

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 875/2023

Sardar Mahmood (SCT GHS Machi Mardan) S/O Fazal Mahmood,
Office R/O Village Ali Post Office Rustam , District Mardan.

(Appellant)

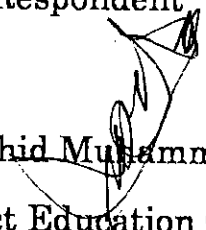
Versus

The Govt of KPK through Secretary of (E & SE) Education, & Others.
(Respondents)

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Respondent


Zahid Muhammad
District Education Officer
(Male) Mardan

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(Appellant)

Versus

The Govt of KPK Through Secretary of (E & SE) Education, & Others.

(Respondents)

Para Wise Comments On Respondents 1 to 4

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standi to file the instant appeal.
2. That the instant appeal is badly time barred.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. That the appellant has concealed the material facts from this Honorable Tribunal, hence the appeal is liable to be dismissed.
5. That as per Notification dated 24th july, 2014, required qualification for the post of SST (BPS-16) (1). At least second class Bachelor Degree from a recognized University on need basis from the following groups with two subjects (a) Chemistry, Botany or Zoology Or (b) Physics, Maths A or B or Statistics Or (c) Humanities and other equivalent group at degree level with English as compulsory subject. The B.com degree of the appellant is without English subject, therefore the appellant is not eligible for SST promotion.

(Copy of Notification is as Annexure –A)

6. That the appellant has considered for SST post and his name included at serial No 75 on the working paper but the appellant has deferred, because the B.com degree of the appellant is without English subject, therefore the appellant is not eligible for SST promotion.

(Copy of working paper is as Annexure –B)

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(Copy of working paper is as Annexure –B)

FACTS:

1. Para No 1 related his address, need no comments.
2. Para No 2 related his qualification which is not requisite qualification for the post of SST, and the requisite qualification is humanities and other equivalent group at degree level with English as compulsory subject. The B.com degree of the appellant is without English subject, therefore the appellant is not eligible for SST promotion, hence denied.
3. Para No 3 related his appointments, need no comments.
4. Para No 4 related his adjustment as SCT, needs no comments.
5. Para No 5 related his length of service, need no comments.
6. Para No 6 related his character, need no comments.
7. Para No 7 related his efficiency, need no comments.
8. Para No 8 related his duty, need no comments.
9. Para No 9 related his seniority, need no comments.
10. Para No 10 is Incorrect & not admitted. As per Notification dated 24th July, 2014, required qualification for the post of SST (BPS-16) (1). At least second class Bachelor Degree from a recognized University on need basis from the following groups with two subjects (a) Chemistry, Botany or Zoology Or (b) Physics, Maths A or B or Statistics Or (c) Humanities and other equivalent group at degree level with English as compulsory subject. The appellant has considered for SST post and his name included at serial No 75 on the working paper but the appellant has deferred, because the B.com degree of the appellant is without English subject, therefore the appellant is not eligible for SST promotion.

(Copy of Notification is as Annexure -A)

11. Para No 11 related his Departmental appeal, which is time barred.
12. Para No 12 is Incorrect & not admitted. As detail grounds as under:

GROUND:

- A. Para A is Incorrect & not admitted. As, The B.com degree of the appellant is without English subject, therefore the appellant is not eligible for SST promotion.
- B. Para B is related his length of service, need no comments.

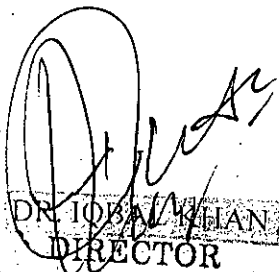
- C. Para C is Incorrect & not admitted. As, The B.com degree of the appellant is without English subject.
- D. Para D is Incorrect & not admitted. As, the appellant is not entitled for promotion to the post of SST.
- E. Para E is Incorrect & not admitted. As, The B.com degree of the appellant is without English subject, due to which he is deferred from promotion.
- F. Para F is Incorrect & not admitted. Reply as above.
- G. Para G is Incorrect & not admitted. As, the appellant is not qualified for SST promotion.
- H. Para H is Incorrect & not admitted. Reply as above.
- I. Para I is related to rules and regulation, needs no comments.
- J. Para J is Incorrect & not admitted. Reply as above.
- K. Para K is related to rules and regulation, and every civil servant should obey the rules, needs no comments.
- L. Para L is Incorrect & not admitted. Reply as above.
- M. Para M is Incorrect & not admitted. As, the Notification dated 24th July, 2014, required qualification for the post of SST (BPS-16) (1). At least second class Bachelor Degree from a recognized University on need basis from the following groups with two subjects (a) Chemistry, Botany or Zoology Or (b) Physics, Maths A or B or Statistics Or (c) Humanities and other equivalent group at degree level with English as compulsory subject, is not against Article 4, 18, 25 & 27 of the constitution of Pakistan.
- N. Para N is Incorrect & not admitted. Reply as above.
- O. Para O is Incorrect & not admitted. As SST teacher is especially English teacher, and its old name is SET (Senior English Teacher), therefore English is a compulsory subject for the post of SST.
- P. Para P is Incorrect & not admitted. Reply as above.
- Q. Para Q is Incorrect & not admitted. Reply as above.
- R. Para R is Incorrect & not admitted. Reply as above.
- S. Para S is Incorrect & not admitted. As per Notification dated 24th July, 2014, required qualification for the post of SST (BPS-16) (1). At least second class Bachelor Degree from a recognized University on need basis from the following groups with two subjects (a) Chemistry, Botany or Zoology Or (b) Physics, Maths A or B or Statistics Or (c) Humanities and other equivalent group at degree level with English as compulsory subject.

(Copy of Notification is as Annexure -A)

- T. Para T is Incorrect & not admitted. Reply as above.
U. Para U is Incorrect & not admitted. Reply as above.
V. Para V is Incorrect & not admitted. Reply as above.

A. Therefore, the Respondent also seeks leave to this Honorable Tribunal to submit additional grounds record & case law at the time of arguments.

Therefore, in view of the above made submissions, it is most humbly prayed that on the acceptance of this reply, the appeal in hand may kindly be dismissed in favor of the Respondent Department in the interest of justice.

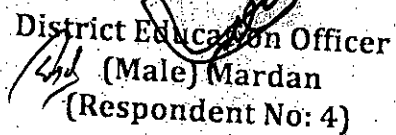

DR. IQBAL KHAN
DIRECTOR

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


MOTASIM BILLAH SHAH
SECRETARY

E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No:1&2)

ZAHID MUHAMMAD


District Education Officer
(Male) Mardan
(Respondent No: 4)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 24th July, 2014.

NOTIFICATION

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

AMENDMENTS

In the Appendix,-

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

1	2	3	4	5
1.	Subject Specialist (BPS-17)	i. At least second class Master's Degree or four years BS Degree in the relevant subject; and ii. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualification from a recognized University.	23 to 35 years	(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16), with at least five years service as such and having qualification mentioned in column No. 3. Note: If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial

				recruitment; and (b) fifty percent by initial recruitment.
1A	Director Physical Education (BPS-17)	At least second class Master's Degree in Physical Education from a recognized University.	22-35 years	<p>(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Physical Education Teachers (BPS-16), with at least five years service as Senior Physical Education Teacher and Physical Education Teacher and having qualification mentioned in column No. 3:</p> <p>Provided that if no suitable person is available from amongst Senior Physical Education Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst the Physical Education Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>Note:- If no suitable candidate is available in the relevant cadres of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment; and</p> <p>(b) fifty percent by initial recruitment"; and</p>

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

1	2	3	4	5
1B.	Secondary School Teacher (BPS-16)	<p>I. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology), Or (b) (Physics, Maths "A" or "B" or Statistics) Or (c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p style="text-align: center;">and</p> <p>II. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualifications from a recognized University.</p>	21 to 35 years.	<p>1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner:</p> <p>(a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher and having qualification mentioned in column No.3:</p> <p style="padding-left: 40px;">Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters(BPS-16), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3:</p>

				<p><i>Provided that if no suitable candidate is available from amongst Senior Drawing Masters for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3;</i></p> <p><i>(c) four per cent from amongst the Senior Arabic Teachers(BPS-16), with at least five years service as Senior Arabic Teachers and Arabic Teachers, and having qualification mentioned in column No.3:</i></p> <p><i>Provided that if no suitable candidate is available from amongst Senior Arabic Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Arabic Teachers with at least five years service as such and having qualification mentioned in column No. 3;</i></p> <p><i>(d) four per cent from amongst the Senior Theology Teachers(BPS-16), with at least five years service as Senior Theology Teachers and Theology Teachers and having qualification mentioned in column No.3:</i></p>
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21

		<p>Provided that if no suitable candidate is available from amongst Senior Theology Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(e) three per cent from amongst the Senior Qaris (BPS-16), with at least five years service as Senior Qari and Qari and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst the Senior Qaris then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Qaris with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(f) twenty per cent from amongst the Primary School Head Teachers (BPS-16), with at least seven years service as Primary School Head Teachers and Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3:</p> <p>Provided that if no suitable candidate is available from amongst</p>
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**SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

Endst : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
22. Master file

**(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)**

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN.

WORKING PAPER FOR DEPARTMENTAL PROMOTION COMMITTEE FOR THE PROMOTION OF CT-SCT MALE TO THE POST OF SST (G) BPS-16 ON REGULAR BASIS.

The case of Promotion of CT-SCT to SST (G) BPS-16 was considered and the DPC decided as under:-

Total No of Vacant post of SST (G)	75
Post reserved for Al-Khair (deferred Case)	0
Post for Court Case/ADFO	0
Post for Minority Pending Order	0
Clear Vacant Post	75
25% Initial Recruitment Quota	18.75
75% Promotion Quota	56.25
40% CT/SCT Promotion Quota to SST (G)	30
20% PST/SPST/PSHT Promotion Quota to SST (G)	15
4% DM/SDM Promotion Quota to SST (G)	03
4% AT/SAT Promotion Quota to SST (G)	03
4% TT/STT Promotion Quota to SST (G)	03
3% S. Qari Promotion Quota to SST (G)	02.25
Already Promoted CT/SCT to SST (G)	
Proposed CT/SCT for Promotion to SST (G)	30
Deferred of Promotion to SST (G)	0

Sr. No	Name of Official	Name of School	Date of Birth	Date of appnt: as regular CT-SCT	Academic Qualification	Profession at Qualification	Remarks
1	M. AKHTAR ZIB KHAN	GCMHS No.2 MARDAN (Boys)	23/04/1963	16/10/1984	BA	CT	No B.Ed
2	IZHAR AHMAD	GHS JEWAR	10/03/1965	06/10/1986	BA	CT	No B.Ed
3	ARSHIAULL AH	GHSS GUMBAT	05/03/1966	16/10/1986	BA	B.Ed	BA 3rd Div.
4	GUL BAHADAR	GHS TORU	06/05/1967	16/10/1986	MA	B.Ed	BA 3rd Div
5	MUHAMMAD NAEEM	GHS BAKHISHALI	25/06/1964	20/10/1986	ISC	CT	Not Eligible
6	AMJAD ALI	GHSS SHAHBAZ GARHI	15/09/1965	12/11/1987	BA	CT	No B.Ed
7	AMRAIZ DAD	GHS GARHI DAULAT ZAI	14/04/1962	23/11/1983	B.Sc	B.Ed	B.Sc 3rd Div
8	MUHKAR	GHSS	14/03/1965	06/03/1990	BA	CT/SDPE	No B.Ed

Said
District Education Officer
(Male) Mardan

AD	PUR	GG				
75	SARDAR MEHMOOD	GHS MACHI RUSTAM	02/02/19 67 ✓	24/06/1997 ✓	M.Com	M.Ed defensed.
76	ABDUL WAHAB	GHS TAKKAR	10/04/19 67 ✓	24/06/1997 ✓	MA (17) ✓	M.Ed defensed.
77	HAZRAT HABBIB	GHS NO.1 LUND KHWAR	10/03/19 68 ✓	24/06/1997 ✓	MA (18) ✓	B.Ed OK
78	HIDAYAT KHAN	GHS NO.1 LUND KHWAR	15/02/19 70 ✓	24/06/1997 ✓	MA (19) ✓	B.Ed defensed.
79	GUL FARAZ KHAN	GHS SANGAO	09/02/19 71 ✓	24/06/1997 ✓	MA (20) ✓	M.Ed OK
80	GHULAM BASIT	GHS GUJRAT	10/04/19 73 ✓	24/06/1997 ✓	MA (21) ✓	M.Ed OK
81	MIRAD KHAN	GHS NO.1 LUND KHWAR	18/03/19 65 ✓	25/06/1997 ✓	MA (22) ✓	B.Ed OK
82	AKHTAR MUNIR	GHS NO.1 MARDAN	12/05/19 65 ✓	25/06/1997 ✓	B.A (23) ✓	B.Ed OK
83	SARDAR KHAN	GHS NODEH TORU	17/03/19 69 ✓	27/06/1997 ✓	MA (24) ✓	M.Ed OK
84	MUHAMMAD GHUFRAN	GHS RUSTAM	10/01/19 74 ✓	28/06/1997 ✓	MA (25) ✓	B.Ed OK
85	NASIR KHAN	GHS JALALA	18/02/19 68 ✓	29/06/1997 ✓	MA (26) ✓	B.Ed OK
86	MUHAMMAD ISMAIL	GHS HATHIAN	03/02/19 68 ✓	30/06/1997 ✓	MA (27) ✓	B.Ed defensed.
87	BAKIT ZADA	GMS HUSAI UMAR ABAD	11/10/19 63 ✓	01/07/1997 ✓	MA (28) ✓	B.Ed OK
88	SAIF UL ISLAM	GHS FARAM KOROONA	10/05/19 64 ✓	01/07/1997 ✓	MA (29) ✓	B.Ed OK
89	JAMAL DIN	GHS GUJRAT	01/06/19 61 ✓	01/07/1997 ✓	MA (30) ✓	B.Ed OK
90	SARWAR KHAN	GHS JAMAL GARTH	01/04/19 65 ✓	01/07/1997 ✓	MA (30) ✓	B.Ed OK
91	ABDULLAH	GHS DAKO HABA	10/11/19 65 ✓	01/07/1997 ✓	MA	B.Ed

B.Com without Engli

No entry of CT or in S/Book

No PTC Appl-Old vide Govt No-1996 Ptd 312 90 No CT order sent in S/Book

B.Ed DMC Reg

ISL App o d p m o r d Reg. CT entry in S/Book

Let me without p... 7-12-2011 to 20-1-2012

CT App o d p m o r d defensed

Said District Education Officer (Male) Mardan