

(10)

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

Service Appeal No: 2081/2023


Tabassum SST, BPS-17 (P) District Malakand .....Appellant.

VERSUS

Government of Khyber Pakhtunkhwa through Secretary E&SE Department & others.....Respondents

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(Dr. Iqbal Khan)  
DIRECTOR

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

11-01-24  
Peshawar.

(1) (2)

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**

Service Appeal No: 2081/2023

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 10004

Dated 20-12-2023

Tabassum SST, BPS-17 (P) District Malakand .....Appellant.

VERSUS

Government of Khyber Pakhtunkhwa through Secretary E&SE Department &  
others.....Respondents

**JOINT PARAWISE COMMENTS ON & FOR BEHALF OF THE 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 is not an aggrieved person within the meaning of Section-4 of Khyber Pakhtunkhwa Service Tribunal Act-1974 read with Article 212 of the constitution of Islamic Republic of Pakistan, 1973
- 3 That the instant Service Appeal is badly time barred.
- 4 That the appellant has concealed material facts from this Honorable Tribunal, hence liable to be dismissed on this score.
- 5 That the appellant has filed the instant appeal on mala-fide motive.
- 6 That the appellant has not come to this Honorable Tribunal with clean hands.
- 7 That the appellant is not entitled for the grant of one pre-mature increment & other consequential benefits w.e.f. 01-10-2007 on the analogy of Judgments dated 03-07-2009 & 04-03-2010.
- 8 That the instant Service Appeal is against the prevailing law & rules, hence, not entitled for promotion in (BPS-18) TC post in the Respondent Department.
- 9 That the instant appeal is based on mala-fide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
- 10 That this Honorable Tribunal has got no jurisdiction to adjudicate upon the present Service appeal.
- 11 That the appeal is not maintainable in its present form & circumstances of the case as the Departmental Appeal dated 10-07-2023 of the appellant has been seen & filed under the Rules by the Department.

(2) (10)

12 That the appeal is bad for mis-joinder & non-joinder of the necessary parties.

### ON FACTS

1. That Para-1 relates to the service record of the appellant in the Respondent Department against the SST post regarding her adjustment at GGHS Kharkai Malakand on dated 17-10-1998 by the Department.
2. That Para-2 is pertains to the appointment order dated 25-03-1993 of the appellant against the SET in BPS-16 by the Department.
3. That Para-3 is also incorrect & denied on the grounds that the act of the Department with regard to the up gradation of the appellant in BPS-17 on dated ~~27-09-2008~~ instead of ~~01-10-2007~~ is within legal parameter *attached as Annex-A*.
4. That Para-4 is incorrect to the extent of not entitlement of the appellant of pre mature increment & her promotion in BPS-18 regular on the grounds that upgradation in upper scale is always for the financial benefits of the appellant & does not accrued any legal right for promotion against a regular post in BPS-18 under the Rules in the Department.
5. That Para-5 is also incorrect & denied on the grounds that the plea of the appellant is against the Rules & policy in vogue, hence, the Departmental appeal of the appellant dated 10-07-2023 for the grant of pre mature increment & for promotion to the post of BPS-18 TC H/SS has been seen & filed by the Department on the legal ground of regular promotion to the post of BPS-17 in the Department which is yet to be availed by the appellant in terms of his seniority cum fitness bases against his current post of SST.
6. That para-6 is incorrect as the appellant is not an aggrieved person within the meaning of Section-4 of Khyber Pakhtunkhwa Service Tribunal Act-1974 read with Article 212 of the constitution of Islamic Republic of Pakistan, 1973, hence, the appeal in hand is liable to be rejected on the following grounds inter alia: -

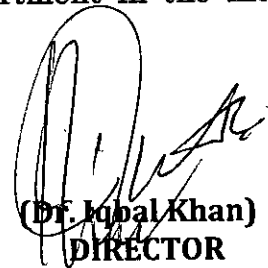
### ON GROUNDS

- A. Incorrect & denied, The appellant has been treated as per Law & Rules by the Department in the titled appeal & has been found in eligible for the grant of pre mature increment w.e.f. 01-10-2007 & promotion in BPS-18 TC under the Rules .
- B. Incorrect & denied. The appellant has been treated as per law & rules by the competent authority. Therefore, the stand of the appellant is baseless & Liable to be rejected.
- C. Incorrect & denied. The appellant is not a similarly placed person as he has been treated as per law & rules by the competent authority. Therefore, the stand of the appellant is baseless & Liable to be rejected.
- D. Incorrect & denied. The cited Judgment 2005 SCMR P-499 is not applicable upon the case of the appellant in the current circumstances of the titled case.

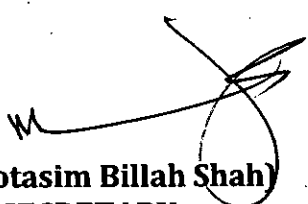
- E. Incorrect & denied. The appellant is not a similarly placed person as he has been treated as per law & rules by the competent authority. Therefore, the stand of the appellant is baseless & Liable to be rejected, hence, the provision of Rule-9-A of pay revision Rule-1908 is not applicable upon the case of the appellant.
- F. Incorrect & denied. The appellant has got no cause of action to approach this Honorable Tribunal in the titled appeal.
- G. Incorrect & denied. The appellant has been treated as per law & rules by the competent authority. Therefore, the stand of the appellant is baseless & Liable to be rejected under the provision of Article-4 of the constitutional of 1973.
- H. Incorrect & denied. The appellant has been treated as per law & rules by the competent authority. Therefore, the stand of the appellant is baseless & Liable to be rejected under the provision of Articles-25 & 27 of the constitutional of 1973. However, the Respondents also seek leave of this Honorable Tribunal to submit additional grounds, case law & record at the time of arguments on the date fixed before this Honorable Bench.

In view of the above made submissions, it is humbly prayed that this Honorable Tribunal may very graciously be pleased to dismiss the instant appeal with cost in favor of the respondent Department in the interest of justice.

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



**(Dr. Iqbal Khan)**  
**DIRECTOR**  
 E&SE Department Khyber  
 Pakhtunkhwa, Peshawar.  
 (Respondent No: 2)



**(Motasim Billah Shah)**  
**SECRETARY**  
 E&SE Department Khyber  
 Pakhtunkhwa, Peshawar.  
 (Respondents No: 1 & 2)

4 (102)

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

Service Appeal No: 2081/2023

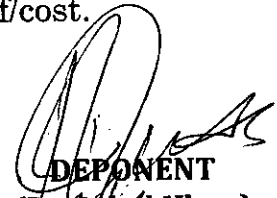
Tabassum SST, BPS-17 (P) District Malakand .....Appellant.

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary E&SE Department & others.....Respondents

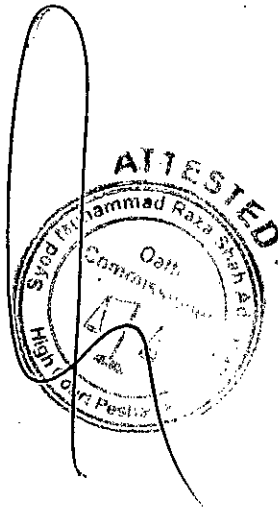
**AFFIDAVIT**

**I, Dr. Iqbal Khan Director E&SE Khyber Pakhtunkhwa,** 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.



**DEPONENT  
(Dr. Iqbal Khan)  
DIRECTOR**

E&SE Department Khyber  
Pakhtunkhwa, Peshawar.



**20 DEC 2023**

GOVERNMENT OF PUNJAB  
ELEMENTARY & SECONDARY  
EDUCATION DEPARTMENT

Dated Peshawar the 27-09-2008

NOTIFICATION

No. SO (PE) 2-6/E&S/Upgradation/SET. The competent authority on the recommendation of Departmental Promotion Committee and in consultation with Finance Department is pleased to allow one-time up-gradation from B-16 to B-17 (Personal) to the following 2335 SET's Male, 446 SET's Female, 23 SET's (Technical) and 02 SET's (Commerce) B-16 with immediate effect subject to the condition that the posts of SET shall be downgraded from B-17 to B-16 as and when vacated by the incumbents.

S.#	Name of Officer	Date of Appointment as Regular SET	Present Place of Posting
1	Khairullah Khan	1-11-86	GCMHS Peshawar Cantt.
2	Farid Nawaz Khan	2-11-86	ADO Bannu
3	Haidar Ali	5-16-86	GHS Tattar Khel Karak
4	Fazal Muhammad	5-11-86	GMS Purana Holi Mardan
5	Iqbal Hussain	6-11-86	GHS Jehangira Swabi
6	Abdul Rashid	15-12-86	GHS Mitha Khel Karak
7	Abdul Aziz	8-11-86	GMS Baikhan Mardan
8	Muhammad Ibrahim	11-11-86	GHS Julagram MKD
9	Abdul Sattar	11-11-86	GCMS ATD
10	Muhammad Daud	11-11-86	GHSS Spin Kai SWA
11	Mushtaqur Rahman	12-11-86	GHS Badwan DIR
12	Aurangzeb	12-11-86	GHSS Darra Peizu Lakki
13	Saeedullah	13-11-86	GMS Ushairai Dara Dir (U)
14	Muhammad Nazir	13-11-86	GHSS Khanpur Dir(L)
15	Sadiq Jan	14-11-86	ADO (M) Dir (U)
16	Gulzarif	15-11-86	GHS wardaga CHD
17	Ahmad Khalil	15-11-86	GHS Shuyya DIR (L)
18	Shahid-ud-Din	20-11-86	GMS Algram Abad MKD
19	Ali Akbar	23-11-86	GHS Totalai Bunir

Attested  
P

Attested  
D/G

SUPPLEMENTARY

C

370	Kishwar Sultana	25.3.96	GGMS Bakar Abad Chitral
371	Fehmida Begum	25.3.96	GGMS Ghundo Dala Mkd
372	Dilshad Begum	25.3.96	ADO(F) P. ESE Swat
373	Najma Shaheen	25.3.96	GGHSS Pahar Pur DIKhan
374	Bibi Jamila	25.3.96	GGMS Pothiandeh Chitral
375	Bibi Zaibun -Nisa	25.3.96	GGHS Drosh Chitral
376	Bibi Khairun- Nisa	25.3.96	GGHS Warijund Chitral
377	Razia Bibi	25.3.96	GGMS Khazana Dir(L)
378	Khalida Parveen	25.3.96	GGHS Chail Shagai Swat
379	Shahana Anjum	25.3.96	GGHS Kaich DIKhan
380	Nighat Shaheen	25.3.96	GGHS Dagai Sawabi
381	Nusrat Jamal	25.3.96	GGHS Garhi D. Zai Mardan
382	Tabassum	25.3.96	GGHS Kharkai Malakand
383	Tasneem Akhtar	25.3.96	GGMS Warsak Dir L
384	Shahida	25.3.96	GGHMS S Abad Malakand
385	Malika Bibi	25.3.96	GGMSGulMuqam Malakand
386	Rubina Bibi	25.3.96	GGCMHS Chitral
387	Zahida Nageen	25.3.96	GGMHS Sawabi
388	Saniya Farid	25.3.96	GGMHS Mansera
389	Yasmeen Begum	25.3.96	GGHS Baghdada Mardan
390	Riffat Khanam	25.3.96	GGCMS Manselira
391	Waheeda	25.3.96	GGCMHS Canal Rd Mardan
392	Waheeda	25.3.96	GGHS Bam Khail Sawabi
393	Bibi Sharifa	25.3.96	ADO(F) ESE Chitral
394	Shafi- ul -Wara	25.3.96	GGHS Gujjar Garhi Mardan
395	Qamar Begum	25.3.96	GGMS Sinlashi Chitral
396	Bakht Bibi	25.3.96	GGCMS Shakar Dara Kohat
397	Saima Shamim	25.3.96	GGHS Chagarmati Pesh
398	Sabiha Begum	25.3.96	GGCMHS Kohat
399	Mumtaz Jamal	25.3.96	GGMS Chamor Kon Chitral

Attested  
P

ADVO  
MUNICIPALITY OFFICE

# 02 SET'S COMMERCE

7  
A

S.#	Name of Officer	Date of Appointment as Regular SET	Present Place of Posting
1.	Kiramat Ullah	31-08-83	GHS No. 2 DI Khan
2	Fazl-e-Zaman	31-08-83	SET Commerce GHS Sikkapt No. 1 MKD

Secretary to Govt of NWFP  
Elementary & Secondary Education Department  
NWFP

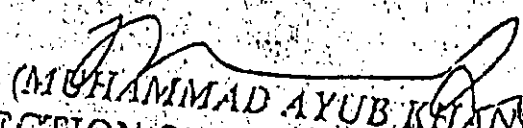
Endst. No. SO(PE/E&SE)/2-6/Upgradation SET

Dated 27-09-2008

Copy forwarded to the:-

1. The Accountant General NWFP, Peshawar.
2. Secretary to Govt of NWFP, Establishment Department.
3. Special Secretary (Regulation) Establishment & Administration Department, Peshawar.
4. Secretary to Govt of NWFP Finance Department NWFP Peshawar.
5. Director Elementary & Secondary Education NWFP, Peshawar.
6. Director Curriculum & Teacher Education NWFP, Abbottabad.
7. Director PITE Peshawar.
8. Director Education FATA NWFP.
9. All the EDOs E&SE in NWFP.
10. All the District /Agency/Account Officer in NWFP.
11. PS to Chief Secretary NWFP.
12. Officers Concerned.
13. PS to Minister for Education (Elementary & Secondary) NWFP.
14. PS to Secretary Elementary & Secondary Education Department NWFP.
15. Office Order File.

Attested  
P

  
(MUHAMMAD AYUB KHAN)  
SECTION OFFICER (PRIMARY)



BETTER COPY

(9)A

02 SET'S COMMERCE

S. No	Name of Officer	Date of appointment as regular SET	Present Place of Posting
1	Kirammat Ullah	31-08-83	GHS No 2 DI Khan
2	Fazl-e-Zaman	31-08-83	SET Commerce GHS Sikhakot No 1 MKD

SECRETARY TO GOVT OF NWFP  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT  
NWFP

Endst: No.SO(PE)/E&SE/2-6/Upgradation SET

Dated 27-09-2008

Copy forwarded to the:

- 1) The Accountant General NWFP Peshawar
- 2) Secretary to Govt of NWFP, Establishment Department
- 3) Special Secretary (Regulation), Establishment & Administration Department
- 4) Secretary to Govt of NWFP, Finance Department NWFP, Peshawar
- 5) Director Elementary & Secondary Education NWFP Peshawar
- 6) Director Curriculum & Teacher Education NWFP Abbottabad
- 7) Director PITE Peshawar
- 8) Director Education FATA NWFP
- 9) All the EDOs E&SEs in NWFP
- 10) All the District/Agency/ Account Officer in NWFP
- 11) PS to Chief Secretary NWFP
- 12) Officers concerned
- 13) PS to Minister for Education (Elementary & Secondary) NWFP
- 14) PS to Secretary Elementary & Secondary Education NWFP Peshawar
- 15) Officer order File

Attested  
②

(MUHAMMAD AYUB KHAN)  
SECTION OFFICER (PRIMARY)

Attested  
①  
Kirammat Ullah  
27/09/2008  
SUPERVISOR



(152)

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

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**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. 2081/2023** case titled **Tabassum SST, BPS-17 (P) District Malakand Vs Government of Khyber Pakhtunkhwa & others** fixed for hearing on 05-12-2023, hence, an authority letter is hereby issued in favor of the above-named officer.



**(Dr. Iqbal Khan)**  
**DIRECTOR**  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar