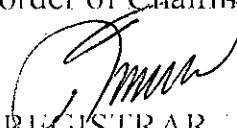


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

2599/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1-	2	3
1-	18/12/2023	<p>The appeal of Mr. Shahid Khan Masood presented today by Mr. Muhammad Zafar Khan Tahirkheli Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to the counsel for the appellant.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

Before the Service Tribunal Khyber Pakhtunkhwa

SA No: 2599/2023 Peshawar

Shahid Khan Masood vs Govt of K.P

Application for fixation of above noted Appeal before
the Principal seat at Peshawar

Respectfully sheweth:

- 1- The above titled Service appeal is being filed today in which date of hearing is yet to be fixed.
- 2- That the appeal is being filed along with two other appeals, within the territorial jurisdiction of Principal seat.
- 3- That to avoid inconvenience and conflicting judgments, all the three appeals may be heard together for their disposal on merits.

It is therefore requested that by accepting this application the above titled appeal may kindly be fixed at Principal seat at Peshawar along with two other identical appeals.

Peshawar
18-12-2023

Appellant
vs
Govt
Advocate

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 2899/2023

Shahid Khan Masood,

Versus

Govt of Khyber Pakhtunkhwa etc.

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I N D E X
—

S.No	Particulars	Date	Annexure	Pages
1	Memo of Petition			1-4
2	Affidavit			5
3	Addresses of Parties			6
4	Seniority list	31-12-2022	"A"	7-20
5	Departmental Appeal	22-08-2023	"B"	21-22
6	Advertisement	30-06-2004	"C"	23
7	Initial Appointment Order	30-09-2004	"C1"	24
8	PHC Judgment	08-03-2012	"D"	25-36
9	Advertisements	31-08-2006 & 04-05-2009	"E"to"E1"	37-38
10	Letter	16-03-2012	"F"	39-43
11	Regularization Act 2009		"G"	44-46
12	Letter	28-03-2022	"H"	47
13	Vakalatnama			48

Dated: 18th December, 2023


Muhammad Zafar Khan (Tahirkheli)
A.S.C.

0300-9597670
87, Al-Falah Street,
Cantt Colony, Peshawar

①

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No 2599/2023

Shahid Khan Masood s/o Sarfaraz Khan,
Assistant Professor, GCMS, D.I Khan.

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Higher Education, Libraries and Archives Department, Government of Khyber Pakhtunkhwa.
3. Director General, Commerce Education & Management Sciences, Khyber Pakhtunkhwa Rano-Ghari, Peshawar.
4. Mr. Ikhtiar Zada, Assistant Professor, GCMS Timergara.
5. Mr. Sadaat Khan, Assistant Professor, GCC-II, Peshawar.
6. Muhammad Tahir Shah, Assistant Professor, GCMS, Hangu.
7. Mr. Shahid Alam, Assistant Professor, GCC-II, Peshawar.
8. Muhammad Ibrahim, Assistant Professor, GCMS, Bajaur.
9. Mr. Irfan Ullah, Assistant Professor, GCMS Timergara.
10. Mr. Asif Ali, Assistant Professor, GCMS, Parachinar.
11. Mr. Muhammad Ilyas, Assistant Professor, GCMS Charsadda.
12. Mr. Zeenat Shah, Assistant Professor, GCMS Ghallani.
13. Mr. Salah Ud Din, Assistant Professor, GCMS, Talash.
14. Mr. Farid Ullah, Assistant Professor, GCMS, D.I Khan.

.....Respondents

=====

**SERVICE APPEAL U/S 4 OF NWFP SERVICE TRIBUNAL ACT, 1974,
AGAINST THE IMPUGNED SENIORITY LIST OF ASSISTANT
PROFESSORS BPS-18 (MALE) GOVT. COLLEGES OF COMMERCE &
MANAGEMENT SCIENCES AS STOOD ON 31-12-2022, NOTIFIED ON
11-07-2023 (COMMUNICATED ON 04-08-2023) (Annex "A"), AND THE
APPELLANT'S DEPARTMENTAL APPEAL DATED 22-08-2023 (Annex
"B") AGAINST THE SAID LIST, WAS NOT DECIDED WITHIN STATUTORY
PERIOD OF LIMITATION.**

=====

PRAYER:

By accepting this appeal;

- i. Setting aside the impugned seniority list as it stood on 31-12-2022, notified on 11-07-2023 and communicated on 04-08-2023; and

- (2)
- ii. Further, modifying the impugned seniority list and placing the appellant at S No. 76 of the said list instead of serial No. 90 on the basis of his initial appointment and regularization w.e.f 08-03-2012, on the basis of judgment and order passed by Peshawar High Court Peshawar in Writ Petition No. 1289 / 2010, thus being senior to respondents No. 4 to 14, who have been arbitrarily placed above the appellant.

=====

RESPECTFULLY SHEWETH;

1. Being qualified and eligible, the appellant was selected and appointed as Instructor vide order dated 30-09-2004 on contract basis after due process including test and interview as advertised in "Daily Aaj" for 30-06-2004.
(Copies annexed hereto marked "C & C1")
2. That the appellant approached the Peshawar High Court Peshawar through writ petition No. 1289 / 2010 for regularization of his service on the basis of Khyber Pakhtunkhwa (Regularization of services) act 2009. The writ petition was accepted vide judgement and order dated 08-03-2012.
(Copy annexed hereto marked "D")
3. The appellant was promoted as Assistant Professor (BPS-18) on 03-09-2020. That the department issued the impugned seniority list as it stood on 31-12-2022 which was approved vide notification dated 11-07-2023 and communicated to the appellant w.e.f 04-08-2023. (**Annex "A"**)
4. That the appellant was arbitrarily placed at serial No. 90 instead of his correct seniority position at serial No. 76 in view of his initial appointment and regularization w.e.f 08-03-2012, on the basis of judgment and order passed by Peshawar High Court Peshawar in Writ Petition No. 1239 / 2010, thus being senior to respondents No. 4 to 14.
5. That the appellant submitted his departmental appeal dated 22-08-2023 against the impugned seniority list, which was however not decided till the lapse of statutory period of limitation. (**Annex "B"**)

Feeling aggrieved and finding no other appropriate remedy, the appellant has been constrained to approach the Hon'ble Service Tribunal for the redress of his grievance, inter-alia, for the following,

Grounds

- (a) The respondent department has acted arbitrarily while issuing the impugned seniority list, which is in complete disregard to the appellant's inter-se-seniority in accordance with his initial date of appointment and regularization in view of the judgment of Peshawar High Court Peshawar dated 08-03-2012.
- (b) That the selection of the appellant was made after due process of test and interview duly advertised in "Daily Aaj" for 30-06-2004. The worthy department vide impugned seniority list has placed 11 Officials senior to the appellant who were appointed through subsequent advertisements issued on 31-08-2006 & 04-05-2009.
(Copies annexed hereto marked "E & E1")
- (c) It is worth mentioning that the respondents No. 4 to 6, 8 to 12 & 14 were appointed by the respondent department on the basis of advertisement issued on 31-08-2006, which is almost 02 years after the appellant's appointment.

Similarly, respondent No. 13 was appointed on the basis of advertisement dated 04-05-2009, which is almost 05 years after the appellant's appointment as Instructor (BPS-17). Respondent No. 7 was appointed along with the appellant but was however placed junior to him in order of seniority as determined in letter dated 16-08-2012 of respondent No. 3. (Copy annexed hereto marked "F")

(d) That according to Khyber Pakhtunkhwa Employees (Regularization of Services) Act 2009 the matter of regularization and seniority was explained as under;

3. Regularization of services of certain employees. --- All employees including recommendees of the High Court appointed on contract or adhoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post:

4. Determination of seniority. --- (1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority interse of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

(Copy annexed hereto marked "G")

(e) That the august Peshawar High Court Peshawar while accepting the appellant's writ petition vide judgment dated 08-03-2012 had observed;

.....

16. We, therefore, issue writ in favour of petitioners and against the respondent to the effect that petitioners shall be deemed to be regular and permanent employees of respondents' No. 1 and 2 Department within the meaning of NWFP (Regularization of Services) Act, 2009 and the respondents are directed to issue notification of their regularization within a period of one month.

**Announce
08-03-2012**

**Sd- Miftah ud Din Khan
Sd- Mian Fasih ul Mulk**

(f) That the Grievance Redressal Committee Directorate of Commerce Education and Management Sciences duly recognized the anomaly existing in the department and had made their recommendations vide letter dated 28-03-2022, wherein it was recommended that;

7. The plea of Mr. Shahid Khan Masood, Assistant Professor (GCMS D.I Khan) seems to be genuine. His seniority issue be resolved in conformity to the provisions contained in sub rule 2 of Rule 4 of employees (Regularization of Service) Act/2009.

(Copy annexed hereto marked "H")

(g) As discussed in preceding paras the regularization Act 2009 judgment of PHC dated 08-03-2012 and the respondent department itself has categorically held that the appellant's seniority would reckon from the date of his regularization in view of the judgment of PHC dated 08-03-2012 and his initial appointment order.

(h) The appellant has been denied of his due place in the impugned seniority list of Assistant Professors as it stood on 31-12-2022 without any sound reason and plausible explanation.

Respondents have to act according to the law. Any design harmful to the Appellant's service interest cannot be imposed arbitrarily, in violation of the Appellant's vested rights of service.

(i) That the impugned seniority list dated 31-12-2022 has been issued in haste, without considering the seniority of the appellant, earlier decision of Peshawar High Court and other material facts on record, which is subject to correction by the worthy authority.

(j) The impugned omission to allow proper seniority position to the appellant is thus arbitrary, discriminatory, against the principles of equity, law, justice and propriety, calling for interference by this Hon'ble Tribunal.

i. In view of the above, it is most humbly requested that by accepting this appeal the impugned seniority list as it stood on 31-12-2022, communicated on 04-08-2023, may be set aside; and

ii. Further, the impugned seniority list dated 31-12-2022 may kindly be modified by placing the appellant at S No. 76 of the said list instead of serial No. 90 on the basis of his initial appointment and regularization w.e.f 08-03-2012, on the basis of judgment and order passed by Peshawar High Court Peshawar in Writ Petition No. 1289 / 2010, being senior to respondents No. 4 to 14, who have been arbitrarily placed above the appellant.

Any other relief deemed appropriate may also be granted in addition to the relief claimed above.

[Handwritten signature]

Appellant

Through,

[Handwritten signature]

Muhammad Zafar Khan (Tahirkheli)
A.S.C.

Peshawar, dated
18th December, 2023

Certificate

Certified that no other appeal on the same subject matter has been filed prior to the instant appeal.

[Handwritten signature]

Appellant

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. _____/2023

Shahid Khan Masood,

Versus


Govt of Khyber Pakhtunkhwa etc.

=====
I N D E X

Affidavit

I, the appellatant, Shahid Khan Masood, Assistant Professor, GCMS, D.I Khan. do hereby state on Oath that the contents of the accompanying appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Hon'ble Tribunal.

Date:- 18th December, 2023

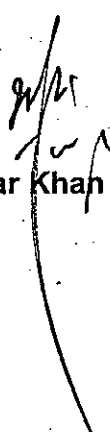


DEPONENT

CNIC No. 12201-4661606-7

Cell No. 0300-9091690

Identified by;



Muhammad Zafar Khan (Tahirkheli)
A S C.

(6)

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. _____/2023

Shahid Khan Masood,

Versus

Govt of Khyber Pakhtunkhwa etc.

=====
ADDRESSES OF PARTIES

Appellant;

Shahid Khan Masood s/o Sarfaraz Khan,
Assistant Professor, GCMS, D.I Khan.

Respondents;

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Higher Education, Libraries and Archives Department, Government of Khyber Pakhtunkhwa.
3. Director General, Commerce Education & Management Sciences, Khyber Pakhtunkhwa Rano-Ghari, Peshawar.
4. Mr. Ikhtiar Zada, Assistant Professor, GCMS Timergara.
5. Mr. Sadaat Khan, Assistant Professor, GCC-II, Peshawar.
6. Muhammad Tahir Shah, Assistant Professor, GCMS, Hangu.
7. Mr. Shahid Alam, Assistant Professor, GCC-II, Peshawar.
8. Muhammad Ibrahim, Assistant Professor, GCMS, Bajaur.
9. Mr. Irfan Ullah, Assistant Professor, GCMS Timergara.
10. Mr. Asif Ali, Assistant Professor, GCMS, Parachinar.
11. Mr. Muhammad Ilyas, Assistant Professor, GCMS Charsadda.
12. Mr. Zeenat Shah, Assistant Professor, GCMS Ghallani.
13. Mr. Salah Ud Din, Assistant Professor, GCMS, Talash.
14. Mr. Farid Ullah, Assistant Professor, GCMS, D.I Khan.


Appellant

Through,


Advocate.

Peshawar, dated
18th December, 2023



GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

DATED PESHAWAR THE 11/07/2023

NOTIFICATION

ANNEXURE

No. SO(CE&MS)HED/1-23/:

In exercise of power conferred under sub-section (1) of section-8 of the Khyber Pakhtunkhwa, Civil Servants Act, 1973 read with Establishment Department's instructions No. SO(R-VI)/E&AD/1-16/2008/Vol-VI, dated: 26-07-2010, the Chief Secretary Khyber Pakhtunkhwa is pleased to approve final seniority list of Assistant Professors (male) BPS-18, Government Colleges of Management Sciences/Govt. Colleges of Commerce, Khyber Pakhtunkhwa as it stood on 31-12-2022.

-sd-

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA,
HIGHER EDUCATION, DEPARTMENT

Endst: No. & date even.

Copy forwarded to the:-

1. Directorate General, Commerce Education and Management Sciences, Khyber Pakhtunkhwa, Peshawar, alongwith original approved seniority list, with the request to circulate to all concerned.
2. Director-IT, HEMIS Cell, Higher Education Department, with the request to upload the same on the official website of the department.
3. PS to Secretary Higher Education Department.
4. Master file.

11/07/2023
SECTION OFFICER (CE&MS)

TRUE COPY

DRAFT FINAL SENIORITY LIST OF ASSISTANT PROFESSORS IN BPS-18 (MALE) GOVERNMENT COLLEGES OF
MANAGEMENT SCIENCES/GOVERNMENT COLLEGES OF COMMERCE AS STOOD ON 31.12.2022

TOTAL SANCTIONED POSTS = 331 (REGULAR)

S.No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/promotion to the present post.		Present appointment with date	Remarks
					BPS	Method of recruitment appointment		
1.	Mr. Zaher Alam i)M.Com ii)M.S (Management Sciences) GCMS Abbottabad	15-04-1985 Mansehra	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018 (A/p B-18) 20-12-2022 (A/P B-19) on A.C.B	
2.	Mr. Noor Rehman BBA (Hons) GCMS Peshawar	1/4/1984 Peshawar	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	13	Promotion	10-08-2018 20-12-2022 (A/P B-19) on A.C.B	
3.	Mr. Ibadullah i)M.Com ii)M.S (Mgt. science) GCMS Peshawar	02-08-1984 Peshawar	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018 20-12-2022 (A/P B-19) on A.C.B	
4.	Mr. Atta-ur-Rehman MBA GCMS Kohat	04-02-1982 Lakki	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018 20-12-2022 (A/P B-19) on A.C.B	
5.	Mr. Zia-ul-Islam i)MBA ii)M.S (Management Sciences) GCMS Swabi	10-04-1983 Swabi	8-Jan-2011	8-Jan-2011	18	Promotion	27-04-2022	

TRUE COPY

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S.No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/Promotion to the present post.		Present appointment with date	Remarks
					BPS	Method of recruitment appointment		
2		3	4	5	6	7	8	9
6.	Syed Muhammad Tausif Shah MBA GCMS Mardan	03-02-1979 Peshawar	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
7.	Mr. Fatehullah MBA, MS Management GCMS D.I.Khan	09-04-1983 F.R.Tank	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
8.	Mr. Jamshed Raza MBA/M.Phil GCMS Karak	01-08-1983 Karak	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
9.	Mr. Farman Ullah Jan M.Com GCMS Charsadda	13-02-1985 Charsadda	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
10.	Mr. Anwar Khan M.Com GCMS Peshawar	01-09-1985 Khy: Agency	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
11.	Mr. Wajahat Hussain MBA GCMS Shabqadar Charsadda	10-02-1980 Charsadda	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
12.	Muhammad Wasim Ihsan MBA GCMS Lakki Marwat	08-01-1982 Lakki	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
13.	Muhammad Riaz Alam M.Com GCMS D I Khan	25-12-1983 SWA	18-Mar-2011	Advt.No.1/2009 18-Mar-2011	18	Promotion	10-08-2018	
14.	Mr. Kamran Ahmad i)M.Com ii)M.S (Mgt. Sc) GCMS Jamrud	14-08-1984 Khyber Agency	20-Nov-2008	Advt.No.1/2009 8-Mar-2011	18	Promotion	10-08-2018	

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S.No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/Promotion to the present post.		Present appointment with date	Remarks
					BPS	Method of recruitment appointment		
2		3	4	5	6	7	8	9
15.	Muhammad Yasir i)MBA ii)M.S (Management Sciences) GCMS D.I.Khan	21-03-1984 D.I.Khan	3-Jan-2011	Advt.No.1/2009 26-Feb-2011	18	Promotion.	10-08-2018	
16.	Muhammad Tariq M.Com MS (Management Sciences) GCMS Mansehra	02-02-1978 Mansehra	8-Sep-1997	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
17.	Mr. Junaid Nawaz Khan MBA GCMS Mansehra	10-10-1983 Mansehra	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
18.	Mr. Shahid Hussain M.Com, MS (Management) GCMS Sangota Swat.	20-09-1984 Dir	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
19.	Mr. Ajaz Ahmad MBA GCMS Jamrud	08-04-1980 Chitral	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
20.	Mr. Fazal-e-Wahab BCS (Hons) GCMS Charsadda	22-03-1985 M.Agency	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
21.	Syed Rahim Shah. i)M.Sc (Computer Science) ii)M.S (Data Base) GCMS Peshawar	06-07-1966 Peshawar	26-Oct-2010	Advt.No.1/2009 26-Oct-2010	18	Promotion	10-08-2018	
22.	Muhammad Nawaz Khan B.S (Hons) (Computer Science) GCMS Talash	12-03-1984 Dir (L)	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	

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S.No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/Promotion to the present post.		Present appointment with date	Remarks
					BPS	Method of recruitment appointment		
		3	4	5	6	7	8	9
23.	Mr. Amanullah i)M.Sc (Computer Science) ii)M.S (Computer Science) GCMS Bannu	08-09-1979 Bannu	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
24.	Mr. Rahatullah i)M.Sc (Computer Science) GCC-II Mardan	10-02-1986 Charsadda	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
25.	Mr. Gul Zeb i)M.Sc (Computer Science) ii) M.S(Project Management) GCMS Abbottabad	24-04-1979 Abbottabad	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
26.	Mr. Mir Sajid Khan i)M.Sc (Computer Science) GCMS Miranshah	05-06-1982 F.R Bannu	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
27.	Muhammad Ali Shah i)M.Sc (Computer Science) GCMS D.I.Khan	10-04-1982 D.I Khan	8-Jan-2011	Advt.No.1/2009 8-Jan-2011	18	Promotion	10-08-2018	
28.	Mrs. Noor-ul-Ain M.Com GCC (W) Abbottabad	28-05-1986 Abbottabad	22-Feb-2010	Advt.No.1/2009 22-Feb-2010	18	Promotion	10-08-2018	
29.	Mr. Kalim Ullah Khan i)M.Sc (Computer Science) GCMS Abbottabad	27-02-1980 Abbottabad	8-Aug-2012	Advt.No.1/2009 8-Aug-2012	18	Promotion	10-08-2018	
30.	Mr. Nisarullah MBA GCMS Bunir	13-04-1980 Shangla	31-May-2010	Advt.No.1/2009 31-May-2010	18	Promotion	10-08-2018	
31.	Mr. Khalid Nawaz M.Sc (Economics), MS Econ: GCC-II, Peshawar	06-06-1984 Karak	20-May-2010	Advt.No.3/2009 20-May-2010	18	Promotion	10-08-2018	

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S.No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/Promotion to the present post.		Present appointment with date	Remarks
					BPS	Method of recruitment appointment		
2		3	4	5	6	7	8	9
32.	Mr. Irfan-ul- Wahab i) M.A (English) ii) M.S (English) GCMS Peshawar	13-01-1978 Nowshera	30-Apr-2010	Advt.No.3/2009 30-Apr-2010	18	Promotion	10-08-2018	
33.	Malik Muhammad Naveed i) M.A (English) GCMS Manshera	22-3-1983 Manshera	30-Apr-2010	Advt.No.3/2009 30-Apr-2010	18	Promotion	10-08-2018	
34.	Mr. Salim Khan i) M.A (English) /B.Ed GCMS Karak	01-05-1977 Karak	30-Apr-2010	Advt.No.3/2009 30-Apr-2010	18	Promotion	10-08-2018	
35.	Mr. Anif Ulah Khan MBA (Finance) / MS (Management Sciences GCC-II Bannu	10-01-1986 Bannu	30-May-2008	Advt.No.8/2009 26-Feb-2011	18	Promotion	10-08-2018	
36.	Mr. Maaz Idrees MBA GCMS Mardan	24-02-1985 Swabi	11-Jan-2008	Advt.No.8/2009 26-Feb-2011	18	Promotion	10-08-2018	
37.	Mr. Nigar Khan M.Com GCC-II Peshawar	03-04-1985 Peshawar	26-Feb-2011	Advt.No.8/2009 26-Feb-2011	18	Promotion	10-08-2018	
38.	Syed Rahman MS (Management Sciences/ MBA GCMS Sangota Swat	30-04-1980 Swat	11-Jan-2008	Advt.No.8/2009 26-Feb-2011	18	Promotion	10-08-2018	
39.	Mr. Waheed Ullah M.Com MS (Management Sciences) GCMS Peshawar	07-01-1983 Karak	17-Nov-2008	Advt.No.8/2009 26-Feb-2011	18	Promotion	10-08-2018	

TRUE COPY

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(13)

S.No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/Promotion to the present post.		Present appointment with date	Remarks
					BPS	Method of recruitment appointment		
2		3	4	5	6	7	8	9
40.	Mr. Zahid Yousaf M.Com GCMS Manshera	20-09-1983 Abbottabad	3-Jan-2011	Advt.No.8/2009 26-Feb-2011	18	Promotion	10-08-2018	
41.	Muhammad Shafiq-ur-Rahman M.Phil (Islamiat-I)/B.Ed Hafiz-Ul-Quran GCMS Abbottabad	05-04-1984 Abbottabad	19-Jan-2011	Advt.No.8/2009 19-Jan-2011	18	Promotion	10-08-2018	
42.	Mr. Tufail Khan i) M.Sc (Computer Sciences) GCC-II Mardan	01-04-1985 Mardan	17-Feb-2012	Advt.No.8/2009 17-Feb-2012	18	Promotion	10-08-2018	
43.	Mr. Khurshid Alam M.S (Information Technology) GCMS Karak	20-10-1983 Karak	17-Feb-2012	Advt.No.8/2009 17-Feb-2012	18	Promotion	22-02-2019	
44.	Mr. Mohibur Rehman i)M.CS GCMS Mansehra	16-04-1983 Mansehra	17-Feb-2012	Advt.No.8/2009 17-Feb-2012	18	Promotion	22-02-2019	
45.	Mr. Hussain Ahmad i) MS (Computer Sciences) GCMS Wari	05-02-1984 Dir	17-Feb-2012	Advt.No.8/2009 17-Feb-2012	18	Promotion	22-02-2019	
46.	Mr. Jibran Khan i) M.Sc (Computer Sciences) GCMS Jallozai	10-03-1983 Nowshera	17-Feb-2012	Advt.No.8/2009 17-Feb-2012	18	Promotion	22-02-2019	
47.	Miss. Nousheen Rehman M.Com GCC (W) Abbottabad	28-03-1986 Abbottabad	7-Sep-2010	Advt.No.8/2009 7-Sep-2010	18	Promotion	10-08-2018	

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S.No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/Promotion to the present post.		Present appointment with date	Remarks
					BPS	Method of recruitment appointment		
2		3	4	5	6	7	8	9
48.	Mr. Bahre-Alam i) M.Sc (Economics -Gold Medalist) GCMS Thana Malakand	01-03-1982 Swat	11-Nov-2010	Advt.No.8/2009 11-Nov-2010	18	Promotion	10-08-2018	
49.	Mr. Hazrat Ullah i) M.Sc (Economics) GCMS Bannu	26-04-1982 F.R. Bannu	11-Nov-2010	Advt.No.8/2009 11-Nov-2010	18	Promotion	10-08-2018	
50.	Mr. Fida Muhammad M.A (English) GCMS Jamrud	01-03-1980 FR Bannu	01-Dec-2010	Advt.No.8/2009 26-Nov-2010	18	Promotion	10-08-2018	
51.	Miss. Nazish Bibi i) MBA ii) M.S (Banking & Finance) GCC (W) Abbottabad	15-04-1985 Abbottabad	7-Sep-2010	Advt.No.8/2009 7-Sep-2010	18	Promotion	10-08-2018	
52.	Mr. Tariq Wadood i) M.A (Urdu- Gold Medalist) GCMS Thana	13-02-1984 Malakand	15-Oct-2010	Advt.No.8/2009 15-Oct-2010	18	Promotion	10-08-2018	
53.	Mr. Attaullah M.CS GCMS Khar Bajur	10-02-1983 Bajaur Agency	04-June-2009	Advt.No.8/2009 31-Dec-2012	18	Promotion	22-02-2019	
54.	Miss. Sumaira Ishaq MBA GCMS Haripur	04-04-1982 Haripur	7-Sep-2010	7-Sep-2010	18	Promotion	03-09-2020	She is on ex-Pakistan leave without pay w.e.f 1.11.2021 to 31/10/2023 (2 Years)
55.	Mr. Ahmad Kamal Khattak. M.A (English) GCMS Karak	10-04-1983 Karak	26-Nov-2010	Advt.No.8/2009 26-Nov-2010	18	Promotion	10-08-2018	

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No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/Promotion to the present post.		Present appointment with date	Remarks
					BPS	Method of recruitment appointment		
2		3	4	5	6	7	8	9
56.	Mr. Naimat Ullah M.A (English) GCMS Bannu	16-9-1983 FR Bannu	26-Nov-2010	Advt.No.8/2009 26-Nov-2010	18	Promotion	10-08-2018	
57.	Mr. Tahir Khan M.A (Urdu) GCMS Jamrud	04-03-1986 Khy:Agency	15-Oct-2010	Advt.No.8/2009 15-Oct-2010	18	Promotion	10-08-2018	
58.	Mr. Abdul Khaliq i) M.A (Urdu)/B.Ed ii)M.Phil iii)Ph.D GCMS Mardan	02-01-1983 Mardan	15-Oct-2010	Advt.No.8/2009 15-Oct-2010	18	Promotion	10-08-2018	
59.	Mr. Noor-ul-Hadi i)M.Com ii)M.S (Finance). GCMS Peshawar	25-03-1981 Peshawar	02-12-2005	Advt.No.8/2009 7-Oct-2010	18	Promotion	10-08-2018	
60.	Mr. Atiq-ur-Rehman M.A (English)/MBA (HRM)/B.Ed GCMS Talash Dir Lower	04-04-1980 Swat	26-Nov-2010	Advt.No.8/2009 26-Nov-2010	18	Promotion	10-08-2018	
61.	Mr. Ashfaq Ahmad MS Mgt Science/M. Com GCMS Mansehra	06-02-1980 Mansehra	11-Nov-2010	Advt.No.8/2009 11-Nov-2010	18	Promotion	10-08-2018	
62.	Mr. Bakhtiar Ali M.Com GCMS Swabi	14-06-1979 Swabi	28-Apr-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	
63.	Mr. Jan Ayaz Khan M.Com GCMS Peshawar	01-04-1980 Charsadda	7-Dec-2002	Promotion 14-May-2011	18	Promotion	10-08-2018	

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S.No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/Promotion to the present post.		Present appointment with date.	Remarks
					BPS	Method of recruitment appointment		
2	3	4	5	6	7	8	9	
64.	Mr. Ashfaq Ahmad i)M.A (Economics)/B.Com ii)M.A (Urdu) iii)M.Com/M.Ed/IR iv) MS Management Sciences GCMS Abbottabad	26-04-1970 Abbottabad	5-May-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	
65.	Mr. Mian Bashir M.Com GCMS Lakki Marwat	10-01-1978 Lakki	28-Apr-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	
66.	Mr. Saz Wali Khan M.Com GCMS Ghallanai	07-03-1979 Moh Agency	27-Apr-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	
67.	Mr. Shakeel Khan i)M.Com ii)M.S (Management Sciences) GCMS Wari	19-02-1982 Malakand	5-May-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	
68.	Mr. Abdul Kabir M.Com GCMS Mardan	06-01-1983 Dir	5-Aug-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	
69.	Mr. Aftab Ahmad M.Com GCMS Chitral	01-03-1984 Chitral	5-Sep-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	
70.	Mr. Israr Ahmad M.Com GCMS Ghallanai	16-05-1979 Moh Agency	25-Apr-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	
71.	Mr. Qader Nawaz B.Com-II/M.A (Islamiat) GCMS Bannu	01-03-1968 Bannu	22-Apr-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	

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S.No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/Promotion to the present post.		Present appointment with date	Remarks
					BPS	Method of recruitment appointment		
2		3	4	5	6	7	8	9
72.	Mr. Shujaat Hussain M.Com GCMS Thana	10-01-1971 Malakand	5-May-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	
73.	Mr. Tajir Khan M.Com GCMS, Jamrud	11-11-1980 KurrumAgcy	5-Feb-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	
74.	Mr. Gulsher Nawaz M.Com GCMS Bannu	03-03-1979 FR Bannu	5-May-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	
75.	Mr. Asghar Ali M.Com GCMS Ghallanai	21-12-1976 Moh Agency	27-Apr-2006	Promotion 14-May-2011	18	Promotion	10-08-2018	
76.	Mr. Ikhtiar Zada M.Com GCMS Timergara	04-09-1973 Bajaur Agency	31-Dec-2012	31-Dec-2012	18	Promotion	22-02-2019	
77.	Mr. Sadaat Khan M.A (English) GCC-II Peshawar	10-10-1973 Khyber Agency	31-Dec-2012	31-Dec-2012	18	Promotion	22-02-2019	
78.	Mr. Muhammad Sohail i) M.Com ii) M.S (Management Sciences) GCMS, Haripur.	13-03-1985 HariPur	30.10.2008	29-Oct-2015	18	Initial	14-02-2020	
79.	Mr. Ikram- Ul-Haq i) MBA ii) M.S (Mgt Sciences) GCMS, Mansehra.	20-3-1985 Mansehra	25.11.2010	29-Oct-2015	18	Initial	14-02-2020	
80.	Mr. Zahoor-ul-Haq i) M.Com ii) M.S (Mgt: Sc.) GCC-II, Mardan	02-02-1984 Mardan	30.10.2008	29-Oct-2015	18	Initial	14-02-2020	

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S.No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/Promotion to the present post.		Present appointment with date	Remarks
					BPS	Method of recruitment appointment		
2		3	4	5	6	7	8	9
81.	Muhammad Tahir Shah M.A (English) GCMS Hangu	18-04-1974 NWA	31-Dec-2012	31-Dec-2012	18	Promotion	03-09-2020	
82.	Mr. Shahid Alam M.Sc (Computer Sciences) GCC-II Peshawar	10-02-1977 Swabi	31-Dec-2012	31-Dec-2012	18	Promotion	03-09-2020	
83.	Muhammad Ibrahim M.A (English) GCMS Bajaur	15-03-1977 Bajaur Agency	31-Dec-2012	31-Dec-2012	18	Promotion	03-09-2020	
84.	Mr. Irfan Ullah M.Com GCMS Timergara	15-06-1977 Dir (L)	31-Dec-2012	31-Dec-2012	18	Promotion	03-09-2020	
85.	Mr. Asif Ali M.Sc (Computer Sciences) GCMS Parachinar	09/03/1978 Kurram Agency	31-Dec-2012	31-Dec-2012	18	Promotion	19-01-2022	
86.	Mr. Muhammad Ilyas M.Com GCMS Charsadda	20-05-1978 Moh Agency	31-Dec-2012	31-Dec-2012	18	Promotion	03-09-2020	
87.	Mr. Zeenat Shah M.Com GCMS Ghallanai	15-03-1979 Moh Agency	31-Dec-2012	31-Dec-2012	18	Promotion	03-09-2020	
88.	Mr. Salah-ud-Din MBA GCMS, Talash	01-05-1979 Bajaur Agency	31-Dec-2012	31-Dec-2012	18	Promotion	19-01-2022	
89.	Mr. Faridullah M.Sc (Computer Sciences) GCMS, DI Khan	01-10-1979 SWA	31-Dec-2012	31-Dec-2012	18	Promotion	19-01-2022	

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S.No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/Promotion to the present post.		Present appointment with date	Remark
					BPS	Method of recruitment appointment		
2		3	4	5	6	7	8	9
90.	Mr. Shahid Khan Masud M.Sc (Computer Sciences) GCMS DI Khan	08-10-1979 NWA	31-Dec-2012	31-Dec-2012	18	Promotion	03-09-2020	
91.	Mr. Shoukat Hussain M.Com GCMS Parachinar	05-01-1980 Kurram Agency	31-Dec-2012	31-Dec-2012	18	Promotion	03-09-2020	
92.	Mr. Sajjad Ahmad MIT GCMS/Shabqadar	20-01-1980 Moh: Agency	31-Dec-2012	31-Dec-2012	18	Promotion	03-09-2020	
93.	Mr. Amjid Ali M.Com GCMS Parachinar	03-03-1980 Kurram Agency	31-Dec-2012	31-Dec-2012	18	Promotion	03-09-2020	
94.	Syed Naveed Hussain M.A (English) GCMS Abbottabad	20-04-1979 Charsadda	1-Nov-2020	1-Nov-2020	18	Initial	Advt. 1/2018 1-Nov-2020	
95.	Mr. Hazrat Ali M.S (Maths) GCMS Mardan	20-03-1983 Mardan	16-Dec-2017	23-June-2021	18	Initial	Advt. 2/2019 23-June-2021	
96.	Mr. Laique Zada M.S (Maths) GCMS Charsadda	10-03-1985 Swabi	20-July-2012	24-June-2021	18	Initial	Advt. 2/2019 24-June-2021	
97.	Mr. Zubair Assistant Professor BSCS, M.A Political Science Computer Sciences GCMS Timergara	15-04-1986 DIR (Lower)	03-12-2012	07-July-2021	18	Initial	Advt. 2/2019 07-July-2021	

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S.No.	Name of Officer with Academic Qualification	Date of Birth /Domicile	Date of 1 st entry into Govt. Service	Date of Regular Appointment to the service/cadre	Regular appointment/Promotion to the present post.		Present appointment with date	Remarks
					BPS	Method of recruitment appointment		
		3	4	5	6	7	8	9
226	Mr. Zahid Hussain M Com GCMS, Parachinar	03.02.1982 Kurram Agcy	04.04.2016	04.04.2016	18	Promotion	29-12-2022	
227	Mr. Asmat Ali M-Com GCMS, Hangu.	23.04.1983 Kurram Agcy	04.04.2016	04.04.2016	18	Promotion	29-12-2022	

1. Certified that tentative seniority list was circulated amongst all incumbents and is not sub-judice in any court of law.
2. Certified that sanction strength of the cadre is 331 as reflected in the budget book.

(Signature)
(SAMI ULLAH KHAN)
DIRECTOR (ADMN)

(Signature)
SECTION OFFICER (COMMERCE)
HIGHER EDUCATION DEPARTMENT

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To
The Director General,
Commerce Education & Management Sciences,
Khyber Pakhtunkhwa Peshawar.

Through: Proper Channel.

Subject: Seniority Fixation of Assistant Processor BPS-18 as it stood on 31.12.2022

21
ANNEXURE B

Kindly refer to your letter No DGCE&MS/Admn/Seniority/4334(1-42) dated: 01/01/2023.

It is stated that my seniority position has incorrectly been shown at Sr. No. 90 in the provisional Seniority List of Assistant Processor BPS-18 as referred to above. It is pertinent to point out that: -

1. My services as lecturer in BPS-17 were regularized under N.W.F.P Employees (Regularization of Services) Act 2009 vide notification No. SO111 (IND) TE/3 - 9/2012 dated 31/12/2012. According to the terms and conditions of my regular appointment at "P" our seniority shall be determined in accordance with relevant laws but subject to section-4 of N.W.F.P Employees (Regularization of Services) Act 2009. Section 4 of the said Act is reproduced as under.

Determination of Seniority: - (1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who in pursuance of the recommendations of the commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

2. Whereas the N.W.F.P EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009 was commenced on 24.10.2009, therefore, according to section 4 of the said Act only those shall be senior to the undersigned who were already in services in BPS - 17 on regular basis on or before the commencement of the Act i.e. 24.10.2009 and all those who were inducted in the same cadre after this date whether promoted or initially recruited shall stand junior to the undersigned.
3. Amazingly all those promoted to BPS-18 or initially appointed on regular basis after 24.10.2009 have been shown senior to the undersigned in the impugned Provisional Seniority list which is totally a violation of section 4 of the aforesaid Regularization Act, 2009.
4. Whereas in light of the section-4 of N.W.F.P EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009 as well as terms and conditions of our appointment/regularization order at "P" the seniority of all regularized lecturers has to be determined with effect from commencement of the Act i.e., 24.10.2009 irrespective of their actual date of regularization order i.e. 31.12.2012.
5. All the Assistant Professor placed at S.No.01 to S.No.89 in the Provisional Seniority List who was inducted in the cadre after 24.10.2009 therefore, stand junior to me.
6. The seniority of all Regularized Assistant Professors who are regularized on 08.03.2012 through honorable High Court may also be fixed / corrected according to Advertisement issued in different years.


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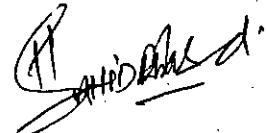
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7. Moreover, our initial appointment is not mentioned in the Seniority List that may cause conflict in our internal Seniority, because candidates have joined the services at different calendar years, such as 2004, 2005, 2006, 2007 etc. My own initial appointment is 30.09.2004 and during our contract period most of the contract lecturers were being terminated from their services but we lecturers of GCMS JAMRUD & GCMS MIRANSHAH have Stay Order from honorable High Court Peshawar till to the final decision of the honorable High Court.
8. Also a Grievance Redressal Committee at Directorate of Commerce Education and Management Sciences conveyed **RECOMMENDATIONS** in my favour vide letter No. GCMS-2/R-Road/PESH/1118 dated 28-03-22 (Sr. No.7) (copy attached).

In view of the above, it is humbly prayed that my seniority position may be reckoned afresh so as to place me at Sr. No. 76 instead of Sr. No. 90 of the impugned Provisional Seniority List as per relevant law.

It is humbly prayed that the present Departmental Appeal may kindly be allowed.

Dated:- 22-08-2023


Yours faithfully,

Shahid Khan Masood
0300-9091690
Assistant Professor
G.C.M.S, D.I.KHAN


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آئی اے ایف اے کی فہرست

ANNEXURE C

فہرست کے تحت گورنمنٹ کالج آف ٹیچنگ سائنسز، ٹنڈی الہ آباد اور گورنمنٹ کالج آف ٹیچنگ سائنسز، ٹنڈی الہ آباد کے لئے طلبہ اور اساتذہ اور ایف اے اور ایف ایف میں شرکت کی بنیاد پر (ایک سال کی مدت) میں پیشہ ورانہ کی حیثیت سے بطوری کے لئے موزوں امیدواروں سے درخواستیں آسانیوں کے لئے درخواستیں طلب ہیں۔

23

Name of Post	Qualification / Experience	BPS.	Max. Age.
24 Instructors (12 each in Computer Science and Business)	Second Class Master's Degree in the relevant subjects or equivalent qualification from a recognized University.	BPS-17	21-30 Years.
6 Instructors (Technical Subjects) 2 each in a) Electrical b) Electronics c) Telecommunication	2nd class Engineering Degree in the relevant subject from a recognized University or equivalent qualification from a recognized Institute provided that if a Degree holder in the relevant subject is not available, Degree in electrical Engineering will be acceptable for Radio Electronic Technology and Degree in Mechanical Engineering will be acceptable for Refrigeration and Air-conditioning Technology and also for Auto and Diesel Technology.	BPS-17.	21-30 Years
Instructor (Related Studies) Physics = 04 English = 04	Second Class Master's Degree in the relevant subject from a recognized University.	BPS-17	21-30 Years
2 Instructors (Computer Science)	Second Class Master's Degree in the relevant subject or equivalent qualification from a recognized University.	BPS-17	21-30 Years
3 Junior Instructors (Technical Subjects) 01 each in (1) Electrical (2) Electronics (3) Telecommunication.	Three years post Matric diploma in the relevant field from a recognized Polytechnic or equivalent qualification from a recognized Institute.	BPS-14	21-30 Years
1 Junior Instructor Computer Science	2nd Class Degree in Computer Science from a recognized University.	BPS-14	21-28 Years
4 Librarians.	2nd class Bachelor's Degree from a recognized University and Diploma in Library Sciences.	BPS-16	21-35 Years
3 Director Physical Education	2nd class Bachelor's Degree from a recognized University and Senior Diploma in Physical Education from a recognized Institute.	BPS-16	21-35 Years
2 Trade Instructor (Electrical/RAC/Radio and TV.	Three years post Matric diploma in the relevant field from a recognized Polytechnic or equivalent qualification from a recognized Institute.	BPS-14	21-28 Years
1 Lecturer (Electrical /RAC/Radio Electronic)	2nd class Engineering Degree in the relevant subject from a recognized University or equivalent qualification from a recognized Institute provided that if a Degree holder in the relevant subject is not available, Degree in electrical Engineering will be acceptable for Radio Electronic Technology and Degree in Mechanical Engineering will be acceptable for Refrigeration and Air-conditioning Technology and also for Auto and Diesel Technology.	BPS-17	21-30 Years.

پیشہ ورانہ اور ایف ایف میں شرکت کی بنیاد پر (ایک سال کی مدت) میں پیشہ ورانہ کی حیثیت سے بطوری کے لئے موزوں امیدواروں سے درخواستیں آسانیوں کے لئے درخواستیں طلب ہیں۔

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DIRECTORATE OF TECHNICAL EDUCATION
GOVERNOR'S SECRETARIAT (FATA)
WARSAK ROAD PESHAWAR.

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OFFICE ORDER

Mr. Shahid Khan Masood S/O Sarfraz is hereby appointed as Instructor (Comp. Sci.) on fixed pay @ Rs. 8000/- P.M in Government College of Management Science, Miranshah (N.W.A) w.e.f. date of taking over the charge. His appointment is subject to the following terms and conditions:-

TERMS AND CONDITIONS:

- 1) His appointment will be purely on fixed pay and his service can be terminated at any time without assigning any reason.
- 2) His period of selection is for one year only or till the creation of regular posts/arrival of NWFP Public Service Commission nominee whichever is earlier.
- 3) He will not be considered for regularization at any stage at any time being an employee on fixed pay.
- 4) He will be governed by such rules and orders as may be prescribed and issued by the Government from time to time for the category of the Government Servants to which he belongs.
- 5) He will have to perform any duty assigned to him in connection with the affairs of this department.
- 6) He will not be entitled for any TA/DA for joining service.
- 7) If he wishes to accept the post on the above terms and conditions, he should report for duty to the Principal Miranshah (N.W.A) immediately failing which the offer of appointment will be treated as cancelled.
- 8) The offer shall be automatically held cancelled, if he fails to join in 15 days of the receipt of this offer.

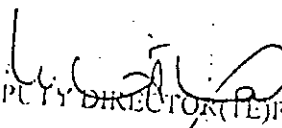
-Sd-
Secretary to Governor
Governor's Secretariat (FATA).

Dated 30/9/2004.

End ref: No. DTE/FATA/Apple/1053-58

Copy forwarded for information and necessary action to:-

1. The A.C.P.R (Sub Office), Peshawar.
2. The Director, Technical Education and Manpower Training, NWFP, Peshawar.
3. The Principal, GCMS, Miranshah (North Waziristan Agency).
4. The Political Agent North Waziristan Agency.
5. The Agency Accounts Officer North Waziristan Agency.
6. The Officer/Official concerned.
7. Personal files/Office copy.


DEPUTY DIRECTOR (TE) FATA


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ANNEXURE D

JUDGMENT SHEET
PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT:

25

No. 1289 of Nov 2010

JUDGMENT

Date of hearing: 8-3-2012

Appellant: Mr. Ahmad Shah PFC) by Mr. Raheel Ahmad

Respondent: (C. of N.W.F.P) by Mr. Nazir Ali DAG,
Mr. Mahmood Alam Advocate. I respondent

MIAN FASIHUL MULK, J.- Petitioners, through

instant petition, seek the indulgence of this Court by issuing directions to respondents to treat the petitioners as regularized employees under the NWFP Employees (Regularization of Services) Act, 2009. The petitioners in connected Writ Petitions No. 1145/2010, 1252/2010, 2639/2010, 1870/2011, 2992/2011, 3244/2011, 3285/2011 and 46/2012, have also similar grievances against the respondents, therefore, we propose to dispose of all the writ petitions through this common judgment in W.P. No.1289/2010.

2. In these petitions the common point of law involved is whether petitioners' appointment on various posts in the respondents' department in pursuance to the advertisement made in the newspapers was on contract basis so as to attract the provisions of Section 3 of

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EXAMINER
Peshawar High Court

NWFP (Regularization of Services) Act, 2009 for their regularization or not.

3. To understand the position, we would take into account the advertisement made in the press, the appointment orders of petitioners, their salary slips and relevant provisions of the Act, 2009 but before that we may give here a brief resume of the facts and circumstances leading to filing of instant petitions.

4. The Director Technical Education & Man Power Training, Peshawar (respondent No.4) advertised certain posts of Instructors, Junior Instructors, Librarians etc. in EPS 14, 16 and 17 lying vacant in various Government Colleges of Management Sciences Ghalani, Khar Bajaur, Parachinar, Miranshah and Government Technical Institutes Bara, Yakka Ghund, Sadda Miranshah and Ghaljai on contract basis for one year extendable to a further period. Petitioners having requisite qualification for the respective posts applied for appointment.

5. A Recruitment Committee was constituted comprising of Deputy Secretary (P&D), Deputy Secretary (Admn), Director Technical Education, NWFP and Deputy Director Technical Education FATA assisted

by subject matter experts, persons of repute and other technical staff. A report was prepared and

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EXAMINER
Peshawar High Court.

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approval of Governor, which was accordingly approved and petitioners were issued the appointment orders.

6. On completion of one year term, the contract was extended from time to time without any break till the year 2009, when the NWFP (Regularization of Services) Act, 2009 was promulgated where under the employees appointed on adhoc or contract basis by the Government were given the status of regular employees. Petitioners represented against before respondent No.1 for their regularization but the same was denied to them on the ground that they were not appointed on contract basis rather their appointment was on fixed pay against the project posts; hence they were not qualifying the conditions as contained in the Act *ibid*.

7. We have heard learned counsel for the parties and have also gone through the record appended with these petitions.

8. A look at the advertisement at Annexure:A would disclose that the posts were on contract basis. The appointment orders issued to petitioners would reveal that though their appointments were made on fixed pay but Para-2 of the terms and conditions contained in the said appointment letters was to the effect that, "*their period of selection was for one year or till the creation*

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of regular posts/arrival of NWFP Public Service Commission nominee which ever is earlier."

From the above, no doubt remains that although appointment of petitioners was on fixed pay but the posts on which petitioners were appointed were not temporary posts rather regular one liable to be filled through regular appointment.

9. Except the bald allegation of respondents that petitioners were project employees and daily wages, nothing has been brought on record to show that their appointments were made on the posts meant for a Project. Annexure:E at Page-43 is the Summary for Governor. According to it, the Governor was pleased to upgrade the existing five Government Commercial Training Institutes in FATA to the level of College of Management Sciences so as to offer Bachelor's degree in Business Administration and Information Technology to the students. For the purpose, Schedule for New Expenditure (SNE) was prepared to recruit the regular staff and forwarded to SAFRON Division for sanction. It further reveals that recruitment of staff being a lengthy process, it was proposed that for the purpose of starting the classes staff may be recruited on contract basis till appointment of regular staff and their salaries may be paid from ADP. From the above summary, which is duly


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approved by the Governor, it is very much evident that neither the posts to be filled in were temporary nor the same were meant for any Project except that their salaries were to be paid from ADP.

10. A similar question had arisen before the august Supreme Court of Pakistan in the case of Ali Akbar vs. The Government of NWFP (C.P. No.462-P of 2006) decided on 05.05.2009, wherein it was held as under:-

"The petitioner's appointment by office order dated 04.02.1985 was as Research Officer in BPS-16 and according to Para-7 of the said order, it was a stop gap arrangement and on ad-hoc basis till the regular appointee. The petitioner's appointment order mentions three different terms as regard his status, namely, "on temporary basis", "stop gap arrangement" and "one ad-hoc basis". However, Para-7 of the order mentions his appointment on ad-hoc basis to continue till the post is filled up through regular appointment. It follows that the post to which the petitioner was appointed was not a temporary post but a regular post liable to be filled through regular appointment. The

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order of appointment also does not mention anywhere that the post in question was a temporary one. Furthermore, the petitioner's appointment in a particular pay scale as Assistant Research Officer in the Directorate of Agriculture Research establishes that the petitioner's appointment was on ad-hoc basis on a regular post in the Directorate. By the same office order, the petitioner was posted against a vacancy in the Project Research on the Cultivation of Edible Mashroom in Pakistan. The order, therefore, had made a clear distinction against the petitioner's appointment and posting, whereas he was appointed in the Directorate of Agriculture Research, he was posted in a project against vacancy. It is, therefore, wrong to say that the petitioner was a project employee and termination of his service on that score cannot be maintained."

11. The objection of respondents that petitioners were appointed against project posts in view of the advertisement and summary to Governor is not sustainable.

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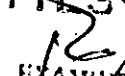
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Peshawar High Court

12. As per Section 3 of the NWFP (Regularization of Services) Act, 2009, all employees appointed on contract or ad-hoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post. Under Section 2(b), the word "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees of project post or appointed on work charge basis or who are paid out of contingencies.

13. Admittedly, the posts were advertised on contract basis and petitioners were appointed on the posts having requisite qualification after going through the process of test and interview conducted by a Recruitment Committee. There is no mention in the appointment order that petitioners' appointment is against the project posts except that their appointment was made on fixed pay as against the terms of advertisement wherein the posts were clearly mentioned to be on contract basis. The salary slips of petitioners also indicate that though they were being paid fixed pay but their post is clearly written to be "contract" post. The

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petitioners also draw their salaries from the AGPR. The other objection of the Department that the petitioners were appointed on fixed pay, hence their services could not be regularized is, therefore, also nothing but a trick played by the respondents in the appointment orders to avoid monetary benefits of the posts to which the petitioners under the law were entitled to get. The term "fixed pay" has not been defined in service laws. As stated above, the petitioners' appointments were made in pursuance to the advertisement published in the press against the posts on contract basis and it can, therefore, be safely inferred that status of petitioners' was that of contract employees regardless of the words "fixed pay" used in their appointment letters.

14. The respondents, during the course of proceedings in these writ petitions, sought time on so many occasions that the Government has in principles decided to regularize the petitioners by proposing legislation to cater therefore, and even copy of a bill contending to be placed before the Parliament, was also produced but till to-date nothing has been done.

15. The respondents while inviting the attention of this Court to Para-3 of Appointment letters, contended that as the petitioners have accepted the terms and

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conditions of their appointment, wherein it is categorically mentioned that petitioners will not be considered for regularization at any stage, at any time, being employees on fixed pay, therefore, the principle of estoppel would attract to their cases. We have not been impressed by the arguments on two counts; one that there can be no estoppel against Statute and second that an employee at the time of appointment has little choice to enforce any condition of his choice on the employer. In the case of Ikram Bari and 524 others vs. National Bank of Pakistan through President and another (2005 SCMR 100) it has been held by their lordships in the following words:-

"It is difficult to countenance the approach of the Bank that the temporary Godown staff and the daily wages employees should be continued to be governed on disgraceful terms and conditions of service for an indefinite period. In view of section 24-A of the General Clauses Act 1897, the National Bank was required to act reasonably, fairly and justly. An employee being jobless and in fear of being shown the door had no option but to accept and continue with the appointment on whatever conditions it was offered by the Bank. In the case of Pakistan v. Public at Large PLD 1987 SC 304, it was contended before the

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Shariat Appellate Bench of this Court that the provisions of law impugned therein amounted to a contract between the Government and the civil servant and thus they involved his consent. It was observed that in fact it was not in the nature of a free consent between the agents. On one hand, State power was projected in the form of a Statute and on the other; the civil servant had no choice of a bargain on those provisions when joining the service. He could not get it changed. In Habibullah v. Government of the Punjab and 5 others PLD 1980 Lah. 37, it was held that the employer being placed in a position of authority and strength could always coerce employees to waive their legal protection and accept contractual terms at the pains of losing his job.

15. We may observe here that firstly the respondents utilized the word "fixed pay" in their appointment letters purely as a means of evading their statutory obligations in terms of the service laws and also to save money by denying them the opportunity of pension/provident fund benefits etc. although their appointments were made in accordance with the prescribed method of recruitment and through a duly constituted Recruitment Committee and secondly, when

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Peshawar High Court

11

the right of their regularization accrued in view of the promulgation of the Act, 2009, they denied them such benefit and came up with lame excuses before this Court that they were project employees, daily wages and payee out of contingency. The petitioners, as is evident from the record, are neither project employees, nor daily wages nor receiving salary from contingency but were contract employees on regular posts and after promulgation of NWFP (Regularization of Services) Act, 2009, have now assumed the status of regular employees of the Department. The acts of respondents being reprehensible, amounts to exploitation of petitioners at their own expense and are, therefore, liable to be declared as illegal and in excess of lawful jurisdiction.


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16. We, therefore, issue writ in favour of petitioners and against the respondents to the effect that petitioners shall be deemed to be regular and permanent employees of respondents' No.1 and 2 Department within the meaning of NWFP (Regularization of Services) Act, 2009 and the

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Peshawar High Court

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respondents are directed to issue notification of their regularization within a period of one month.

Announced
02.03.2012

sd/ Miftab-ud Din Khan
sd/ Mian Fasih ul Mulk

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SP
Peshawar District Peshawar
Authorized Under Article 87 of
The Qanun-e-Shahadat Order 1984

19/3/12

Date of Presentation of	12629
No of Pages	14 P
Copying fee	19/3/12
Urgent Fee	/
Total	28
Date of Prep	19/3/12
Date Given	19/3/12
Date of Delivery	19/3/12

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ANNEXIURE 'R'

MOST IMMEDIATE COURT MATTER

(39)

henc. 091-9213027



**DIRECTORATE GENERAL TECHNICAL EDUCATION
& MANPOWER TRAINING, PESHAWAR
BENEVOLENT FUND BUILDING PESHAWAR CANTT**

No. DGTE&MT/Admn/Reg/ 4645(42)

Dated: 16/8/2012.

To

The Section Officer (Litigation),
Govt. of Khyber Pakhtunkhwa,
Industries Department,
Peshawar.

Subject: WRIT PETITION NOS. 1289, 1145, 1152, 2639 OF 2010 AND
1870, 3244, 2992 OF 2011 AND WRIT PETITION NO. 46/2011
WITH INTERIM RELIEF AHMAD SHAH AND 8 OTHERS
VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA AND
OTHERS

I am directed to refer to your letter No. SO(Lit)/IND)/2-49/2011/9289 dated 15th August, 2012 on the subject noted above and to enclose herewith implementation report / up-dated progress duly signed by the Director General, Technical Education & Manpower Training, Khyber Pakhtunkhwa in the subject case for onward submission to the Court.

DA/As Above.

(MUNIR GUL)
DEPUTY DIRECTOR (ADMN).

No. DGTE&MT/Admn/Reg/

Dated: /2012.

Copy forwarded for information to the Director of Technical Education FATA alongwith copy of the above mentioned implementation report.

DEPUTY DIRECTOR (ADMN).

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GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE GENERAL TECHNICAL EDUCATION
& MANPOWER TRAINING, PESHAWAR
BENEVOLENT FUND BUILDING PESHAWAR CANTT.

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Subject: - IMPLEMENTATION OF PESHAWAR HIGH COURT JUDGMENT IN WRIT-PETITION NO. 1289 OF 2010 AND CONNECTED WRIT-PETITIONS REGARDING REGULARIZATION OF EMPLOYEES APPOINTED IN TECHNICAL INSTITUTIONS OF FATA UNDER VARIOUS DEVELOPMENTAL PROJECT

In the year 2004, the Directorate of Technical Education FATA up-graded 04 Vocational Institutes to the Level of Technical Institutes and 05 Commercial Training Institutes to the level of College of Management Sciences under the Governor's directive (Annex-I). Accordingly, schemes for up-gradation of the said Institutions were reflected in the Annual Development Programme of FATA during the years 2003-04, 2004-05 and 2005-06, wherein various vacancies on fixed pay basis were approved under the said Projects.

2. The FATA Secretariat recruited Project Employees through Departmental Section Committee against the Project vacancies on fixed pay basis. The Projects were expired on 30-06-2010 and the staff was terminated from their fixed pay services.

3. The Project Employees filed a writ-petition No. 1289/2010 and connected writ-petitions No.1145/2010, 1225/2010, 2639/2010, 1870/2011, 2992/2011, 3244/2011, 3285/2011 and 46/2012 having similar grievances against the respondent Department in the Peshawar High Court, Peshawar.

4. The Honorable Peshawar High Court, Peshawar announced its judgment on 08-03-2012 in favour of the petitioners and against the respondents to the effect that the petitioners shall be deemed to be regular and permanent employees of respondents No.1 and 2 department within the meaning of NWFP (Regularization of Services) Act, 2009 and the respondents departments were directed to issue Notification of their regularization within a period of 01 month (Annex-II).

5. The respondent Departments forwarded a request to the Law Department, Govt. of Khyber Pakhtunkhwa for filing CPLA in the Supreme Court of Pakistan against the adverse judgment of Peshawar High Court, Peshawar dated 08-03-2012. The Law Department decided that it is a not fit case of filing of CPLA before the Supreme Court of Pakistan (Annex-III). The FATA Directorate of Technical Education accordingly prepared SNEs for creation of posts for the Project Employees. The creation of posts is still under process between the Directorate of Technical Education FATA and Finance Department, FATA Secretariat.


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6. Meanwhile, the petitioners filed COC No. 185-P/2012 in writ-petition No. 1145/2010 in the Peshawar High Court, Peshawar. The Honourable High Court, Peshawar accordingly issued show-cause notice to the respondents in persons for submitting implementation report before 23-08-2012 positively (Annex-IV).

7. To resolve the issue a joint meeting of the Director Technical Education FATA and Directorate General, Technical Education & Manpower Training, Khyber Pakhtunkhwa was held on 10-08-2012 in the office of the Director General, Technical Education & Manpower Training, Khyber Pakhtunkhwa. After detailed discussion, it was agreed that the only way is to identify all vacant posts in FATA Technical Institutions and in the Institutions of Khyber Pakhtunkhwa falling to the share of initial recruitment quota for adjustment and regularization of the Project Employees. However, it was also pointed out that vacant posts have been requisitioned with the Khyber Pakhtunkhwa, Public Service Commission which needs to be withdrawn for regularization of the Projects Employees.

8. The FATA Secretariat has recruited the following staff in various disciplines under various developmental projects.

1. COMMERCE WING

S.No	Name of Incumbent	Qualification	Designation	Date of appointment with domicile
✓1.	Shahid Khan Masud	M.Sc Computer	Lecturer	30-9-2004 SWA
✓2.	Shahid Alam	-do-	Lecturer	30-9-2004 Swabi
✓3.	Irfan Ullah	M.Com	Lecturer	30-9-2004 Karak
4.	Kashif Amin	MCS	Lecturer	13-12-2004 Mohmand
5.	Amjid Ali	M.Com	Lecturer	25-11-2005 Kurram Agency
6.	Muhammad Iqbal	M.Com	Lecturer	14-2-2006 Mohmand Agency
7.	Ikhtiar Zada	M.Com	Lecturer	09-5-2006 Bajaur Agency
8.	M.Tahir Shah	M.A (Eng)	Lecturer	26-1-2007 NWA
9.	Muhd Ibrahim	M.A (Eng)	Lecturer	26-1-2007 Bajaur Agency
10.	Muhammad Ilyas	M.Com	Lecturer	26-1-2007 Mohmand Agency
11.	Shoukat Hussain	M.Com	Lecturer	26-1-2007 Kurram Agency

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12.	Muhammad Ilyas	M.Com	Lecturer	01-05-2007 Mohmand Agency
13.	Sajjad Ahmad	MIT	Lecturer	26-1-2007 Mohmand Agency
14.	Altaf Hussain	MCS	Lecturer	26-1-2007 Mohmand Agency
15.	Irfan Qadir	M. Sc Computer	Lecturer	26-01-2007 Mohmand Agency
16.	Abdul Qadoos	MBIT	Lecturer	26-1-2007 Bajaur Agency
17.	Sartaj Aziz	MBA	Lecturer	26-1-2007 Mohmand Agency
18.	Jaffar Ali Khan	MBA	Lecturer	26-1-2007 NWA
19.	Shafi ur Rahman	MSc (Eco)	Lecturer	26-1-2007 NWA
20.	Noor Hassan	MCS	Lecturer	26-1-2007 FR Bannu
21.	Sadaat Khan	M.A (Eng)	Lecturer	31-1-2007 Khyber Agency
22.	Rahim Dad	MCS	Lecturer	31-1-2007 Mohmand
23.	Waqar Ahmad	MCS	Lecturer	31-1-2007 Charsadda
24.	Muhd Fayaz Afridi	MCS	Lecturer	31-1-2007 FR Peshawar
25.	Zeenat Shah	M.Com	Lecturer	1-2-007 Mohmand Agency
26.	Khial Bahadar	M.Com	Lecturer	1-2-2007 Mohmand Agency
27.	S. Athar Shah	M.Com	Lecturer	7-2-2007 Kurram Agency
28.	S. Hussain Ali Shah	M.Com	Lecturer	14-2-2007 Kurram Agency
29.	Asif Ali	MCS	Lecturer	20-3-2007 Kurram Agency
30.	Irfan Ullah	M.Com	Lecturer	17-6-2007 Dir Lower
31.	Sangeen Khan	MBA	Lecturer	30-6-2007 Mohmand Agency
32.	Muhammad Iqbal	MBA	Lecturer	18.07.2006 Bajaur Agency
33.	Abdul Aziz	M.Com	Lecturer	28.10.2009 Bajaur Agency
34.	Mumtaz Khan	M.Sc (Comp)	Lecturer	28.10.2009 Bajaur Agency
35.	Salahuddin	MBA	Lecturer	28-10-2009 Bajaur Agency
36.	Muhammad Ayub	M.A.(English)	Lecturer	28-10-2009 Bajaur Agency
37.	Shan Zeb	MBA	Lecturer	17-12-2009 Bajaur Agency
38.	Jamshed Khan	MPE	DPE	26-1-2007 Lakki
39.	Rehan-ud- Din	MPE	DPE	26-1-2007 Bajaur Agency
40.	Ahmad Shah	SDPE	DPE	21-3-2006 Bajaur
41.	Inam Khan	M.L.Sc.	Librarian	26-1-2006 Mohmand Agency
42.	Amjid Ali	M.L.Sc.	Librarian	1-2-2007 Kurram Agency

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2. TECHNICAL WING

S.No	Name of Incumbent	Qualification	Designation	Date of appointment with domicile
✓1.	Rehmat Khan	BSc (Engg)	Lecturer	04-11-2004 Mohmand Agency
✓2.	Muhammad Iqbal	BSc (Engg)	Lecturer	06-09-2005 Bajaur Agency
✓3.	Muhammad Iqbal	MA (English)	Lecturer	28-11-2005 Bajaur Agency
✓4.	Sajid Ullah	MA (English)	Lecturer	03-04-2007 Mohmand Agency
5.	Asif Khan	M. Sc (Physics)	Lecturer	01-01-2004 Swabi
6.	Iftikhar Ali	M. Sc (Physics)	Lecturer	28-01-2005 Mradan
7.	Hayat Ullah	M. Sc (Physics)	Lecturer	26-01-2007 Bajaur Agency
8.	Muhammad Ilyas	M. Sc (Physics)	Lecturer	26-01-2007 Bajaur Agency
✓9.	Shah Zarin	M. Sc (Physics)	Lecturer	7-12-2009 Mohmand Agency
✓10.	Noor Zada	M. Sc (Computer)	Lecturer	7-12-2009 Mohmand Agency
11.	Tahir Ayub	M.A.(English)	Lecturer	31-1-2007 NWA.

9. Presently the following posts are lying vacant in FATA and Khyber Pakhtunkhwa, Technical Institutions.

COMMERCE SIDE

Vacant posts which have not yet been requisitioned = 15

TECHNICAL SIDE

Vacant posts which have not yet been requisitioned = 11

10. In order to implement judgment of the Honourable Peshawar High Court, Peshawar, the Administrative Department is requested to approach the Establishment Department for withdrawal of the requisitioned placed for recruitment with Khyber Pakhtunkhwa, Public Service Commission for recruitment against the 27 vacant posts of Lecturers, (BPS-17) in various disciplines in GCCs / GCMS and GCTIs vide Admn: Department Letter No. SOIII(IND)TE/3-9/2011 dated 03-04-2012 (Annex-V).

11. The Industries & Technical Education Department, Khyber Pakhtunkhwa is further requested to issue regularization orders of the Project Employees under the Court Judgment of dated 08-03-2012.

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(PROF: SHAKIL AHMAD)
DIRECTOR GENERAL

ANNEXURE "3"

(44)

THE ¹[KHYBER PAKHTUNKHWA]
EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009.
(²[KHYBER PAKHTUNKHWA] ACT NO. XVI OF 2009)

[First published after having received the assent of the Governor of the ³[Khyber Pakhtunkhwa] in the Gazette of ⁴[Khyber Pakhtunkhwa] (Extraordinary), dated the 24th October, 2009]

AN
ACT

to provide for the regularization of the services of certain employees appointed on adhoc or contract basis.

WHEREAS it is expedient to provide for the regularization of the services of certain employees appointed on adhoc or contract basis, in the public interest, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**---(1) This Act may be called the ⁵[Khyber Pakhtunkhwa] Employees (Regularization of Services) Act, 2009.

(2) It shall come into force at once.

2. **Definitions.**---(1) In this Act, unless the context otherwise requires,-

(a) "Commission" means the ⁶[Khyber Pakhtunkhwa] Public Service Commission;

(aa) "contract appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment;

(b) "employee" means an adhoc or a contract employee appointed by Government on adhoc or contract basis or second shift/night shift but does not include the employees for project post or appointed on work charge basis or who are paid out of contingencies;

¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁶Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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- (c) "Government" means the Government of the ¹[Khyber Pakhtunkhwa];
- (d) "Government Department" means any department constituted under rule 3 of the ²[Khyber Pakhtunkhwa] Government Rules of Business, 1985, and does not include any section of a Department or an organization which is federally funded;
- (e) "law or rule" means the law or rule for the time being in force governing the selection and appointment of civil servants; and
- (f) "post" means a post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission.

(2) The expressions "ad hoc or contract appointment" and "civil servant" shall have the same meanings as respectively assigned to them in the ³[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (⁴[Khyber Pakhtunkhwa] Act No. XVIII of 1973).

3. **Regularization of services of certain employees.**---All employees including recommendees of the High Court appointed on contract or ad hoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post:

Provided that the service promotion quota of all service cadres shall not be affected.

4. **Determination of seniority.**---(1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

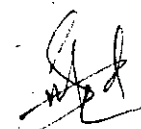
(2) The seniority interse of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre:

¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011


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Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

4A. Overriding effect.---Notwithstanding any thing to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

5. Repeal.---The North-West Frontier Province Employees (Regularization of Services) Ordinance, 2009 (N.-W.F.P. Ordinance No. VII of 2009) is hereby repealed.

[Signature]
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NO. GCMS/2021/116

SENIORITY ISSUES

ANNEXURE

4
47

The Director General,
Committee on Education & Management Sciences,
Khyber Pakhtunkhwa, Peshawar.

Subject: **SENIORITY ISSUES**

Reference to your letter No. DGCE&MS/Admn/Enquiry/Ges/1639(1-5) dated 1st of March 2021 on the subject cited above.

- X 1. The seniority issue of lecturers named Miss. Shamsa Afridi, Mr. Waheed Gul, Muhammad Tufail, Mr. Jalib Sikandar, Mr. Hafiz Ajmal Saeed has been examined in detail. Their plea does not seem to be sustainable in the face of rule 17(2) APT rules 1989. Moreover their notification of regular appointment was issued on different dates in 2011, whereas the services of contract employees were regularized on 31st of December 2012. Hence, their claim does not seem to be valid & sustainable. The employees (Regularization of Services) Act, 2009 came into force on 24-10-2009, which provides shelter to all contract employees whose services were regularized w.e.f. 31st of December 2012.
 - X 2. The claim of Mr. Om Parkash and Zeeshan Pervoz apparently seem to be valid. However, their issue relates to KPSC Rules, which may be taken up with Secretary TIED by the Director General (CE&MS) office for resolution.
 - X 3. The seniority issue of Miss. Nayab Sarfraz, Miss. Sadia Jinnah, Miss. Nayab Gul, Miss. Madia Bano may be dealt with as per provisions contained in para 17 APT Rules 1989.
 - X 4. The seniority of Mr. Sajjad Ali Assistant Professor GCMS Peshawar & Muhammad Asif Assistant Professor GCMS Jamrud may be resolved in light of provision contained in para 17 (2) of APT rules 1989. Their plea seems to be sustainable in light of said rule.
 - X 5. The seniority issue of Mr. Asif Ali Assistant Professor & Mr. Jalal Uddin Assistant Professor GCMS Talash may be resolved in light of minutes of PSB held in 2004, in which the applicant's promotion was deferred.
 - X 6. The seniority issues of Assistant Professors named Mr. Ilyas, Mr. Fida Muhammad, Mr. Shamsheer Ali, Mr. Sajjad, Mr. Bahar Alam, Mr. Niamat Ullah, Mr. Hazratullah, Mr. Azhar Nawaz, Mr. Inam, Mr. Talib Khan, Muhammad Dost, Mr. Noorul Hadi & Mr. Khalid Nawaz may be resolved in the light of report dated 21st of Apr 2021 submitted to your office.
- The plea of Mr. Shahid Khan Masood Assistant Professor (GCMS D.I. Khan) seems to be genuine. His seniority issue be resolved in conformity to the provisions contained in sub rule 2 of Rule 1 of employees (Regularization of Services) Act/2009.
- Report is submitted for your perusal and necessary action please.

GCMS Peshawar

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28/03/2022
Mr. Khalid Khan Khattak
Member

VAKALATNAMA

In the Court of

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Service Appeal No. ____ / 2023

ID No.	B.C- 10-7764
Advocate	M. Zafar
Cell No.	0300-9597670
CNIC	17301-1639615-3

Petitioner
Plaintiff
Applicant
Appellant
Complainant

Shahid Khan Masood

Decree-Holder

VERSUS

Respondent
Defendant
Opponent
Accused


Govt of Khyber Pakhtunkhwa etc.

Judgment-Debtor

I / We **Shahid Khan Masood** the above noted appellant, do hereby appointed and constitute, **Muhammad Zafar Khan Tahirkheli, Advocate Supreme Court of Pakistan** to appear, plead, act, compromise, withdraw or refer to arbitration for me / us as my / our counsels / advocates in the above noted matter, without any liability for his default and with the authority to engage any other Advocate / Counsel at my / our cost.

The Client / Litigant will ensure his presence before the Court on each and every date of hearing and the counsel would not be responsible if the case is proceeded ex-parte or is dismissed in default of appearance. All cost awarded in favour shall be the right of Counsel or his nominee, and if awarded against shall be payable by me/us.

I / We authorize the said Advocates to withdraw and receive on my / our behalf all sums and amounts payable or deposited on my / our account in the above noted matter.


Client

M. Zafar Khan Khan (Tahirkheli)

A S C.

Attested & Accepted (Advocates)

Dated 18/12/2023

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