BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2214/2023

Mr. Aqib Zaman.....Appellant

Versus

Director E & SE, Khyber Pakhtunkhwa Peshawar & others.....Respondents

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Sultan Muhammad
DEO (Male) Kurram

A11

(1)

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2214/2023

Mr. Aqib Zaman.....Appellant

Versus

Director E & SE, Khyber Pakhtunkhwa Peshawar & others.....Respondents

Parawise Comments on behalf of Respondent No. 2.

Preliminary objections:

- That the appellant has got no cause of action, locus standi to file the instant appeal.
- That the subject matter of the instant appeal pertains to Res- Judicata, as has already been decided by the Hon'ble Service Tribunal vide its judgment dated 2/11/2023, hence the instant appeal being infructuous and is liable to be dismissed in limine.
- That the appellant has concealed material facts from this Honorable Service Tribunal.
- That the appellant has not come to this Court with clean hands.
- That the appeal is not maintainable in its present form.
- That the appellant is estopped by his own conduct to bring the instant appeal.
- That the appeal in hand is hit by laches and badly time barred as brought after lapse of 5 years.
- That the reinstatement order dated 22-11-2018 is in accordance with law and the appellant has accepted its terms and conditions.

ON FACTS.

1. That para-1 is correct as the respondents being bound by law and in compliance of the judgment of the Honble Service Tribunal reinstatement the appellant vides order dated 22-11-2018. Moreover, it is also noteworthy that the appellant has accepted the reinstatement order and has not objected its terms and conditions. **(Copy of the order is attached as annex-A).**

2. The appellant had accept the terms and condition of the reinstatement order where it was specifically mentioned that the reinstatement will be taking place with immediate, hence bringing the instant appeal has no footing under the laws.

3. That para-3 is correct to the extent that the service book of the appellant was prepared by the respondents, however, with respect to the rest of the para, it is to submit that the respondents after receiving complaints on the recruitment process, duly constituted a Oversight Committee. The Oversight Committee after following the codal formalities and going through the official records, and considering the facts and circumstances, submitted its report. The respondents in pursuance of the Oversight Committee report issued the termination order of the appointees including

the appellant. **(Copy of the oversight committee report and termination order is attached as annexure B and C).**

4. That the first part of the para-4 is correct to the extent that the Appellant were terminated vides order dated 11-12-2015, however, it is noteworthy that the said termination order was issued after the Oversight Committee report. With respect to the second part of the para-4, it is to submit that the respondents in compliance of the judgment dated 31-5-2018 of the Honble Service tribunal in Service Appeal No. 300/2016 and other connected appeals reinstated the appellant vide order dated 22-11-2018. Furthermore, it is pertinent to mention over here that it was held by the Hon'ble Service Tribunal in the said Judgment vides para 8 which are reproduced as ".... this tribunal is constrained to issue direction to the respondents department to adjust/reinstate the appellant at the post of C.T with immediate effect without back benefits". Therefore, in compliance of the judgment the respondents issued the appointment order dated 22-11-2018, hence, there was no illegality committed on the part of the respondents. **(Copy of the judgment dated 31-5-2018 attached as annexure D).**

5. The first part of the para-5 is correct to the extent that the respondents being aggrieved from the judgment of the Honble service tribunal filed a CPLA No. 689-P to 693-P of 2018, before the Supreme Court of Pakistan. Meanwhile, in compliance of the judgment of the Honble Service Tribunal the respondents issued conditional reinstatement order dated 22-11-2018. Furthermore, it is to submit that the CPLA No. 689-P to 693-P of 2018 was dismissed by the Honble Supreme Court vide its judgment dated 6-10-2020. Consequently, the respondents issued the substituted regular reinstatement order dated 23-6-2023 whereby the appellant was reinstated with immediate effect. **(Copy of the substituted reinstatement order is attached as annexure E)**

6. The detailed reply has already been submitted in the above Para's.

7. Correct.

8. Incorrect hence denied. The respondents accept the terms and condition of the reinstatement order dated 22-11-2018, and has not objected. Now, after lapse of about 5 years the appellant brought the instant appeal which badly time barred and is not liable to be considered at this belated stage. Moreover, the subject matter of the instant appeal has already been dismissed by the Honble Service tribunal vide its order dated 2-11-2023, wherein the appellant was warned by the Honble service tribunal which is

reproduced as " ..to avoid making fruitless and useless as well as frivolous applications and if made again for the same matter, that would be dismissed with heavy cost upon him". Therefore bringing the instant appeal is itself contempt and amount to violation of the Judgment of the Honble service tribunal.

GROUNDS.

A. Incorrect, hence denied. The respondents being bound by law acted in accordance with law and while doing so no illegality has ever been committed.

B. Incorrect, hence denied. The respondents being bound by law treated the appellant in accordance with law and while doing so no provision of the Constitution of Pakistan has ever been violated.

C. Incorrect, hence denied. The detailed reply has already been submitted in the above Para's.

D. Incorrect, hence denied. The detailed reply has already been submitted in the above Para's.

E. Incorrect, hence denied. The detailed reply has already been submitted in the above Para's.

F. That the Respondents also seek permission of Honorable Tribunal to produce additional grounds at the time of hearing of the instant appeal.

Prayer:

In the light of the above stated facts, it is humbly submitted that the appeal in hand may be dismissed with cost.

District Education Officer
District Kurram
(Respondents No. 2)

(4)

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2214/2023

Mr. Aqib Zaman.....Appellant

Versus

Director E & SE, Khyber Pakhtunkhwa Peshawar & others.....Respondents

AFFIDAVIT

I Mr. Sultan Muhammad DEO (Male) Kurram do hereby declare and affirm that the above comments are true and correct to the best of our knowledge and thereof noting has been concealed from this Honorable Tribunal. 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.

Deponent

Sultan Muhammad
CNIC: 17102-1142032-5
Mobile : 03030555017

ATTESTED
Syed Muhammad Raza Shah Advocate
Oath Commissioner
High Court Peshawar

19 DEC 2023

(5)

AUTHORITY LETTER

Mr. Toti Marjan, Focal person litigation District Education Officer (M) Kurram of this office is hereby authorized to submit comments and represent this office in service Appeal No 2214/2014 Title Aqib Zaman Vs Director E&SE, Khyber Pakhtunkhwa and others.

District Education Officer (M)

District Kurram

(6)

Add: District Education Office
Lowor & Contral Kurram Sadda
Phone No 0926-520674
No._____/Edu: Dated ___/___/2018
Email: educationsadda@gmail.com

NOTIFICATION.

Consequent upon the approval of Director Elementary & Secondary Education of Khyber Pakhtunkhwa, Peshawar No 10024/(Ltr:)I dated Peshawar the 29-10-2018 and Judgment of Khyber Pakhtunkhwa Service Tribunal ,Peshawar Judicial Complex in Execution No 294/18 in Service Appeal No 300/2016 MR. Aqib Zaman CT Is hereby conditionally reinstated without back benefit at GHS Makhizai Lower Kurram with immediate effect subject to final decision filed against the impugned in supreme Court of Pakistan subject to provision of his providing surety on judicial stamp paper in case the CPLA turned out to be in favour of the department the amount if any paid to the petitioner will be recovered in cash or coin.

Terms Conditions.

1. The reinstatement order and release of running pay will only be effective on furnishing surety on judicial stamp papers by petitioner.
2. If they failed to take over charge within 15 days, his appointment will automatically be considered as cancelled.
3. Charge report should be submitted to this office.

Addl: District Education Officer
Lower & Central Kurram Sadda

No 6626-30/Edu Dated 22/11/2018

Copy for information to the.-

1. Director of Education NMD Districts Peshawar
2. Deputy Commissioner Kurram.
3. Asstt: DEO Local Office.
4. Official Concerned.
5. Office file.

Addl: District Education Officer
Lower & Central Kurram Sadda

Attested

(7)

Subject: OVERSIGHT REPORT ON RECRUITMENT OF 70 NUMBER TEACHING/NON-TEACHING STAFF IN LOWER & CENTRAL KURRAM IN 2012-13

BRIEFHISTORY

1. Seventy No. of posts of various categories (Teaching/Non-teaching) cadres were lying vacant in Central & Lower Kurram Agency in the year 2012-13. The same was widely advertised and published in daily newspapers by the then Additional Agency Education Officer (F/A). Lists of the applicants (Candidates) were prepared of various categories of teaching & non-teaching staff. The candidates were called and interviewed. Consequently, 70 x teachers and officials were recruited in various categories against the vacant posts in Lower & Central Kurram Agency. The office orders were issued accordingly.

2. Many complaints were received to the administration objecting the credibility of recruitment process. In light of such complaints received from local elders and Political Administration, a committee comprising the following officers was constituted by Director Education FATA vide letter No.5191-99 dated 9.4.2013. The committee was directed to probe into the issue and submit their recommendations (F/B).

(1).Mr.Asmat Khan Principal GHS SamaBadaBera FR Peshawar

(2). Mr.Shahzar Khan Dy. Director (M&E) Directorate of Education FATA

The above mentioned enquiry committee submitted its report wit recommendations accordingly (F/C).

3. The Political Agent Kurram Agency vide his office letter No.1396-99 dated 18.5.20 (F/D) objected upon the enquiry conducted by the above officers, termed at vague and contradictory. In response to the objection raised by Political Agent, t Secretary Social Sectors Department vide his office letter No.FS/E/96/(Vol-III)54 dated 3.10.2014 (F/E) addressed to Director Education FATA and copy ther endorsed to Political Agent Kurram, directed that the Political Agent r reconsidered the orders issued by the then Addl: Agency Education Office capacity of appointing/appellate authority. In compliance of Secretary SSD orc the Political Agent thoroughly examined the procedure of recruitment and che the credential of recruited candidates and furnished his detail report (F/F). recommendations of the Political Agent are as under:-

(i). 31 out of 70 candidates should be excluded/terminated as they had selected out of reserved quota (Agency/sub-division wise).

(ii). as it is serious nature case it should be decided by the Directorate o Education FATA.

4. In the month of August 2015 the affected/ teachers staged a protest in front o FATA Secretariat demanding for their restoration of appointment orders and releas of salaries. In this connection Secretary SSD constituted the following over-sigh committee vide his Office letter No.SO (Edu)/Oversight Committee 1572-75 date 19.8.2015 (F/G) with direction to look into the matter and resolve the issue of 7(No. appointments in Central & Lower Kurram Agency on merit under the followin ToRs.

ToRs

1. To go through the whole recruitment process
2. To find out the short comings in the recruitment process
3. Identify eligible/in-eligible candidates
4. To identify the competent appointing and appellate authorities
5. To make recommendations
6. To verify the documents
7. To re-examine the previous inquiries

8. FINDINGS

ToR No.1. The Additional Education Officer Lower/Central Kurram Agency at Sadda has issued appointment order of 70 teachers of various cadres in violation of recruitment policy i.e. (F/H).

a. Selection committee was not notified.
b. Merit lists of candidates were not prepared.
c. The un-notified Selection committee has not signed the merit list on each page.
d. 25% agency quota was not chalked out in the category of CT, PET, DM, JET/AW., TT, Qari, AT rather he has made appointment against the agency 25% quota.
e. In-eligible candidates were recruited and their appointment orders were issued without verification of their credentials.
f. Merit in some posts like J/C has not been followed.
g. Documents of most of the candidates were fake and bogus
h. Signatures on the merit list by the officers were illegal as the committee was not notified.

ToR No.2. As above.

ToR No.3. After perusal of the document of all candidates and verification made by Political Agent and Addl: AEO Lower & Central Kurram Agency, the candidates shown in proforma/format No.4 (F/I) were found eligible and candidates shown in proforma/format No.5(F/J)were found in-eligible.

ToR No.4. As per Notification the following are the competent authority/appellate authority in various category/Basic Pay Scale (F/K).

Identification of Authorities

S.No	Name of Category	Appointing Authority	Appellate Authority	Remarks
1	1 – 10	Agency Education Officers	Political Agent	
2	11 – 15	Political Agent	Secretary SSD FATA	

9. RECOMMENDATION

1. The then Additional Agency Education Officer Mr. Moeen Gul has committed gross irregularities in the recruitment process of teachers/officialsalready explained in finding No.1 reportedly in the list of in-eligible candidates of Central Kurram at S.No10 & 11are the real sisters of the officer under report (F/I).
2. The eligible candidates shall not be penalized for the irregularities committed by the then Addl: Agency Education Officer and they may be retained (recruited/appointed in the service).
3. In-eligible candidates appointed/recruited against the Agency quota 25% may be term nated.
4. In-eligible candidates who were recruited appointed on their fake documents may be terminated and criminal case may be registered against them and the salaries already paid to them may be recovered and deposited in proper head of account.
5. Mr.MoeenGul the then Addl: Agency Education officer may be charged sheeted under Govt servants (E&D) rules for irregularities, nepotism as stated in finding No.1.

OVERSIGHT COMMITTEE MEMBERS

Secretary FIFA

Director Education FATA

Deputy Secretary (Law & Order)

Deputy Director (F&A)
Directorate of Education FATA

(10)

Additional Agency Education Officer
Lower & Central Kurram Agency.
NO 2987-93 /Edu
Dated 11/ 12 /2015

TERMINATION ORDER.

Consequent upon the direction by the competent authority, Director of Education FATA Peshawar vide his No 12228 dated 07.12.2015,on the decesion of oversight committee the following in-eligible teaching/Non teaching appointees (M/F) BPS (7-9) appointed during January 2013 in Lower & Central Kurram are hereby terminated with effect from the date of their appointments. If salaries paid to them will be recovered from them accordingly .

S #	Name	Father Name	Desg:	BPS	Name of Institution	Remarks
1	Aqib Zaman	Said Amir Shah	CT	9	GHS Bagan	Terminated due to excess in sub divisional quota.
2	Muhammad Asif	Syal Khan	CT	9	GHS Makhizai	Terminated due to excess in sub divisional quota & advance appointment against on fill post.
3	Sara Bibi	Sakhi Mar Jan	DM	9	GGMS Bagan	DM diploma found fake & bogus .
4	Shahid Mehmood	Haji Sher Shah	PET	9	GMS Sraghurga	Diploma of JDPE found fake & bogus.
5	Muhammad Usman	Haji Shah Wazir	PET	9	GMS Arawali	Having no professional qualification.
6	Muhammad Alam Khan	Salam Khan	J/C	7	GHS Makhizai	Failed in typing test & rejected by enquiry officers.
7	Zubair Khan	Ghafoor Khan	J/C	7	GDC Bagan	Rejected by PA enquiry.
8	Muhammad Sadiq	Gul Mar Jan	J/C	7	GGDC Alizai	Failed in typing test as per advertisement & rejected by enquiry officers.
9	Sakhi Akbar	Sadiq Akbar	J/C	7	GHS Kochi	Failed in typing test as per advertisement & rejected by enquiry officers.
10	Sadia Batool	Abid Alam Jan	Lab/A-sstt	7	GGDC Alizai	Documents not provided for verification.
11	Muhammad Saeed	Zar Bat Khan	CT	9	GHS Baza	Terminated due to excess in sub divisional quota.
12	Muhammad Sadiq	Abdul Rasheed	CT	9	GMS Ossai	Terminated due to excess in sub divisional quota.
13	Latif Hussain	Inam Hussain	CT	9	GHS Angori	Domicile holder of upper kurram .
14	Wahid Zaman	Zawta Khan	CT	9	GHS Dogar	Terminated due to excess in sub divisional quota
15	Farooq Muhammad	Arab Gul	CT	9	GMS Taudy Oby.	Out of merit (M.Ed has wrongly been considered in place of MA)
16	Ajmal Akbar	Akbar Khan	CT	9	GGMS Dogar No -2	Terminated due to excess in sub divisional quota.

A Naeem

11

17	Bibi Sakina	Haji Gul Akbar	CT	9	GGMS Tabi Khonikhel	Terminated due to excess in sub divisional quota.
18	Samreen Sadaf	Haji Amin Khan	DM	9	GGMS Tarali	Documents not provided for verification .
19	Shamim Bibi	Spin Gul	DM	9	GGMS Dogar NO -2	Having no DM certificate & has not provide BA degree for verification .
20	Parveen Bibi	Spin Gul	DM	9	GGMS Ossai	Having no DM certificate & has not provide BA degree for verification .
21	Bibi Jamila	Niaz Bahadar Khan	DM	9	GGMS Tabi khonikhel	Having no DM certificate/diploma
22	Sajid Rehman	Haji Haider Khan	PET	9	GMS Dappa	JDPE diploma found fake & bogus.
23	Zia ul Alam	Noor Alam	PET	9	GMS Khazeena	JDPE diploma found fake & bogus.
24	Gul Hassan	Khan Bahadar	PET	9	GMS Jilamai	JDPE diploma found fake & bogus.
25	Kifayatullah	Mir Jehan	PET	9	GMS Kimal Baza	Having no professional documents.
26	Zar Taj Bibi	Haji Ajmir Khan	PET	9	GGMS Ossai	Having no professional documents & Lower Kurram domicile holder while she was appointed in Central Kurram, also appeared in CT(LK) while appointed as PET (CK).
27	Sajid Rehman	Said Aslam Khan	J/C	7	GHS Paloseen	Has been excluded by PA enquiry.
28	Siraj U Din	Walayat Khan	J/C	7	GHS Manatoo	Failed in typing test as per advertisement & rejected by enquiry officers.

Addl: Agency Education Officer
Lower & Central Kurram Sadda.

No 2987-93 /Edu: Dated 11 / 12 /2015

Copy for information to the:-

1. Director of Education FATA Peshawar.
2. Political Agent Kurram Agency.
3. Additional Political Agent Kurram Agency.
4. Agency Account Officer Kurram Agency.
5. Assistant Political Agent Lower Kurram .
6. Assistant Political Agent Central Kurram.
7. Principals/Headmasters concerned for similar action.

Addl: Agency Education Officer
Lower & Central Kurram Sadda.

(12)

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 298/2016

Date of Institution ... 28.03.2016
Date of Decision ... 31.05.2018

Mr. Wahid Zaman Ex: CT, Kurram Agency.

Appellant

Versus

1. The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Peshawar.
2. The Director of Education FATA, FATA Secretariat Warsak Road Peshawar.
3. The Additional Agency Education Officer, Lower and Central Kurram Agency at Sadda.
4. The Agency Account Officer, Kurram Agency.

Respondents

JUDGMENT

31.05.2018

MUHAMMAD HAMID MUGHAL, MEMBER: - Learned counsel for the appellants and Mr. Kabir Ullah Khattak, Additional Advocate General for the respondents present.

2. This single/common judgment shall dispose of the above captioned Appeal filed by (1) Wahid Zaman (Ex. CT) as well as (2) Service appeal No.294/2016 filed by Muhammad Siddique (Ex. CT), (3) Service appeal bearing No.299/2016 filed by Muhammad Saeed (Ex. CT), (4) Service appeal bearing No. 300/2016 filed by Aqib Zaman (Ex. CT), (5) Service appeal bearing No.302/2016 filed by Lateef Hussain (Ex.CT), being identical in nature.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(13)

3. The appellants (Ex-CTs), have filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 11.12.2015 whereby the appellants were terminated w.e.f the date of their appointments.

4. Learned counsel for the appellants argued that the respondent No.3 through advertisement published in the newspaper advertised various posts in Education Department Kurram Agency including the posts of CT and the appellant having the requisite qualification for the posts of CT applied for the same; that after participation in the test and interview the appellants were declared successful in the selection process and consequently the appellants were offered the said post through issuance of appointment order. Further argued that in response to the appointment of the appellants they started performing their duties at the stations/schools concerned. Further argued that astonishingly the respondent No. 3 issued the impugned order dated 11.12.2015 whereby the services of the appellants were terminated with retrospective effect. Further argued that the appellants have not been treated in accordance with law. Further argued that the appellants were appointed in the light of Appointment, Promotion & Transfer Rules. Further argued that the appellants were terminated without any regular inquiry and issuance of show cause notice. Further argued that no chance of personal hearing was given to the appellants before the issuance of impugned order. Learned counsel for the appellants strenuously argued that the impugned order is against the law, facts and norms of natural justice

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

hence liable to be set aside.

5. As against that learned Additional Advocate General while opposing the present appeal argued that the respondent department inquired the anomalies carried out in the recruitment process in Kurram Agency and for that purpose constituted oversight committee to trace out illegal appointees; that the committee submitted its report and thereby clearly picked out those candidates who had applied through fake and bogus degrees and were appointed illegally.

6. Arguments heard. File perused.

7. It is not disputed that the posts of C.T were advertised through advertisement in the newspaper and that the appellants having been fully qualified and eligible to apply for the same, participated in the recruitment process. Perusal of the impugned order dated 11.12.2015 would show that the appellants were terminated not for the reason that they were not eligible or duly qualified for posts of C.T rather their services were terminated simply on the ground that appointments of appellants Wahid Zaman (Ex. CT), Muhammad Siddique (Ex. CT), Muhammad Saeed (Ex. CT) and Aqib Zaman (Ex. CT) were found in excess to Sub Divisional quota and appellant Lateef Hussain (Ex. CT) is domicile holder of upper Kurram. In the written reply submitted by the respondent department is has not been explained that indeed for the posts of C.T there was a Sub Divisional quota, similarly in the written reply there is no mention of number of vacant posts of C.T

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(15)

in each Sub Division neither the total number of candidates posted against the posts of C.T in each Sub Division was given. It may also be mentioned that in the advertisement available on file it was simply mentioned that the candidate should be the permanent resident of Kurram Agency hence no distinction of upper Kurram or lower Kurram was there in the advertisement. Similarly the respondent department has not furnished any report of the committee declaring the appointments of the appellants as illegal. During the course of arguments learned Additional Advocate General failed to bring to the notice of this Tribunal any record/report justifying the issuance of the impugned order.

8. In the light of above discussion this Tribunal is constrained to issue direction to the respondent department to adjust/reinstate the appellants at the posts C.T with immediate effect without back benefits. The present service appeals bearing No.298/2016, 294/2016, 299/2016, 300/2016 and 302/2016 are accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room after its completion.

Certified to be ture copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Sd/-
Ahmed Hassan
Member

Sd/-
Muhammad Hamid Mughal
Member

Date of Presentation of Application	7-6-18
Number of Words	2400
Copying Fee	14 —
Urgent	2 —
Total	16 —
Name of Copyist	Hanif
Date of Completion of Copy	7-6-18
Date of Delivery of Copy	7-6-18

(16)

31.05.2018 Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

Vide separate common judgment of today placed on file of service appeal bearing No.298/2016, this Tribunal is constrained to issue direction to the respondent department to adjust/reinstate the appellant at the post C.T with immediate effect without back benefits. The present service appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
31.05.2018

Ahmad Hassan
Member

Muhammad Hamid Mughal
Member

Certified to be ture copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(17)

OFFICE OF THE DISTRICT EDUCATION OFFICER
KURRAM SADDA

Email Address: dydeolkcksadda@gmail.com
Phone No.0926-520674

File No. 1979-87 Dated Sadda 23/6/2023

CORRIGENDUM

In pursuance of this office Additional Agency Education Officer Lower and Central Kurram No. 6621-25 and Endst No. 6626-30 dated 22/11/2018 Mr. Muhammad Saeed CT and Mr. Aqib Zaman CT were reinstated conditionally in light of Service Tribunal appeal No. 300/2016.

Now in light of Khyber Pakhtunkhawa service Peshawar in execution petition No. 212/2023 case titled Muhammad Aqib Zaman CT Kurram Vs Govt of Khyber Pakhtunkhawa, the conditional of the above mentioned teachers are hereby withdrawn, and declared as unconditional i.e permanent/regular.

District Education Officer
Kurram at Sadda

Endst: Even No. & Date

Copy of the above is forwarded to the: -

1. Director, Elementary & Secondary Education Department, G.T Road, Peshawar.
2. Assistant Director (Lit:II) Khyber Pakhtunkhawa, Peshawar.
3. Section Officer (Lit-II) E&SED Khyber Pakhtunkhawa, Peshawar.
4. PA to Director (E&SED) Peshawar.
5. Deputy Commissioner District Kurram.
6. District Account Officer, District Kurram.
7. Master File.

District Education Officer
Kurram at Sadda

A/Tred

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 2214 /2023

AAQIB ZAMAN **VS** **THE DIRECTOR ELEMENTARY & SECONDARY EDUCATION & OTHERS**

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APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 2214 /2023

Mr. Aaqib Zaman, C.T (BPS-15),
Govt: High School Makhizai, Lower Kurram

..... APPELLANT

VERSUS

1- The Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2- The District Education Officer (M), District Kurram
3- The District Accounts Officer, District Kurram.

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 22/11/2018 WHEREBY THE APPELLANT WAS RE-INSTATED, BUT WITH IMMEDIATE EFFECT INSTEAD OF WITH EFFECT FROM 31/05/2018 I.E. FROM THE DATE OF PASSING OF JUDGMENT AND NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD OF 90 DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 22/11/2018 may very kindly be modified/ rectified to the extent that appellant may kindly be re-instated into service with effect from 31/05/2018 i.e. from the date of passing of judgment of this Honourable Tribunal, whereby the appellant was re-instated into service. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

Brief facts giving rise to the present appeal are as under:

1- That the appellant was initially appointed as C.T Teacher (BPS-15) after fulfilling all the legal and codal formalities.

2- That after appointment, the appellant started performing his duties in the concerned school with zeal and zest.

3- That the service book of the appellant is also been prepared by the respondents and proper entry regarding the appointment of the appellant has been made by the respondents in the said service book of the appellant. That astonishingly right from appointment the salaries of the appellant has been with held by the respondents without assigning any reason and clear justification.

4- That the appellant while performing his duties, the respondents astonishingly issued the termination order dated 11/12/2015 whereby the services of the appellant has been terminated with retrospective effect without conducting regular inquiry and without assigning any reason/clear justification, that feeling aggrieved form the said impugned order, the appellant filed departmental appeal followed by Service Appeal No 298/2016 before this Honourable Tribunal, which was allowed in favour of the appellant and the termination order dated 11/12/2015 was set aside through judgment dated 31/05/2018 and the appellant was re-instated with immediate effect. Copy of the judgment dated 31/05/2018 of this Honourable Tribunal is attached as annexure.....A

5- That in pursuance to the ibid judgment, the respondents issued the impugned order dated 22/11/2018, whereby the appellant has been re-instated, but with the immediate effect instead of with effect from 31/05/2018 from the date when the service appeal of the appellant was allowed. Copy of the order dated 22/11/2018 is attached as annexure.....B

6- That the respondent department filed CPLA No 692-P/2018 before the august Supreme Court of Pakistan, challenging the judgment dated 22/11/2018 of this Honourable Tribunal, but the same has been dismissed vide order dated 06/10/2022. Copy of the judgment of Supreme Court is attached as annexure.....C

7- That whereafter the respondent department through a corrigendum order dated 23/06/2023, the conditional order of the appellant has declared as permanent and the unconditional re-instatement order of the appellant was withdrawn by the respondents. Copy of corrigendum is attached as annexure.....D

8- That the appellant feeling aggrieved from the impugned order dated 22/11/2018 filed Departmental appeal before the respondent No.2 but no reply has been received so far.

Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure..... E

GROUNDS:

A- That the impugned order dated 22/11/2018 issued by the respondents is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be rectified/modified.

B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the respondent Department acted in arbitrary and malafide manner while issuing the impugned order dated 22/11/2018.

D- That the appellant has been re-instated in the light of the judgment of this Honourable Tribunal dated 31/05/2018, but the respondents issued the impugned re-instatement order dated 22/11/2018 with immediate effect instead with effect from the date of the judgment.

E- That the impugned order dated 22/11/2018 is also violative of the Article 38 (e) of the Constitution of Islamic Republic of Pakistan, 1973.

F- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 23-10-23

APPELLANT

AAQIB ZAMAN

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT