agency Education Officer, Mohmand Agency (Now District Mohmand) and the appellant Mr. Khaista Sher and 22 others were serving under Agency Education Officer, Orakzai Agency (Now District Orakzai). All the appellants were promoted to the post of Secondary School Teachers (SST) (BPS-16) vide order dated 11-10-2017, which, as per stance of the appellants were required to the promoted in 2014.

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Feeling aggrieved, the appellants preferred respective departmental appeals against the impugned order dated 11-10-2017, which were not responded to, and hence the appellants filed service appeals in this Tribunal with prayers that promotions of the appellants may be considered from 24-07-2014 or the date when other employees serving in settled districts were promoted along with all back benefits.

03.

Written reply/comments were submitted by the respondents.

04. Learned counsel for the appellant Mr. Afzal Shah and 18 others has contended that the appellants have not been treated in accordance with law and their rights secured under law and constitution have been violated; that the respondents delayed promotions of the appellants for no good reason, which adversely affected their seniority positions and made them junior to those, who were promoted at settled district level in 2014; that the delay occurred due to lethargic attitude of respondents, otherwise the appellants were equally fit for promotion like their counterparts working in settled districts; that the appellants were discriminated which is highly deplorable, being unlawful and contrary to the norms of natural justice; that inaction on part of the respondents have adversely affected financial rights of the appellants as protected by the Constitution. He further added that the appellant be treated at par like other employees of districts who were promoted in 2014 in pursuance of notification dated 24-07-2014 and shall equally be dealt with in accordance with law and rules.

05. Learned counsel for the appellant Mr. Khaista Sher and 22 others mainly relied on the arguments of the learned counsel for the appellant Mr. Afzal Shah and 18 others with further arguments that departmental appeals of the appellants were not considered and the appellants were condemned unheard; that as per constitution every citizen is to be treated equally, while the appellants have not been treated in accordance with law, which need interference.

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06. Learned Assistant Advocate General appeared on behalf of respondents has contended that as per Para-VI of promotion policy, promotions are always made with immediate effect and not with retrospective effect; that promotion is neither a vested right nor it can be claimed with a retrospective effect. Reliance was placed on 2005 SCMR 1742. Learned Assistant Advocate General argued that promotions of the appellants were made in accordance with law and rule and no discrimination was made. He further argued that some of the appellants submitted successive appeals, which is violation of Rule 3(2) of Appeal Rules, 1986. Learned Assistant Advocate General prayed that appeals of the appellants being devoid of merit may be dismissed.

07. We have heard learned counsel for the parties and have perused the

record.

08. A perusal of record would reveal that all the appellants were employees of the provincial government, who were deputed to serve in Ex-FATA under the control of Director of Education Ex-FATA, whereas their other colleagues working in settled districts were working under the control of Director of Education at provincial level. The provincial Government vides Notification dated 24-07-2014 had issued criteria for promotion of teachers to next grades, which was equally applicable to provincial as well as employees working in Ex-FATA. To this effect, the provincial directorate of Elementary & Secondary Education KP vide letter dated 07-08-2014 had asked the Directorate of Education Ex-FATA to fill in the vacant posts of SST in Ex-FATA by promotion of in-service teachers under the existing service rules. The said letter lingered in the Directorate of Ex-FATA for almost seven months, which finally was conveyed to all Agency Education Officers vide letter dated 09-03-2015 with directions to submit category wise lists of candidates for promotion against the post of SST. Agency Education Officers took another two years and seven months, while submitting such information to the directorate of Ex-FATA and finally the appellants

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were promoted vide order dated 11-10-2017. On the other hand, the office of the District Education Officer in the settled district took timely steps and the promotions were made possible in the same year i.e. 2014. Placed on record is a Notification dated 01-11-2014 issued by District Education Officer Charsada, whereby promotions had been made in pursuance of the Notification dated 24-07-2014 in the same year, whereas promotions in Ex-FATA were made in 2017 with delay of more than three years. Placed on record is another Notification dated 14-03-2017 issued by Directorate of Education Ex-FATA promoting Certified Teachers (CT) (BPS-15) to the post of Senior CT (BPS-16) w.e.f 20-02-2013, negating their own stance that promotions are always made with immediate effect. Similarly placed teachers was extended the benefit of their promotion with retrospective effect, however the respondents are denying the same to the appellants for the reasons best known to them. The material available on the record, would suggest that the appellants were treated with-discrimination.

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09. The appellants are primarily aggrieved by the inaction of the respondents to the effect that all the appellants were otherwise fit for promotion to the post of SST, but their promotions were delayed due to slackness of the directorate of education, which adversely affected their seniority position as well as suffered financially due to intentional delay in their promotions. The respondents also did not object to the point of their fitness for further promotion at that particular time.

10. We have observed that seniority of the appellants as well as their other counterparts working at Districts level had been maintained at Agency/District level before their promotion to the post of SST, whereas upon promotion to the post of SST, the seniority is maintained at provincial level and the appellants who were promoted in 2017 in comparison to those, who were promoted in 2014, would definitely find place in the bottom of the seniority list maintained at provincial level with dim future prospects of their further promotions, as well as they were kept

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deprived of the financial benefits accrued to them after promotion for no fault of them, hence they were discriminated. It was noted with concern that the only reason for their delayed promotion was slackness on part of directorate of education Ex-FATA and its subordinate offices at Agency level, which had delayed their promotions for more than three years for no fault of the appellants.

11. In view of the foregoing discussion, the instant appeals are accepted and all the appellants are held entitled for promotion from the date, the first batch of their other colleagues at provincial level were promoted in the year 2014 with all consequential benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED 14.07.2021

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(SALAH-UD-DIN) MEMBER (JUDICIAL)

R-REHMAN WAZIR) MEMBER (EXECUTIVE)

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

## **AUTHORITY LETTER**

I, Dr. Iqbal Khan, Director (E&SE) Khyber Pakhtunkhwa Peshawar do hereby authorized Mr. Behramand Khan, Assistant Director Litigation-II of this Directorate for submission of Joint Parawise Comments in Service Appeal No. 111/2023 case titled Israr Hussain, SST District Kurram Vs Government of Khyber Pakhtunkhwa & others fixed for hearing on 20-12-2023, hence, an authority letter is hereby issued in favor of the above-named officer.

ál Khan) **ECTOR** 

E&SE Department Khyber Pakhtunkhwa, Peshawar