

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	22.11.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNA</u></p> <p style="text-align: center;">Appeal No. 627/2016</p> <p style="text-align: center;">Date of Institution ... 07.06.2016 Date of Decision ... 22.11.2017</p> <p>Mian Zia-ur-Rehman S/O Mian Noor-ul-Huda, Senior Physical Education Teacher, Government Centennial Model Higher Secondary School No. 2 (Osama Shaheed) Peshawar.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">VERSUS</p> <p>The Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Civil Secretariat, Peshawar & other.</p> <p style="text-align: right;">Respondents</p> <p>Mr. Ghulam Mohy-ud-din Malik Advocate --- For appellant.</p> <p>Mr. Muhammad Jan, Deputy District Attorney --- For respondents.</p> <p>MR. GUL ZEB KHAN --- MEMBER MR. MUHAMMAD HAMID MUGHAL --- MEMBER</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>GUL ZEB KHAN, MEMBER:</u> Learned counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present.</p> <p>2. This single judgment will also dispose of the service appeals bearing No. 631/2016 titled Hanif Ullah Versus Govt: of KPK E & SE Department &</p>

others Appeal No. 630/2016 titled Mst. Fozia Begum Versus Govt: of KPK E&SE Department & others Appeal No. 629/2016 titled Niamat Ullah Versus Govt: of KPK E&SE Department & others Appeal No. 628/2016 titled Sahibzada Imdad Ullah Versus Govt: of KPK E&SE Department & others as similar question of law/facts involved.

3. Appellant Zia -ur-Rehman has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned notification dated 24.07.2014 of the respondent No. 1 whereby the eligibility criteria for promotion to B-16 (SST) already provided under 4% quota in the previous notification dated 13.11.2012 has been withdrawn/amended thereby depriving the appellant of vested right of promotion chances to the post of Senior School Teacher (B-16).

4. Learned counsel for the appellant stated that the appellant is Senior Physical Education Teacher (B-16) and is recruited on the basis of Diploma in P.E.T. That by now the appellant has improved academic qualifications by acquiring BSc, MSc in Maths, and Master in Education. That such qualification was essential for promotion to the post of SST (B-16) under the 4% quota fixed for physical Education Teachers having 5 years service under the erstwhile Service Rules of 2012. That the said rules were applicable at the time when the appellant was eligible for promotion and has to be followed in letter and spirit and without any discrimination or favour. That with such legitimate expectancy the appellant was waiting for promotion on his turn under this quota. Further argued that the said quota of appellant was omitted in the new Service Rules 2014 and the combination of subjects was also changed just to deprive him from promotion/change of cadre from PET to SST (B-16) and thereby eliminating in further chances of promotion up to the posts of Head Master/Principal/Subject

Specialist. That the respondents prepared a working paper on the basis of new impugned notification in July 2014 and promoted others and the appellant was left ipso facto. Further argued that the impugned notification ousted the appellant from competition and promotion chances, therefore he filed Writ Petition No. 2297-P/2014 in the Peshawar High Court which was dismissed on jurisdiction. Further argued that the appellant has already fulfilled the requisite qualification/experience as mentioned in column No. 3 of the appendix i.e. MSc/M.Ed. That on the one side due to severe shortage of qualified staff in the Education Department, mostly non qualified teachers are teaching to the Secondary Classes and on the other hand the appellant is discriminated by abolishing the 4% quota in the new rules as well as modifying the criteria given in the earlier notification. Further argued that the appellant has not been treated equally before the law and has been discriminated for unknown reasons, which is against the principles of fair competition and with malafide and ulterior motives, considering the appellant inferior to other set of teachers and therefore the instant appeal may kindly be accepted and the impugned order dated 24.07.2014 may be set aside.

5. On the other side the learn Deputy District Attorney argued that vide notification dated 13.11.2012, the prescribed/Minimum qualification for the appointment/Promotion against the SST (M/Female) posts was BA/BSc with B.Ed with at least two subjects in Chemistry, Botany, Zoology, Physics, Maths Statistic & Humanities or any other relevant subject of MA Education under the method of Recruitment of 50% quota by Promotion on the basis of seniority-cum-fitness. However, later on these service/recruitment rules were amended /changed vide another notification dated 24.07.2014. That respondent Department is entitled for bringing any amendments or improvement in the service rules. Reliance is being placed on the judgment dated 31.05.2016 passed

by this Tribunal in Service Appeal No. 1343/2012 titled Javed Iqbal Versus Government of Khyber Pakhtunkhwa . That the respondent department has promoted the eligible and deserving candidates against the SST (M/F) posts in B-16 as per Recruitment Service Rules vide notification dated 24.07.2014. That no question of discrimination arises in the instant case. Hence the instant service appeal may kindly be dismissed.

6. We have heard arguments of the learned counsel for the appellant and learned District Attorney for the respondents and have gone through the record available on file.

7. It is a well settled phenomenon that the Government is fully authorized as well competent under the law/constitution to change or bring any sort of improvement in the exiting criterias or service structures of any formation/set of posts for the purposes of introducing improvements/innovations in the overall sector at macro and/or minor level. Such changes are always in-the interest of the general public and not for the favour or disfavor of individuals. The present appeal, being devoid of any substance, is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(MUHAMMAD HAMID MUGHAL)
MEMBER

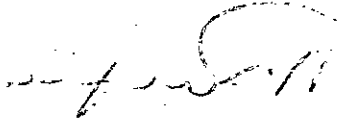


(GUL ZEB KHAN)
MEMBER

ANNOUNCED
22.11.2017

22/8/2017

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




(GUL ZEB KHAN)
MEMBER

22.11.2017

Learned counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney on behalf of the official respondent present. Vide separate judgment of today of this Tribunal placed on file, the present appeal, being devoid of any substance, is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
22.11.2017



(Muhammad Hamid Mughal)
Member



(Gul Zeb Khan)
Member

AM


20.12.2016

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

5.4.17.



(ASHFAQUE TAJ)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

05.04.2017

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



Chairman

12.05.2017

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



(Ahmad Hassan)

Member



(Muhammad Amin Khan Kundi)

Member

30.6.2016

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

Appellant Deposited
Security & Process Fee

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

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


Chairman

29.08.2016




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


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 627 /2016

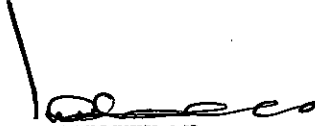
S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/06/2016	<p>The appeal of Mian Zia-ur-Rehman resubmitted today by Mr. Nazir Ahmad Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p>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

The appeal of Mian Zia-ur-Rehman son of Mian Noor-ul-Huda Senior Physical Education Teacher Govt. Centennial Model Higher Secondary School No.2 received to-day i.e. on 07.06.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexure- A of the appeal is illegible which may be replaced by legible/better one.
- 2- Annexures of the appeal may be flagged.

No. 983 /S.T,

Dt. 9/6 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Nazir Ahmad Adv. Pesh.

1. Annexure A is the old notification, the relevant part is legible.

2. Let me flag the Annexures -

Re-submitted,

Nazir

13.6.2016

Dismissed

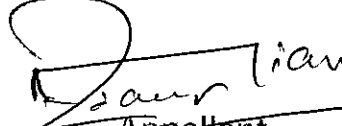
IN THE KPK Service Tribunal PESHAWAR

Service Appeal no 627/2016


Mian Zia ur Rehman **VERSUS** Govt: of KPK and another.

INDEX

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


Appellant

Through


Ghulam Mohy-ud-din Malik

& Nazir Ahmad

Advocate, Peshawar

①

IN THE KPK Service Tribunal PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal no 627/2016

Diary No. 578

Dated 07-6-2016

1. Mian Zia-ur-Rehman S/o Mian Noor-ul-Huda, Senior Physical Education Teacher Government Centennial Model Higher Secondary School No 2 (Osama Shaheed) Peshawar.....Appellant

VERSUS

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

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

Prayer:

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

Filed to-day
[Signature]
Registrar
2/6/16

Re-submitted to -day
and filed.
[Signature]
Registrar
13/6/16.

Appellant of promotion to SST (BPS 16) Or any other relief which this Honourable Tribunal feel just by providing such chance of promotion to SST and as a consequential relief, the Respondents may graciously be directed to follow the notification November,13 2012 and the prescribed rules regarding 04% promotion quota in letter and spirit and the criteria and that the Petitioner may be given their due right and place for promotion under Khyber Pakhtun khwa Civil Servant (Appointment, Promotion & Transfer) Rules 1989.

Respectfully Sheweth:-

1. That the Appellant is Senior Physical Education teachers BPS-16 and is recruited as Physical teachers on the basis of Diploma in P.E.T
2. That the Appellant improved his academic qualifications and is now B.Sc, MSc in Maths, Master in Education.
3. That the service of Appellant is governed by KPK Civil Servant (Appointment, Promotion and Transfer Rules 1989) which are duly notified and extended to him.
4. That vide Notification No SO (PE)4-5/SSRC/Meeting/2012/Teaching Cadre dated Peshawar the November 13, 2012 by the Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department and that according to the Appendix the minimum qualification and experience for initial appointment for Secondary School Teacher (SST) is mentioned as below.

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

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

4

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

Notification dated 24.7.2014

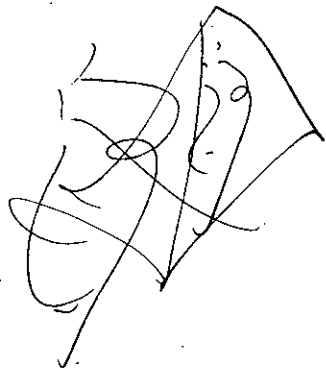
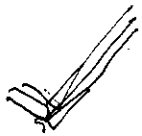
No .So (PE) 4-5/SSRC/Meeting/2013/Teaching Cadre:- In pursuance of provisions contained in sub rule(2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No. SO(G)S&LD/1-28/2003/Vol-II dated, 09.04.2004 Notification No .SO (G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and Notification No. SO(PE) 4-5/SSRC/meeting/2012/teaching Cadre, dated 13.11.2012, the following further amendments shall be made, namely:

AMENDMENTS

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

45
4

75



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

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

GROUND:-

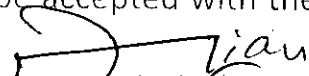
A. That the modification in the previous notification Dated November 13, 2012 and issuing another Notification of 24th July 2014 depriving the Appellant of vested right and ousting him from promotion to the post of

- SST (BPS 16 and omitting 4% quota of the Appellant is without lawful Authority, without jurisdiction and is of no legal effect hence such modification be set aside and declared against the law, discriminatory, arbitrary and against the *Principle of equal opportunities of promotion*.
- B. That the Appellant(Physical Education teachers) have been ignored for their promotion and posting as Secondary School Teachers where as he fulfilled the requisite qualification as mentioned in column No 3 of the Appendix i.e. they are MSc/M.Ed. and due to shortage of qualified staff is mostly teaching to secondary classes and on the other hand the Appellant is not master in Physical Education hence has no chance of further promotion.
 - C. That according to the seniority list, the Appellant senior most officers and eligible for promotion and is fit in all aspects for the posts but he has been discriminated by not giving him 04 % Quota as per previous rules and by modifying the earlier notification.
 - D. That there is plethora of judgments of the Honorable Apex Court on the point that notification/executive orders could only operate prospectively and not retrospectively. At the time of the impugned notification Appellant has already gained legitimate expectancy, so quota meant for the Appellant group or modifying criteria cannot be unilaterally withdrawn. **(2012 SCMR para-874)**.
 - E. That the impugned notification by the Respondents is in violation of factual and legal position which amounts to exploitation and against the fundamental principles that every citizen shall be dealt with according to his ability and work.
 - F. That the impugned notification is detrimental to the interest and legal rights of the Appellant as he has improved his qualification hence the notification is liable to be corrected.
 - G. The Appellant has attained the right of Locus Poenitentiae and once it has taken legal effect and created certain rights in favour of the Appellant then it cannot be withdrawn.
 - H. That it is ironical that subjects/combination once studied in 1990 i.e. two decade ago cannot be changed in 2014 or afterwards.


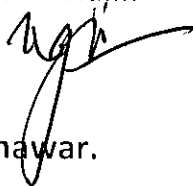
- I. That it is settled that the Appellant has not been treated equally before law and has been discriminated for unknown reasons against the Principle of fair competition which is tainted malafide and deemed to be done with ulterior motive.
- J. That the impugned notification is without lawful authority,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

Prayer:

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


Appellant

Through


Ghulam Mohy-ud-din Malik
Advocate & 
Nazir Ahmad
Advocate. Peshawar.

9

IN THE KPK Service Tribunal PESHAWAR

Service Appeal _____/2016

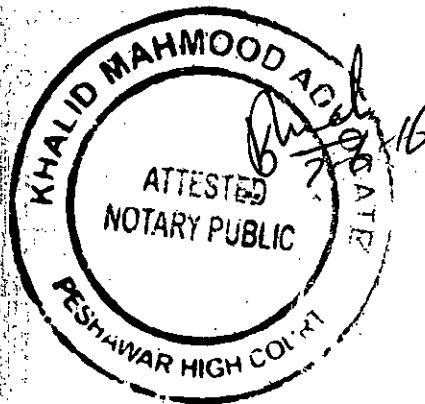
Mia Zia Ur Rehman **VERSUS** Govt: of KPK and another.

Affidavit

I Mian Zia-ur-Rehman S/o, Mian Noor-ul-Huda, Senior Physical Education Teacher Government Centennial Model Higher Secondary School No 2(Osama Shaheed) Peshawar... do hereby affirm and declare on oath that contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honorable Tribunal.

I identify by -

Khalid Mahmood
Advocate



Ziaur Rehman

Deponent

IN THE KPK Service Tribunal PESHAWAR

(16)

Service Appeal No _____/2016

Mian Zia Ur Rehman **VERSUS** Govt: of KPK and another.

ADDRESSES OF PARTIES

Appellant

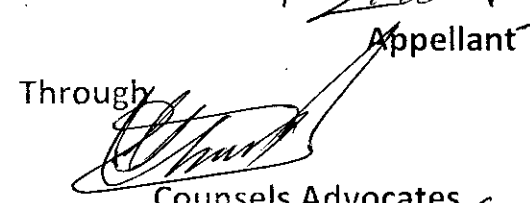
1. Mian Zia-ur-Rehman S/o Mian Noor-ul-Huda, (Senior Physical Education Teacher) Government Centennial Model Higher Secondary School (Osama Shaheed city no 2 Peshawar

Respondents:-

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


Appellant

Through


Counsels Advocates,

Peshawar 

IN THE KPK Service Tribunal, PESHAWAR.

11

Service Appeal no _____/2016

Mian Zia UR Rehman **VERSUS** Govt: of KPK and another.

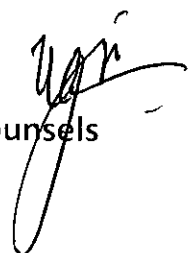
Application for condonation of delay if any.

Respectfully Sheweth:

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

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


Appellant


Through Counsels



GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

NOTIFICATION

Peshawar, dated the November 13, 2012.

No. SA/PE/4-5/SSRC/Meeting/2012/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 and in a possession of all Notifications issued in this behalf, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby lays down the method of recruitment, qualification and other conditions specified in the Appendix to this Notification which shall be applicable to all the posts specified in Column No. 2 of the said Appendix and the schedule therewith.

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

Copy forwarded to -

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

Attested

to be true copy

Armed
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Handwritten signature in Urdu

KPK

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APPENDIX

13

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B

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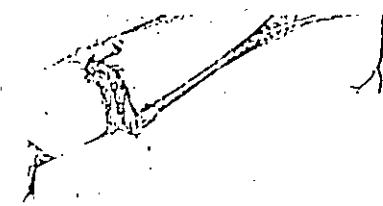
S.No.	Nomenclature of the post.	Minimum qualification and experience for initial appointment or by transfer.	Age limit.	Method of recruitment.
1.	2.	3.	4.	5.
	Secondary School Teacher (BPS-16).	(i) Second class Bachelor's Degree with two subjects as Chemistry, Botany, Zoology, Physics, Mathematics, Statistics Humanities and other equivalent groups from a recognized University; or (ii) M.A in Education or Bachelor's Degree in Education, from a recognized University.	18 to 35 years.	(a) Fifty percent by promotion on the basis of seniority-cum-fitness, in the following manner: (i) forty per cent from amongst the Certified Teachers (General), Certified Teachers (Agriculture), Certified Teachers (Industrial Arts) and Certified Teachers (Home Economics) with at least five years service as such and having qualification mentioned in column No. 3; (ii) four per cent from amongst the Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3; (iii) four per cent from amongst the Physical Education Teachers with at least five years service as such and having qualification mentioned in column No. 3.

KPK. JBR

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

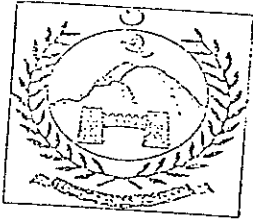
KPK

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Section Officer (Primary)

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

R. (S)
Amelw (B)
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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:

In the Appendix,-

AMENDMENTS

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

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

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				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>



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Signature

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

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

Attended
As per

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

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

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

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

Attested
[Signature]

				<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-15), 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>
--	--	--	--	--

Attested
Mujib

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			<p>Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least seven years service as Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No.3:</p> <p>Provided further that if no suitable candidate is available from amongst Senior Primary School Teachers for promotion then the post shall be filled from amongst Primary School Teachers with at least seven years service as such and having qualification mentioned in column No. 3; and</p> <p>(ii) twenty Five percent by initial recruitment.</p> <p>Note:</p> <p>I. If no suitable candidate is available in the relevant cadre of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment.</p> <p>II. Posts of General SST and SSTs-1 Science and SST-2 Science shall be filled by promotion or initial recruitment, each on need basis separately."</p>
--	--	--	---

Attache
Rajendra

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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&P) 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

Misli

(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)



Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

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

ANNEX C
10 22

Attested
[Signature]

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

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

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

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

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

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

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

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

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

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

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to be true copy.

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Sample

District Education Officer
(Male)/Female _____

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

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

Method of Recruitment	Total Posts	
25% Initial Recruitment	25	
75% by Promotion	10% by promotion from SCT/CT	10
	20% by promotion from PSHT/SPST/PST	20
	1% by promotion from SDM/DM	1
	1% by promotion from SAT/AT	1
	1% by promotion from STT/TT	1
	3% by promotion from S.Qari/Qari	3
Total	100	

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

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

Certificate:

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

Attested

District Education Officer
(Male)/Female _____

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Directorate of Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar

197
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STATEMENT SHOWING THE DISTRICT WISE DETAIL OF VACANT
POSTS OF MALE/FEMALE FALLING IN 75% Quota

S.No.	District	SSC	SSC	SSC	SSC	SSC	SSC	SSC	SSC	SSC
1	Abbott Abad	40	12	32	30	33	13	105	55	160
2	Bannu	12	16	38	16	-	48	50	80	130
3	Bata Gram	21	4	20	4	21	16	62	24	86
4	Buner	14	15	44	17	60	37	118	60	187
5	Charsadda	21	9	34	25	26	20	80	56	134
6	Chitral	15	-	34	11	17	-	66	11	77
7	DI Khan	45	8	42	31	46	-	133	39	172
8	Dir Lower	30	20	30	29	45	55	105	104	209
9	Dir Upper	23	4	29	5	68	8	121	17	138
10	Ftanganu	18	7	20	7	26	21	63	35	98
11	Haripur	46	4	15	30	53	27	114	61	175
12	Karak	14	10	12	17	17	12	44	40	84
13	Kohat	27	5	30	19	68	20	125	53	178
14	Kohistan	18	1	23	1	21	17	132	12	154
15	Lakki Marwat	25	2	30	15	11	24	62	47	109
16	Malakand	13	7	4	21	1	1	17	20	46
17	Manshra	41	11	38	31	59	34	129	56	215
18	Mardan	25	16	31	12	55	32	124	57	201
19	Nowshera	28	28	32	22	62	25	128	75	203
20	Peshawar	32	-	41	16	32	6	105	23	137
21	Shangla	18	4	25	4	31	16	74	24	98
22	Sوات	42	9	29	41	26	39	127	59	216
23	Swat	17	8	34	19	10	10	60	37	97
24	Tank	17	2	17	5	30	11	64	18	82
25	Tuar Ghos	3	-	3	-	24	1	30	1	31
Total		607	209	679	458	955	508	2,241	1,175	3,416

Attested
As per

75% By Promotion	10% CT	324	111	362	244	509	271	1,195	627	1,822
	20% PST	162	56	181	122	255	135	597	313	911
	4% DM	32	11	36	24	51	27	110	63	182
	4% AT	32	11	36	24	51	27	110	63	182
	4% TT	32	11	36	24	51	27	110	63	182
	3% Qari	24	8	27	18	38	20	90	47	137
Total		607	209	679	458	955	508	2,241	1,175	3,416

Attested

to be true copy

(25) (37)

BIO-DATA

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

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

8. Date of Birth _____

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

10. Record of Appointment:-

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

11. Total service _____ years _____ months _____ days.

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

13. Detail of Non qualifying Service if any, _____

Signature _____

ADO /Principal /Headmaster

DY:DEO

Countersigned by DEO

Attested
To be /100/2021

Annex

(26)

15/7/14

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

جناب عالی:-

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

العارضی

آل فزیکل ایجوکیشن ٹیچرز صوبہ خیبر پختون خواہ پشاور

Diary No: 2899

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

Attested

to be true copy

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Ugr

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Ahmed
(Signature)

(21)

Present:

Mr. Justice Gulzar Ahmed
Mr. Justice Qazi Faez Isa

Civil Petition No.119 of 2015

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

Mian Zia ur Rehman

Petitioner(s)

VERSUS

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

Respondent(s)

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

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

Date of Hearing : 01.04.2016

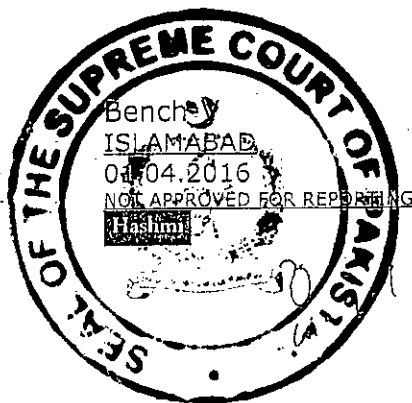
ORDER

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

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

Sd/- Gulzar Ahmed, J

Sd/- Qazi Faez Isa, J



Certified to be True Copy

(Signature)
Court Associate
Supreme Court of Pakistan
Islamabad

GR No: 6734/16 Cr: Criminal
 Date of Presentation: 6-4-16
 No of Words: 20
 No of Folios: 3
 Requisite: 0.0
 Copy Fee: 1.80
 Court Fee: 6.80
 Date of Court: 8-4-16
 Date of delivery: 11-4-16
 Compared by: [Signature]
 Received by: [Signature]

Received to us the
 Court of
 Criminal
 Justice



وکالت نامہ

بعدالت سرسید سروسز کے لیے

صاحب صہنا اور سرکار بنام گورنمنٹ

مجاہد سروسز دعویٰ اجرم سرسید سروسز

تھانہ ایف آئی آر تاریخ

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام

غلام محی الدین ملک ایڈوکیٹ سپریم کورٹ آف پاکستان

اینڈ محمد فاروق ملک ایڈوکیٹ ہائی کورٹ کو بدین شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو بروعدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کرونگا اگر پیشی پر من مظہر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداخت صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجرا کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد وراثی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ترقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختار نامہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہوں گے۔ جیسے کہ صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوزیٹو فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا یہ مختار نامہ لکھ دیا کہ سند رہے مورخہ _____ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

ATTESTED & ACCEPTED:

Ghulam Mahy-ud-Din Malik
Advocate
Supreme Court of Pakistan.

WAKALATNAMA

In the H.C. Service Tribunal, Peshawar

Appellant/Plaintiff/Petitioner Mian Zaheer Rehman

VS

Respondent/Defendant Govt of K. High Secy Education

I/we Mian Zaheer Rehman

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

Dated: 7.6.2016

Accepted
Nazir Ahmad
Advocate, Peshawar

Zaheer Rehman
Appellant/Plaintiff/Petitioner

Service Appeal No: 627/2016

**Mian Ziaur Rehman SPET Govt: Centennial Model School No: 2 Osama
Shaheed Peshawar & others**Appellant.

VERSUS

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

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

Respectfully Sheweth :-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

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

ON FACTS

- 1 That Para-1 needs no comments being pertains to the service record of the appellant.
- 2 That Para-2 is also needs no comments being pertains to the academic record of the appellant.
- 3 That Para-3 is correct. Hence needs no further comments.

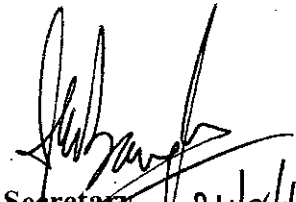
- 41
- 4 That Para-4 is correct to the extent that vide Notification No: SO(PE)4-5/SSRC/Meeting /2012/Teaching Cadre dated 13/11/2012, the prescribed /Minimum qualification for the appointment / Promotion against the SST(M/Female) post in the Respondent Department was BA/ B. Sc with B. Ed with at least two subject in Chemistry Botony, Zoology Physics, Maths Statistics & Humanities or any other relevant subject of MA Education from dully recognized University under the method of Recruitment of 50% by Promotion on the basis of seniority cm fitness. However, later on this service/ recruitment rules were amended / changed vide another Notification No: SO(PE)/4-5/SSRC/Meeting/2013/ Teaching Cadre dated 24/7/2014, wherein the 4% quota for PETs/SPETs have been abolished by the competent forum in accordance with law, (Copy of the said Notification dated 24/7/2014 is attached as Annexure-A).
 - 5 That Para-5 is also incorrect & denied. The Respondent Department is entitled for bringing amendments in the service rules. Reliance is being placed on judgment dated 31/5/2016 passed by this Honorable Service Tribunal in Service Appeal No: 1343/2012 case titled Javed Iqbal Versus Govt: (Copy of the same judgment is annexure-B).
 - 6 That Para-6 is correct. The Respondent Department vide Notification dated 24/7/2014 has brought certain amendments in the service rules & as per recommendations of SSRC.
 - 7 That Para-7 is correct that the Respondent Department has promoted the eligible & deserving candidates against the SST(M/F) posts in BPS-16 vide the Notification dated 24/7/2014 as per recruitment service rules.
 - 8 That Para-8 is also incorrect & denied on the grounds that no Departmental appeal has been filed by the appellant till date.
 - 9 That Para-9 needs no comments being pertains to the Court record of the Honorable Peshawar High Court Peshawar.
 - 10 That Para-10 is also pertains to Court record of the August Supreme Court of Pakistan.
 - 11 That Para-11 is correct to the extent that the Respondent Department is bound to follow the prevailing service rules dated 24/7/2014, wherein, the appellant does not fall. Hence, the instant Service Appeal is liable to be dismissed on the following grounds inter alia :-


GROUNDS

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

- 40
- G Incorrect & denied. The appellant is not entitled for the grant of promotion against the SST(M) in BPS-16 post in view of the impugned Notification dated 24/7/2014.
- H Incorrect & denied. It is the mandate & prerogative of the Respondent Department & amend the rules. Hence, the plea of the appellant is baseless & is liable to be struck down.
- I Incorrect & denied. The appellant has been treated as per law, rules & policy dated 24/7/2014, wherein, wherein there is no provision of promotion of PET against the SST(M) B-16 post in the Respondent Department.
- J Incorrect & denied. The impugned Notification dated 24/7/2014 is legally competent & is liable to be maintained as they are being promoted BPS-17 against DPE post on the reserved 50% quota in DPE for promotion against the SPET.
- K Correct to the extent that the 4% Reserved quota of the PETs for promotion against the SST(M) B-16 post has been abolished on the analogy of right man for right job by the Respondents.
- L Incorrect & misleading. The appellant has been treated as per law, rules. Having no question of violation of Article 4, 5 & 25 of the constitution of the Islamic Republic of Pakistan 1973.
- M Incorrect & denied. The Respondent Department is entitled to amend the rules as per need & requirements. Hence the Respondents seek leave of this Honorable Tribunal to submit additional grounds & accord at the time of arguments.

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


Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar
(Respondent No:3)
24/8/16


Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1&2)
12/8/16

ANNEX 7

(12) (22)

Attested
[Signature]



Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar
PII No. 091-9201389, 9210938,
9210437, 9210957, 9210468
Fax 091-9210936, 0800-33857
No. 2149-99/Promotion to SST B-16/Estab
Dated Peshawar the 10/07/2014.

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

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

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

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

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

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

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

3200-02
Ends: No. / File No. / Promotion to SST B-16: Dated Peshawar the 10/07/2014.

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

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

Attested
[Signature]
to be true copy

a

Amelara (2)
E
27

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Gulzar Ahmed
Mr. Justice Qazi Faez Isa

Civil Petition No.119 of 2015

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

Mian Zia ur Rehman

Petitioner(s)

VERSUS

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

Respondent(s)

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

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

Date of Hearing : 01.04.2016

ORDER

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

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

Sd/- Gulzar Ahmed, J

Sd/- Qazi Faez Isa, J

Certified to be True Copy

Court Associate
Supreme Court of Pakistan
Islamabad

