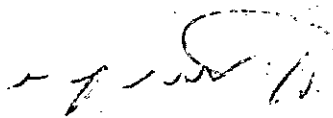


22/8/2017

Clerk of counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Clerk of counsel for the appellant requested for adjournment as his counsel is not available due to strike of the bar. To come up for rejoinder and arguments on 22/11/2017 before DB.



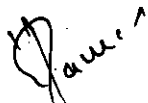
(GUL ZEB KHAN)
MEMBER

22.11.2017

Learned counsel for the appellant present. Mr. Muhammad Jan, Learned Deputy District Attorney present. Vide separate/common judgment of today of this Tribunal placed on file bearing No. 627/2017 titled Mian Zia-ur-Rehman Versus The Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Civil Secretariat, Peshawar & other, the present appeal, being devoid of any substance, is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

22.11.2017



(Muhammad Hamid Mughal)
Member



(Gul Zeb Khan)
Member

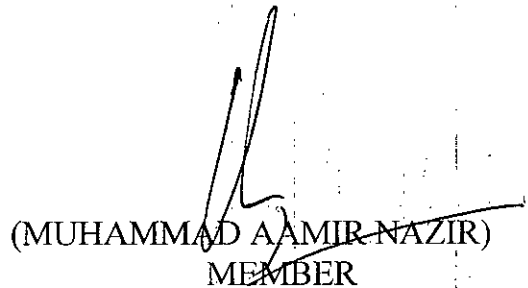
20.12.2016

Counsel for the appellant and Assistant AG for respondents present. Rejoinder not submitted. Requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on

5.4.17.



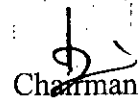
(ASHFAQUE TAJ)
MEMBER



(MUHAMMAD AMIR NAZIR)
MEMBER

05.04.2017

Appellant with counsel and Mr. Hameed-Ur-Rahman, AD (Litigation) alongwith Mr. Adeel Butt, Addl: AG for the respondents present. Rejoinder not submitted and requested for time to file rejoinder. To come up for rejoinder and final hearing on 12.05.2017 before D.B.


Chairman

12.05.2017

Counsel for the appellant and Addl. AG for the respondents present. Counsel for the appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 22.08.2017 before D.B.



(Ahmad Hassan)

Member



(Muhammad Amin Khan Kundi)

Member


30.6.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as PET. That on the basis of the notification dated 13.11.2012 appellant and similarly placed teachers were entitled to promotion as SST on the strength of 4% quota allocated for the promotion of PET but vide notification dated 24.07.2014 the appellant and similarly placed employees were deprived of their rights for promotion as no such quota was reserved for the promotion of PET to the post of SST constraining the appellant and similarly placed employees to file departmental appeal followed by writ petition before the august Peshawar High Court which was dismissed for want of jurisdiction and appeal against the same before the august Supreme Court of Pakistan was also dismissed as withdrawn with the observations that the point of limitation is to be considered by the Tribunal.

That the impugned notification dated 24.07.2014 is against law as the appellant and similarly placed employees are deprived of their right of promotion.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 29.08.2016 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

29.08.2016




Counsel for the appellant and Mr. Hameed ur Rehman, ADO (Litigation) alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B. for rejoinder and final hearing on 20.12.2016.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 628 /2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/06/2016	<p>The appeal of Mr. Sahibzada Imdadullah resubmitted today by Mr. Nazir Ahmad Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	14-6-16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>15-6-16</u></p> <p style="text-align: right;"> CHAIRMAN</p>
15.06.2016		<p>None for appellant present. Notice be issued to counsel for the appellant for preliminary hearing on 30.06.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Sahibzada Imdad Ullah Govt. High School Rehan Kot Dir Upper received to-day i.e. on 07.06.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures A and C of the appeal are illegible which may be replaced by legible/better one.
- 2- Copy of departmental appeal in respect of appellant is not attached with the appeal which may be placed on it.

No. 986 /S.T,

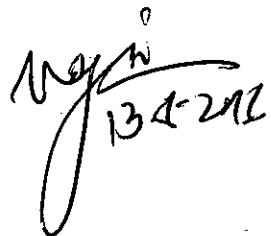
Dt. 9/6 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Nazir Ahmad Adv. Pesh.

1. Annexure A & C are two different identifications, out of which the Annexure C is the working paper which is just for record - The relevant part of Annexure A is legible, let me submit the Tribunal.
2. That the case was filed in High Court for challenging the Vires of Annexure B, which was dismissed due to Jurisdiction, then Petition was filed in the Supreme Court, The order dated 1-6-2013 of the Supreme Court is attached, Resubmitted,

Note - The other 4 are the
Identical Appeals. pl.
place before the Tribunal
MGN


13/6/2016


IN THE KPK Service Tribunal PESHAWAR

Service Appeal no 628/2016


Sahibzada imdad Ullah **VERSUS** Govt: of KPK and another.

INDEX

S. No	Description	Annexure	Pages
1.	Memo of Appeal	-	1-8
2.	Affidavit & Addresses of the Parties	-	9-11
3.	Notification 13.11.2012	A	12-14
4.	Notification dated 24.8.2014	B	15-21
5.	Working paper	C	22-25
6.	Appeal to Competent Authority	D	26
7.	Civil Petition in supreme Court	E	27
8.	Wakalat nama	-	28


Appellant

Through


Nazir Ahmad
Advocate, Peshawar

IN THE KPK Service Tribunal PESHAWAR

11

Service Appeal no 628/2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 579

Dated 07-6-2016

Sahibzada Imdad ullah Government High School Rehan Kot Dir
Upper.....**Appellant**

VERSUS

1. Government of Khyber Pakhtun khwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. Director Elementary & Secondary Education KPK, Dabgari Garden Peshawar.....**Respondents**

Service Appeal under Section 4 of The Service Tribunal Act, 1974 against the impugned notification dated, 24.7.2014 whereby the eligibility criteria for the promotion of the Appellant to BPS 16(secondary School Teacher) is amended with retrospective effect consequent thereof has ousted the Appellant to compete against the post of SST and even 4% quota reserved for of the Appellant Group (PET)is omitted.

Prayer:

On acceptance of this Appeal the impugned modification in the previous notification Dated November 13, 2012 and issuing another Notification of 24th July 2014 depriving the Appellant of vested right and ousting him from promotion to the post of Senior School Teacher (BPS 16) and omitting 4% quota of the Appellant is illegal, against the law and is liable to be set aside, providing an equal opportunity to the Appellant of promotion to SST (BPS 16) Or any other relief which this

Filed to-day

[Signature]
Registrar

7/6/16

Re-submitted to -day
and filed.

[Signature]
Registrar

13/6/16

9

Honourable Tribunal feel just by providing such chance of promotion to SST and as a consequential relief, the Respondents may graciously be directed to follow the notification November,13 2012 and the prescribed rules regarding 04% promotion quota in letter and spirit and the criteria and that the Petitioner may be given their due right and place for promotion under Khyber Pakhtun khwa Civil Servant (Appointment, Promotion & Transfer) Rules 1989.

Respectfully Sheweth:-

1. That the Appellant is Physical Education teachers BPS-15 and is recruited as Physical teachers on the basis of Diploma in P.E.T
2. That the Appellant improved his academic qualifications and is now BA, B.Ed.
3. That the service of Appellant is governed by KPK Civil Servant (Appointment, Promotion and Transfer Rules 1989) which are duly notified and extended to him.
4. That vide Notification No SO (PE)4-5/SSRC/Meeting/2012/Teaching Cadre dated Peshawar the November 13, 2012 by the Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department and that according to the Appendix the minimum qualification and experience for initial appointment for Secondary School Teacher (SST) is mentioned as below.

S. No	Nomenclature of the Post	Minimum qualification & experience for the initial appointment or transfer	Age Limit	Method of recruitment

1.	Secondary School Teacher (BPS-16)	<p>(i) Second Class Bachelor Degree with two subjects as Chemistry, Botany, Zoology, Physics, Mathematics, Statistics, Humanities and other equivalent groups from a recognized University :</p> <p>OR</p> <p>(ii) M.A in Education or Bachelor's Degree in Education from a recognized University.</p>	18 to 35 years	<p>(a) Fifty Percent by promotion on the basis of seniority-cum-fitness in the following manner:-</p> <p>(i) Forty percent from amongst the Certified Teachers (Agriculture), Certified Teachers (Industrial Arts) and Certified Teachers (Home Economics) with least five years service as such and having qualification mentioned in column No. 3.</p> <p>(ii) Four percent from amongst the Drawing Masters with at least five years service as such and having qualification mentioned in column No.3.</p> <p><i>(iii) Four percent from amongst the Physical Education teachers with at least five years service as such and having qualification mentioned in column No 3</i></p>
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Annexure A

5. That this is the mandate of law that the rules which are applicable at the time the Appellant is eligible for promotion has to be followed without any discrimination or favour and with such legitimate expectancy the Appellant was waiting for his turn.
6. That the Respondent no 1 in disregard of the earlier notification dated November 2012 and vested right of the Appellant issued another

9

Notification dated 24th July 2014 by omitting the prescribed quota meant for the Appellant group and by changing the combination of subjects for his group has attempted to effect substantial rights of the Appellant by making him ineligible for the promotion and deprived him of equal opportunities of promotion and as such finalized the promotion on the new format and notified it accordingly, the new format is as under:

Notification dated 24.7.2014

No .So (PE) 4-5/SSRC/Meeting/2013/Teaching Cadre:- In pursuance of 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:

AMENDMENTS

1	2	3	4	5
1 B	secondary school teacher (BPS-16)	I. At least second class bachelor Degree's from a recognized university on need basis from the following	21 to 35 years	1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner: (a) forty five per cent from amongst the Senior Certified

		<p>groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology)</p> <p>(b) (Physics, Math's "A" or "B" or Statistics)</p> <p>(c) (Humanities and other equivalent groups at degree level with English as compulsory subjects;</p> <p>And</p> <p>II. Bachelor of Education or Master of Education (Industrial Art or Business Education or equivalent qualifications from a recognized university</p>	<p>Teachers (BPS-16) with at least five years service as Senior Certified teacher and having qualification mentioned in column No3:</p> <p>Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters (BPS-16), with at</p>
--	--	---	--

(1)

				least five years service as senior Drawing Masters and Drawing Masters and having qualification mentioned in column No 3:
--	--	--	--	---

Annexure B

7. That the quota of Appellant was omitted from the working papers and the combination of the subjects were changed just to deprive him and his group from the change of his cadre **from Physical Education Teacher to Secondary School Teachers (BPS 16)** and to eliminate further chances of the Appellant up to the posts of Head Master, Principal and Subject Specialist etc which amounts to discrimination.
8. That the Respondents prepared a working paper on the basis of new impugned notification July 2014 and promoted others and the Appellant was left ipso facto.....(*Annexure C*)
9. That the Appellant Appealed to the Respondent frequently but of no avail.....(*Annexure D*)
10. That the impugned notification ousted the Appellant from competition and promotion hence filed a Writ Petition no 2297-P/2014 which was dismissed.
11. That the Appellant filed Civil Petition no 119 of 2015 which the Apex Court dismissed with observation and direction to the Tribunal for sympathetic consideration on point of limitation....(*Copy attached as Annexure E*)
12. That the same policy still exists and the Appellant has no chance of promotion and **Being aggrieved hence this Appeal inter alia, on the following grounds:-**

GROUND:-

- A. That the modification in the previous notification Dated November 13, 2012 and issuing another Notification of 24th July 2014 depriving the Appellant of vested right and ousting him from promotion to the post of

SST (BPS 16 and omitting 4% quota of the Appellant is without lawful Authority, without jurisdiction and is of no legal effect hence such modification be set aside and declared against the law, discriminatory, arbitrary and against the *Principle of equal opportunities of promotion*.

- B. That the Appellant(Physical Education teachers) have been ignored for their promotion and posting as Secondary School Teachers where as he fulfilled the requisite qualification as mentioned in column No 3 of the Appendix i.e. they are MSc/M.Ed. and due to shortage of qualified staff is mostly teaching to secondary classes and on the other hand the Appellant is not master in Physical Education hence has no chance of further promotion.
- C. That according to the seniority list, the Appellant senior most officers and eligible for promotion and is fit in all aspects for the posts but he has been discriminated by not giving him 04 % Quota as per previous rules and by modifying the earlier notification.
- D. That there is plethora of judgments of the Honorable Apex Court on the point that notification/executive orders could only operate prospectively and not retrospectively. At the time of the impugned notification Appellant has already gained legitimate expectancy, so quota meant for the Appellant group or modifying criteria cannot be unilaterally withdrawn. **(2012 SCMR para-874)**.
- E. That the impugned notification by the Respondents is in violation of factual and legal position which amounts to exploitation and against the fundamental principles that every citizen shall be dealt with according to his ability and work.
- F. That the impugned notification is detrimental to the interest and legal rights of the Appellant as he has improved his qualification hence the notification is liable to be corrected.
- G. The Appellant has attained the right of Locus Poenitentiae and once it has taken legal effect and created certain rights in favour of the Appellant then it cannot be withdrawn.
- H. That it is ironical that subjects/combination once studied in 1990 i.e. two decade ago cannot be changed in 2014 or afterwards.

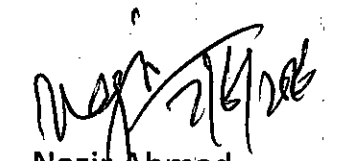
- (8)
- I. That it is settled that the Appellant has not been treated equally before law and has been discriminated for unknown reasons against the Principle of fair competition which is tainted malafide and deemed to be done with ulterior motive.
 - J. That the impugned notification is without lawful authority, illegal and , void ab-initio smacks arbitrariness, is deviation from the normal procedure of law as the qualifications already acquired by the Appellant for promotion to SST shall not be against a group specific.
 - K. That in the impugned notification quota reserved for others is maintained and the same is the criteria but the quota of the Appellant and criteria for his group is changed considering the Appellant inferior to other teachers.
 - L. That the Appellant has not been dealt with in accordance with law and Constitution of Islamic Republic of Pakistan. The Appellant enjoys the protection of law under Article 4, 5 and 25 of the Constitution hence is entitled to be equal before the law and to equal protection of law.
 - M. That the Rules which enable the Respondent to prescribe qualification and conditions for any post are delegated and the Respondents cannot travel beyond the scope of delegated power and it cannot issue any notification which is against the object of the original Rules.

Prayer:

It is, therefore, prayed that the Appeal may be accepted with the above prayer.


Appellant

Through


Nazir Ahmad
Advocate. Peshawar.

IN THE KPK Service Tribunal PESHAWAR

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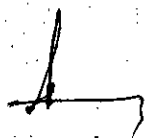
Service Appeal _____/2016

Sahibzada Imdad ullah **VERSUS** Govt: of KPK and another.

Affidavit

I Sahibzada Imdad ullah Government High School Rehan Kot Dir Upper PET BPS 15 hereby affirm and declare on oath that contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honorable Tribunal.




Deponent

IN THE KPK Service Tribunal PESHAWAR

(10)

Service Appeal No _____/2016

Sahibzada imdad ullah **VERSUS** Govt: of KPK and another.

ADDRESSES OF PARTIES

Appellant


1. Sahibzada Imdad ullah Government High School Rehan Kot Dir Upper.

Respondents:-

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. Director Elementary & Secondary Education KPK, Dabgari Garden Peshawar.

Appellant

Through


Counsel Advocate.
Peshawar

IN THE KPK Service Tribunal, PESHAWAR.

(11)

Service Appeal no _____/2016

Sahibzada imdad Ullah **VERSUS**


Govt: of KPK and another.

Application for condonation of delay if any.

Respectfully Sheweth:

1. That the Appellant filed a Writ Petition no 2297-P 2014 in the Peshawar High Court Peshawar as in his vie it was a matter of fitness for promotion which was dismissed and then filed a civil Petition no 119/2015 in the Supreme Court which he withdraw with the request that the point of limitation before the tribunal will be sympathetically considered.
2. That the grievances of the Appellant still exist as the notification is still in the field.

Therefore it is humbly prayed that the matter in hand relates to the promotion and consequent thereof the monetary issue is involve so a recurring cause of action.


Appellant


Through Counsel



GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

NOTIFICATION

Peshawar, dated the November 13, 2012.

Noted (PEE) 5/SSRC/Meeting/2012/Teaching Cadre: In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Service (Appointment, Promotion and Transfer) Rules, 1959 and in possession of all Notifications issued in this behalf, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby lays down the method of recruitment, qualification and other conditions specified in the Appendix to this Notification which shall be applicable to all the posts specified in Column No. 2 of the said Appendix and the schedule therewith.

SECRETARY TO GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

Reference: A.C. 12 as above

Copy is wanted to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission, Peshawar
5. The Accountant General, Khyber Pakhtunkhwa Peshawar
6. The Director (EASE) Khyber Pakhtunkhwa Peshawar
7. The Director Education (FAEA), Peshawar.
8. Copy to Muzam Dastgir KPK

Attested

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Amended
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KPK

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APPENDIX

13

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3

S.No.	Nomenclature of the post.	Minimum qualification and experience for initial appointment or by transfer.	Age limit.	Method of recruitment.
	2.	3.	4.	5.
	Secondary School Teacher (BPS-16).	(i) Second class Bachelor's Degree with two subjects as Chemistry, Botany, Zoology, Physics, Mathematics, Statistics Humanities and other equivalent groups from a recognized University; or (ii) MA in Education or Bachelor's Degree in Education, from a recognized University.	18 to 35 years.	(a) Fifty percent by promotion on the basis of seniority-cum-fitness, in the following manner: (i) forty per cent from amongst the Certified Teachers (General), Certified Teachers (Agriculture), Certified Teachers (Industrial Arts) and Certified Teachers (Home Economics) with at least five years service as such and having qualification mentioned in column No. 3; (ii) four per cent from amongst the Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3; (iii) four per cent from amongst the Physical Education Teachers with at least five years service as such and having qualification mentioned in column No. 3.

KPK. Jibril

Attested
to be true copy

Attested
[Signature]

8. The Director Curriculum & Teachers Education Abbottabad.
9. The Director (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director ESRU, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
11. The Deputy Director Database(EMIS) E&SE Department.
12. All District Coordination Officers in Khyber Pakhtunkhwa.
13. All Executive District Officers Elementary & Secondary Education in Khyber Pakhtunkhwa.
14. All District Accounts Officers in Khyber Pakhtunkhwa / Agency Accounts Officers FATA.
15. All Agency Education Officers FATA.
16. P.S to Governor, Khyber Pakhtunkhwa.
17. P.S to Chief Minister, Khyber Pakhtunkhwa.
18. P.S to Chief Secretary, Khyber Pakhtunkhwa.
19. PS to Minister E&SE Khyber Pakhtunkhwa Peshawar.
20. PS to Secretary E&SE Department.
21. Master File.

KPK

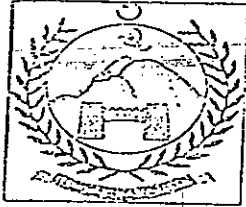
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Section Officer (Primary)

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Attested
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to be true copy

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 24th July, 2014.

NOTIFICATION

No.SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre:- 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:

AMENDMENTS

In the Appendix,-

(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	2	3	4	5
1	Subject Specialist (BPS-17)	i. At least second class Master's Degree or four years BS Degree in the relevant subject; and ii. Bachelor of Education or Master of Education (Industrial Art or Business Education) or MA Education or equivalent qualification from a recognized University.	23 to 35 years	(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 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

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Amelins (15)
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				recruitment; and (b) fifty percent by initial recruitment.
1A	Director Physical Education (BPS-17)	At least second class Master's Degree in Physical Education from a recognized University.	22-35 years	<p>(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior 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;</p> <p>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 basis of seniority-cum-fitness, from amongst the Physical Education Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>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</p> <p>(b) fifty percent by initial recruitment"; and</p>

16

Attested
Signature

Signature

17

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

1	2	3	4	5
"1B.	Secondary School Teacher (BPS-16)	<p>I. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology), Or (b) (Physics, Maths "A" or "B" or Statistics) Or (c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p>and</p> <p>II. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualifications from a recognized University.</p>	21 to 35 years.	<p>1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner:</p> <p>(a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion, then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters (EPS-16), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3:</p>

Attended
Mujir

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Provided that if no suitable candidate 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 then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Arabic Teachers with at least five years service as such and having qualification mentioned in column No. 3;

- (d) four per cent from amongst the Senior Theology Teachers(BPS-16), with at least five years service as Senior Theology Teachers and Theology Teachers and having qualification mentioned in column No.3:

Attested
Waji

Provided that if no suitable candidate is available from amongst 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 Qaris (BPS-15), 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 amongst the Senior Qaris then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Qaris with at least five years service as such and having qualification mentioned in column No. 3:

(f) twenty per cent from amongst the Primary School Head Teachers (BPS-16), with at least seven years service as 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

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Major

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Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, 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

(ii) twenty five percent by initial recruitment.

Note:

1. If no suitable candidate is available in the relevant cadre of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment.
11. Posts of General SST and SSTs-1 Science and SST-2 Science shall be filled by promotion or initial recruitment, each on need basis separately."

Attache
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21

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.
2. 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) Khyber 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
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

*Atadul
Raza*

(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)

File No. 2

ANNEX C



**Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar**

PH No. 091-9201389, 9210938,
9210437, 9210957, 9210468
Fax 091-9210936 0800-33857
No. 2149-99/Promotion to SST B-16/Estab
Dated Peshawar the 10/07/2014.

10 22

Attested
[Signature]

To: All the District Education Officers,
(Male & Female), in Khyber Pakhtunkhwa.

Subject: Working Papers for Departmental Promotion Committees for the
Promotion of SCT/CL, SAT/AT, STT/TT, SDM/DM,
PSHT/SPST/PST, S Qari/Qari to the post of SST (Bio-Chem), SST
(Phy-Maths), STT (Genral) BPS-16.

Memo: I am directed to refer to the subject noted above and to state that
meeting of Departmental Promotion Committee for Promotion to the
of vacant posts SST Bio-Chem, SST Phy-Maths,
STT (Genral BPS-16) in CMS/Middle /High and Higher
Secondary Schools in Elementary and Secondary Education Department
at District Level will be held on 10.01.2014

I am further directed to ask you to submit Working Papers for
Departmental Promotion Committees for the Promotion of SCT/CL,
SAT / AT, STT/TT, SDM / DM, PSHT/SPST/PST, S Qari/Qari to the
post of SST Bio-Chem, SST Phy-Maths, STT (Genral BPS-16, on the
format already submitted in separate file for each category upto 17th
July, 2014 and the following documents are required to be attached
with the Working Papers

1. Final Seniority List undisputed
2. Synopsis of last 5 years ACRs.
3. Last three years result.
4. Non involvement certificate.
5. Bio data on the format already submitted.
6. Last pay slip.
7. BA/BSC Degree
8. B.Ed/M.Ed
9. List of vacant SST posts.

Note ACRs be kept ready and to be presented in the meeting of Departmental
Promotion Committee.

Dy: Director (Estab)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.

Endst: No. 2200-02 / File No. 1/Promotion to SST B-16: Dated Peshawar the 10/07/2014.

- Copy forwarded for information and necessary action to the: -
1. PS to the Secretary to Govt: Khyber Pakhtunkhwa E&SE Department.
 2. PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.
 3. M/File

Dy: Director (Estab)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

Attested
[Signature]
to be true copy

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Sample

District Education Officer
(Male)/Female _____

Working Papers for Departmental Promotion
Committees for the Promotion of SCT/CT to SST B-16

Total No of Vacant SST (Bio Chem) posts = 100

Method of Recruitment	Total Posts	
Initial Recruitment	25	
Promotion	10% by promotion from SCT/CT	10
	20% by promotion from PSHT/SPST/PST	20
	4% by promotion from SDM/DM	4
	4% by promotion from SAT/AT	4
	4% by promotion from ST/TT	4
	3% by promotion from S.Qari/Qari	3
Total	100	

List of CTs (Male) for the Promotion of SCT/CT to SST

S.No	S.L. No	Name of Official & Present Place of Posting	Date of Birth	Date of Appointment as Regular CT	Qualification	Whether eligible for Promotion	Remarks
						NO	Not having Basic Qualification for the post
						Yes	

Certificate:

- It is certified that all the SCT/CTs (Male) included in the panel for the Promotion of to SST Bio-Chem post
 - Hold the posts on regular basis and none of them is holding the post on adhoc/acting charge basis/contract.
 - Have completed the required minimum length of qualifying service and qualifications as required for Promotion to the post of SST under the Rules.
 - None of them is on deputation to any organization under the Federal/ Provincial / Autonomous/ Semi autonomous / International Organizations.
 - Neither any disciplinary/ departmental proceedings/Anti corruption / judicial enquiry is pending against them nor has any penalty been imposed upon any one of them during the last five years
 - No one is on long leave / Ex-Pakistan leave.
 - Their ACRs, Synopsis are free from adverse remarks.
 - They are all alive and serving.
 - Their appointment orders against CTs posts are attached herewith.
 - The Seniority list of B-16 officers is final, undisputed and not subjudice.
- The Departmental Promotion Committee is requested to determine the suitability of the above SCT/CTs for Promotion to SST B-16 post with immediate effect.

Attested

District Education Officer
(Male)/Female _____

Attested
to be true copy



Directorate of Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar

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STATEMENT SHOWING THE DISTRICT WISE DETAIL OF VACANT
POSTS OF MALE/FEMALE FALLING IN 75% Quota

S.No.	District	1	2	3	4	5	6	7	8	9	10
1	Abdullah Abad	20	17	32	30	37	17	105	55	160	
2	Danna	12	16	28	16	-	28	50	80	130	
3	Batta Gram	21	2	20	4	21	16	62	24	86	
4	Junner	14	15	33	17	30	27	118	60	187	
5	Charsadda	21	6	34	25	26	20	80	54	134	
6	Chitral	15	-	24	11	17	-	66	11	77	
7	DI Khan	45	8	52	31	46	-	133	39	172	
8	Dir Lower	30	20	30	29	45	55	105	101	206	
9	Dir Upper	23	2	20	5	68	8	121	17	138	
10	Ilungu	18	-	20	7	26	21	63	35	98	
11	Haripur	46	2	15	30	53	27	114	61	175	
12	Karak	11	10	12	17	17	12	54	39	93	
13	Kohat	27	5	30	10	68	20	125	57	178	
14	Kohistan	18	1	23	1	21	17	122	12	134	
15	Lakki Marwat	25	2	26	12	11	23	62	17	104	
16	Malakund	13	7	2	23	1	1	17	20	36	
17	Manshara	41	11	48	31	50	31	139	76	215	
18	Marahan	28	10	34	48	45	39	134	77	211	
19	Nowshera	23	20	22	22	60	21	128	78	206	
20	Peshawar	32	-	31	16	32	6	105	29	127	
21	Shangla	18	3	25	4	31	16	74	24	98	
22	South	12	2	22	11	16	22	127	39	166	
23	Swat	17	8	32	16	10	10	60	27	87	
24	Tank	17	2	17	5	30	11	64	18	82	
25	Tuar Gher	1	-	1	-	24	1	30	1	31	
	Total	607	209	679	458	955	508	2,241	1,175	3,416	

Attested
[Signature]

75% By Quota	30% CF	324	111	382	214	509	271	1,195	127	1,822
	20% PNT	162	56	181	122	255	175	597	312	911
	3% DM	12	11	16	24	51	27	119	63	182
	4% AT	12	11	16	24	51	27	119	63	182
	4% TT	12	11	16	24	51	27	119	63	182
	7% Qurt	21	8	27	18	38	20	90	47	137
	Total	607	209	679	458	955	508	2,241	1,175	3,416

Attested

[Signature]
to be true copy

(25) (2e)

BIO-DATA

1. Name _____
2. Father's Name _____
3. Post _____ School _____
4. Academic Qualification _____
5. In case of B.Sc (Subjects) _____
6. Division in BA/B.Sc _____
7. Professional Qualification (Training received) _____

Serial No	Description	Institute	Period
1.	_____	_____	_____
2.	_____	_____	_____

8. Date of Birth _____

9. Date of first joining the service and the Post in which joined _____

10. Record of Appointment:-

S.No	Post held	BPS	Whether regular/adhoc basis	on		Period	
				regular	adhoc	From	To

11. Total service _____ years _____ months _____ days.

12. Total service on the present post _____ years _____ months _____ days.

13. Detail of Non qualifying Service if any, _____

Signature

ADO /Principal /Headmaster

DY:DEO

Countersigned by DEO

[Handwritten signature and stamp]

ANNEX "B"

(26)

15/7/14

بخدمت جناب سیکرٹری ایجوکیشن صوبہ خیبر پختون خواہ پشاور
عنوان: ایس ایس ٹی میں فزیکل ایجوکیشن ٹیچرز کا 4 فیصد کوٹہ بحال کیا جائے

جناب عالی:-

گزارش بحضور انور ہے کہ محکمہ تعلیم روز 13 نومبر 2012 میں فزیکل ایجوکیشن ٹیچرز کیلئے 4 فیصد کوٹہ رکھا گیا تھا: جناب موجودہ درکنگ پیپرز میں اس کو حذف کیا گیا ہے بلکہ فزیکل ایجوکیشن ٹیچرز کا کوٹہ ایس ایس ٹی میں بالکل ختم کیا گیا ہے جس پر فزیکل ایجوکیشن ٹیچرز نے پشاور ہائیکورٹ میں ایک رٹ دائر کی تھی جس پر عدالت عالیہ نے 29 اپریل 2014 کو فزیکل ایجوکیشن ٹیچرز کے 4 فیصد کوٹہ بحال کا حکم نامہ جاری کیا اور اب 10 جولائی 2014 کو ڈائریکٹر تعلیمات صوبہ خیبر پختون خواہ نے ایک دفعہ پھر جو درکنگ پیپرز جاری کئے ہیں ان میں ایس ایس ٹی کیلئے فزیکل ایجوکیشن ٹیچرز کا 4 فیصد کوٹہ کو عدالت عالیہ کے 29 اپریل 2014 کے فیصلے کے باوجود نظر انداز کیا گیا ہے۔ حالانکہ ہم تمام فزیکل ایجوکیشن تقریباً 20-25 سالوں سے ایس ایس ٹی میں پریمون کے انتظار میں بیٹھے تھے اس کے باوجود ہمیں نظر انداز کیا گیا، ہم سب فزیکل ایجوکیشن ٹیچرز ایم اے ایم اے سٹی ایڈ ایم ایڈ ہیں اور اپنے اپنے سکولوں میں ریاضی، فزکس، کمیسٹری وغیرہ پڑھاتے ہیں۔ اسلئے ہم فزیکل ایجوکیشن ٹیچرز آپ صاحبان سے گزارش کرتے ہیں کہ فزیکل ایجوکیشن ٹیچرز کا 4 فیصد کوٹہ بحال کیا جائے تاکہ ہمارے ساتھ ہونیوالی نا انصافی کا ازالہ ہو سکے۔

العارضی

Diary No: 2899

آل فزیکل ایجوکیشن ٹیچرز صوبہ خیبر پختون خواہ پشاور

سینئر فزیکل ایجوکیشن ٹیچرز میاں ضیاء الرحمن ایم ایس سی (ریاضی)، ایم ایڈ

Attested

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Ugr

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

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Present:

Mr. Justice Gulzar Ahmed
Mr. Justice Qazi Faez Isa

Civil Petition No.119 of 2015

[On appeal against the 27.10.2014 passed by the Peshawar High Court, Peshawar, in W.P.Nos.3073-P and 2297 of 2014]

Mian Zia ur Rehman

Petitioner(s)

VERSUS

Government of KPK through Secretary Elementary & Secondary Education, Peshawar & others

Respondent(s)

For the Petitioner(s) : Mr. Ghulam Mohy-ud-Din Malik, ASC

For the Respondent(s) : Mr. Umar Farooq Adam, Addl.A.G. KPK

Date of Hearing : 01.04.2016

ORDER

GULZAR AHMED, J.— Learned ASC for the petitioner, at the outset, stated that the petitioner is going to approach the Service Tribunal for redress of his grievance, by filing Service Appeal and that it may only be observed that the point of limitation may be considered by the Service Tribunal sympathetically.

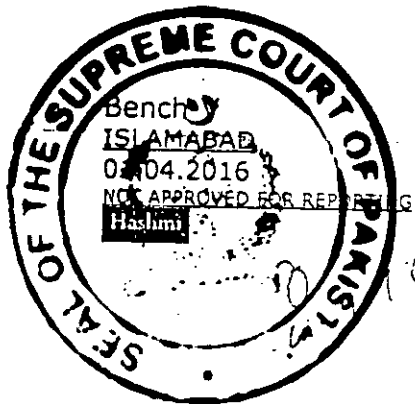
2. In the circumstances, this petition is dismissed as withdrawn. However, the petitioner may approach the Service Tribunal for redress of his grievance and the Tribunal will consider the case of the petitioner, on the point of limitation, sympathetically.

Sd/- Gulzar Ahmed, J

Sd/- Qazi Faez Isa, J

Certified to be True Copy

Court Associate
Supreme Court of Pakistan
Islamabad



WAKALATNAMA

In the

P. P. C. Service Tribunal, Peshawar

Appellant/Plaintiff/Petitioner

Sahibzade Imdad Ullah

VS

Respondent/Defendant

Govt of P. P. C. High Security Education

I/we

Sahibzade Imdad Ullah

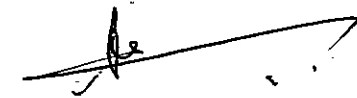
do hereby appoint Nazir Ahmad, Advocate Peshawar High Court, Peshawar as our/my Counsel in subject proceedings and authorize him to appear, plead etc. compromise, withdraw or refer the matter for arbitration for me/us without any liability for his default and with the authority to engage/appoint any other Advocate/counsel at our/my expense and receive all sums and amounts payable to us/me and to all such acts which he may deem necessary for protecting our/my interests in the matter. He is also authorized to file Appeal, Revision, Review and Application for Restoration or Application for setting-aside ex-parte decree proceedings on our /my behalf.

Dated: 7-6-2016

Accepted & attested

Nazir Ahmad

Advocate, Peshawar



Appellant/Plaintiff/Petitioner

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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 628/2016

Sahibzada Imdad Ullah PET GHS Rehan Kot Dir(Upper)Appellant.

VERSUS

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

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No: 1-2.

Respectfully Sheweth :-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action. locus standi .
- 2 That the Appellant has concealed material facts from this Honorable Tribunal in the instant service appeal.
- 3 That the instant service appeal is based on mala fide intentions.
- 4 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 5 That the instant Service Appeal is against the prevailing law & rules.
- 6 That the Appellant has been treated as per law, rules & policy.
- 7 That the appeal is not maintainable in its present form.
- 8 That the appeal is bad for mis joinder & non joinder of the necessary parties.
- 9 That the instant Service Appeal is barred by law.
- 10 That the Appellant is not competent to file the instant appeal against the Respondents.
- 11 That the impugned Notification dated 24/7/2014 is legally competent & is liable to be maintained in favor of the Respondents.
- 12 That the Respondents are entitled for the amendment in the eligibility criteria for promotion in accordance with law & demands of the Respondent Department. Hence this Tribunal has no jurisdiction to adjudicate the matter.

ON FACTS

- 2 That Para-I needs no comments being pertains to the service record of the appellant.
- 3 That Para-2 is also needs no comments being pertains to the academic record of the appellant.
- 4 That Para-3 is correct. Hence needs no further comments.


- 31
- 5 That Para-4 is correct to the extent that vide Notification No: SO(PE)4-5/SSRC/Meeting /2012/Teaching Cadre dated 13/11/2012, the prescribed /Minimum qualification for the appointment / Promotion against the SST(M/Female) post in the Respondent Department was BA/ B. Sc with B. Ed with at least two subject in Chemistry Botony, Zoology Physics, Maths Statistics & Humanities or any other relevant subject of MA Education from dully recognized University under the method of Recruitment of 50% by Promotion on the basis of seniority cm fitness. However, later on this service/ recruitment rules were amended / changed vide another Notification No: SO(PE)/4-5/SSRC/Meeting/2013/ Teaching Cadre dated 24/7/2014, wherein the 4% quota for PETs/SPETs have been abolished by the competent forum in accordance with law, (Copy of the said Notification dated 24/7/2014 is attached as Annexure-A).
 - 6 That Para-5 is also incorrect & denied. The Respondent Department is entitled for bringing amendments in the service rules. Reliance is being placed on judgment dated 31/5/2016 passed by this Honorable Service Tribunal in Service Appeal No: 1343/2012 case titled Javed Iqbal Versus Govt: (Copy of the same judgment is annexure-B).
 - 7 That Para-6 is correct. The Respondent Department vide Notification dated 24/7/2014 has brought certain amendments in the service rules & as per recommendations of SSRC:
 - 8 That Para-7 is correct that the Respondent Department has promoted the eligible & deserving candidates against the SST(M/F) posts in BPS-16 vide the Notification dated 24/7/2014 as per recruitment service rules.
 - 9 That Para-8 is also incorrect & denied on the grounds that no Departmental appeal has been filed by the appellatant till date.
 - 10 That Para-9 needs no comments being pertains to the Court record of the Honorable Peshawar High Court Peshawar.
 - 11 That Para-10 is also pertains to Court record of the August Supreme Court of Pakistan.
 - 12 That Para-11 is correct to the extent that the Respondent Department is bound to follow the prevailing service rules dated 24/7/2014, wherein, the appellatant does not fall. Hence, the instant Service Appeal is liable to be dismissed on the following grounds inter alia :-

GROUNDS

- A Incorrect & denied. The Respondent Department is entitled to bring changes & amendments in the service rules thus amended the previous policy dated 13/11/2013, vide the service rules dated 24/7/2014 which is not only legally competent but is also liable to be maintained in favour of the Respondents in the interest of justice.
- B Incorrect & denied. The appellatant has been treated as per law, rules & prevailing rules dated 24/7/2014 by the Respondent.
- C Incorrect & denied. The appellatant does not falls within the ambit of service rules dated 24/7/2014 of the Respondent Department. Therefore, no question of discrimination arises in the instant case.
- D Incorrect & denied. The case f the appellatant is different on both in nature & criteria wise. Hence the referred citation of law is not applicable upon the case of the appellatant.
- E Incorrect & denied. The impugned Notification dated 24/7/2014 is within the ambit of law, rules & even based on basic fundamental principles of natural justice.
- F Incorrect & denied. Detailed reply of this ground has already been given in the foregoing paras. Hence, needs no further.

- 30
- G Incorrect & denied. The appellant is not entitled for the grant of promotion against the SST(M) in BPS-16 post in view of the impugned Notification dated 24/7/2014.
- H Incorrect & denied. It is the mandate & prerogative of the Respondent Department & amend the rules. Hence, the plea of the appellant is baseless & is liable to be struck down.
- I Incorrect & denied. The appellant has been treated as per law, rules & policy dated 24/7/2014, wherein, wherein there is no provision of promotion of PET against the SST(M) B-16 post in the Respondent Department.
- J Incorrect & denied. The impugned Notification dated 24/7/2014 is legally competent & is liable to be maintained as they are being promoted BPS-17 against DPE post on the reserved 50% quota in DPE for promotion against the PET.
- K Correct to the extent that the 4% Reserved quota of the PETs for promotion against the SST(M) B-16 post has been abolished on the analogy of right man for right job by the Respondents.
- L Incorrect & misleading. The appellant has been treated as per law, rules. Having no question of violation of Article 4, 5 & 25 of the constitution of the Islamic Republic of Pakistan 1973.
- M Incorrect & denied. The Respondent Department is entitled to amend the rules as per need & requirements. Hence the Respondents seek leave of this Honorable Tribunal to submit additional grounds & accord at the time of arguments.

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


15/8/2010
Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1&2)

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