

Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: right;">28.082017</p>		<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Appeal No. 637/2016</p> <p style="text-align: right;">Date of Institution ... 13.06.2016 Date of Decision ... 28.08.2017</p> <p>Fazal Ilahi Son of Fariq Khan (SPST), GPS No. 1, Kalabat (Swabi-----Appellant</p> <p>1. The Government of Khyber Pakhtunkhwa through Secretary Education.</p> <p>2. The District Education Officer (Male) Swabi-----Respondents</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> Appellant</p> <p>present. Learned Deputy District Attorney for the respondents present.</p> <p>2. Appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the respondents.</p> <p>3. In the present appeal the appellant has made impugned the final order dated 14.05.2016 vide which his departmental representation/appeal for the purpose of fixation of seniority from the date of his first appointment as untrained PTC, was rejected.</p> <p>4. Brief facts of the case are that the appellant was appointed as untrained PTC on purely temporary basis vide order dated</p>

29.07.1992. The appellant then passed PTC examination on 30.08.1996 and in the same year preferred appeal bearing No. 690/1996 before the Service Tribunal Peshawar for the award of graded pay w.e.f 01.09.1992 (date of appointment) alongwith other financial benefits admissible under the rules to the post of PTC. Which appeal bearing No. 690/1996 of the appellant was accepted. That on 30.04.2016 the appellant submitted departmental representation/appeal wherein he while relying upon the judgment of Service Tribunal passed in appeal bearing No. 690/1996 prayed for fixation of his seniority from the date of his first appointment instead of from the date of passing PTC examination. The authority vide order dated 14.05.2016 regretted the departmental representation/appeal of the appellant. The relevant part of the impugned order is reproduced as under

"You are hereby informed that the award of financial benefits in the light of Government notifications and Court decisions is only to facilitate the employees financially and it is not a justification for seniority".

"The rules of seniority say that a person will be given seniority from the date of passing of PTC or date of appointment as trained PTS whichever is earlier".

3. Learned counsel for the appellant argued that the appellant has not been treated in accordance with law as the seniority has to be reckoned from the date of appointment and that the Service Tribunal has also granted graded pay and financial benefits from the date of

first appointment. Learned counsel for the appellant vehemently stressed that the seniority of the appellant should be fixed from the date of initial appointment and not from the date he passed PTC examination.

6. Learned Deputy District Attorney argued that the present appeal is badly time barred in as much as in the year 1996 the appellant agitated the matter of financial benefits but kept Mum vis-à-vis seniority issue. Further argued that the financial benefits have got no relevance with the seniority and that seniority is reckoned from the date of regular appointment and not from the date of adhoc/fixed pay/contract employ. Learned Deputy District Attorney strenuously contended that due to lack of prescribed professional qualification of PTC, the first appointment of appellant as untrained PTC was purely adhoc and upon acquiring the prescribed qualification on 30.08.1996 his seniority was correctly reckoned from the 30.08.1996. Further argued that the appellant has not arrayed any private person as respondent who now stands senior to the appellant in the seniority list.

7. Arguments heard. File perused.

8. This Tribunal is of the view that the Learned Deputy District Attorney correctly raised issue of limitation on the ground that in the year 1996 the appellant raised the matter of financial benefits from the date of his first appointment but did not agitate the issue of seniority.

Pravin

9. Regular appointment means an appointment of duly qualified person in the prescribed manner in accordance with law and rules.


10. It is not disputed that the appellant was not possessing prescribed qualification when his initial appointment was made, however he acquired the professional qualification on 30.08.1996 hence the services of the appellant shall be deemed regularized w.e.f 30.08.1996.


11. Since the first appointment of appellant as untrained PTC was purely on temporary basis as such the seniority of the appellant shall be reckoned in accordance with Rule 17 (b) of Khyber Pakhtunkhwa (Appointment Promotion and Transfer) rules 1989 i.e. from the date of his regular appointment.

12. It also does not stand to reason that how a Civil Servant could be placed in the seniority list of Civil Servants of certain post and how he could be considered for promotion when he has not acquired the prescribed qualification.

13. It may also be mentioned that this Tribunal has already rejected identical nature appeals vide common judgment passed in service appeal bearing No. 309/2013 and vide judgment passed in service appeal No. 11/2015.

14. As a sequel to above the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(Muhammad Amin Khan Kundi)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED
28.08.2017

10.08.2017

Counsel for the appellant present. Mr. Shahi Mulk, Deputy DEO alongwith Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Arguments heard. To come up for order on 28.08.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member (J)



(Muhammad Hamid Mughal)
Member (J)

28.08.2017

Appellant present. Learned Deputy District Attorney for the respondent present. Vide separate judgment of today of this Tribunal placed on file, the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
28.08.2017


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

637/2016

05.12.2016

Appellant in person and Mr. Fazle Khaliq, ADEO alongwith Assistant AG for respondents present. Appellant submitted before the court that his counsel is not available today and requested for adjournment. Adjournment granted. To come up for filing of rejoinder and arguments on 6-4-17 before D.B.


(ASHAFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

06.04.2017

Counsel for the appellant and Mr. Shahi Mulk, DDO alongwith Mr. Adeel Butt, Addl: AG for the respondents present. Counsel for the appellant and requested for time to file rejoinder. To come up for rejoinder and final hearing on 22.05.2017 before D.B.


Chairman

22.05.2017

Counsel for the appellant and Mr. Fazle Khaliq, ADEO alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Counsel for the appellant submitted rejoinder which is placed on file. To come up for arguments on 10.08.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Gul Zeb Khan)
Member

26.7.2016

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was appointed as PST vide order dated 1.09.1992. That in the impugned seniority list he was given seniority w.e.f. 30.8.1996. That departmental appeal of the appellant dated 30.04.2016 for giving seniority w.e.f. his original date of appointment was rejected vide impugned order dated 14.05.2016 constraining the appellant to prefer the service appeal on 13.6.2016.

That the appellant is entitled to seniority w.e.f the date of his initial appointment as laid down by the august Supreme Court of Pakistan.

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 26.09.2016 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

26.09.2016

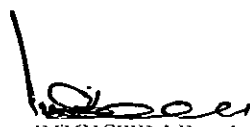

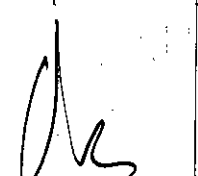
Appellant in person and Mr. Hameed ur Rehman, AD (Litigation) alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 5.12.2016.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 637/2016

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 Mr. Fazal Ilahi presented today by Mr. Saif Ullah Mohib Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2	14-6-16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>20.6.16</u></p> <p> CHAIRMAN</p>
20.6.2016.		<p>Counsel for the appellant present. Requested for adjournment. Request accepted. To come up for preliminary hearing on 26.7.2016.</p> <p> Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
AT PESHAWAR.

Service Appeal No:- 637 /2016

Fazal Ilahi

Versus

Government of Khyber
Pakhtunkhwa & Others
..... Respondents


..... Petitioners

INDEX

S#	Description of the Documents	Annex	Pages
1.	Service Appeal	*	1-3
2.	Affidavit	*	3A
3.	Copy of appointment order dated 01/09/1992	A	4-6
4.	Copy of Seniority List	B	7-8
5.	Copy of departmental appeal	C	9
6.	Copy of impugned order dated 14/05/2016	D	10
7.	Copy of Judgment dated 25/11/1997	E	11-14
8.	Wakalat Nama		

Dated:- 13/06/2016

Through:-

Petitioner

Saifullah Muhib
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
(AT PESHAWAR)

Service Appeal No. 637/2016

Fazal Ilahi son of Fariq Khan (SPST)
GPS No. 1, Kalabat (Swabi)

..... Appellant

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

1. Government of Khyber Pakhtunkhwa
Through Secretary Education

Diary No. 626

✓ 2. District Education Officer (Male)
Swabi

Dated 13-6-2016

..... Respondent

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED
ORDER DATED: 14.05.2016 VIDE WHICH HIS
DEPARTMENTAL APPEAL DATED: 30.04.2016 WAS
REJECTED/ TURNED DOWN BY THE RESPONDENT NO.2

Respectfully Sheweth:

1. That the appellant was appointed as Primary School Teacher on 01.09.1992 and still serving the education department. (Copy of appointment order dated: 01.09.1992 is attached as Annexure A)
2. That the respondent issued a seniority list vide which his date of seniority has been reckoned from 30.08.1996 and not from the date of appointment i.e. 09.01.1992. (Copy of seniority list is attached as Annexure B)
3. That the appellant filed departmental appeal on 30.04.2016 which was rejected on 14.05.2016 by the respondent No.2. (Copies of departmental appeal dated: 30.04.2016 and order dated: 14.05.2016 are attached as Annexure C & D)

Friedo-day
Registrar
13/6/16

4. That this Honourable Tribunal vide order dated: 25.11.0997 has granted upgraded pay scale and also all the benefits from the date of appointment. (Copy of the Judgment dated: 24.11.1997 is attached as Annexure E)
5. That the law is that the seniority is to reckoned from the date of appointment.
6. That even the superior courts have held in so many judgments that the seniority shall be reckoned from the date of appointment of the government servant.
7. That the impugned order passed by the respondent is illegal, without jurisdiction and without lawful authority besides being for ulterior motives.
8. That the impugned order has been passed mechanically and the appellant has been condemned unheard.

It is therefore respectfully prayed that on acceptance of this Service Appeal, the impugned order dated: 14.05.2016 may be declared illegal, without jurisdiction and without lawful authority.

It is also prayed that the seniority of the appellant may be reckoned from the date of appointment i.e. 09.01.2016 with all benefits in the interest of justice.

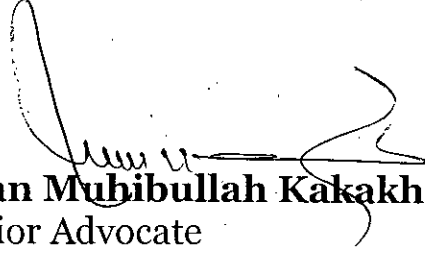
Any other order deemed appropriate in the circumstances of the case may also be

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passed. The petitioners may be allowed to put forward any other argument/documents at the time of hearing of this

Faza & Fahri
Appellants

Through


Mian Muhibullah Kakakhel
Senior Advocate
Supreme Court of Pakistan


Saifullah Muhib
Advocate High Court

Date: .06.2016

3A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
AT PESHAWAR.

Service Appeal No:- _____/2016

Fazal Ilahi

Versus

Government of Khyber
Pakhtunkhwa & Others

..... Petitioners

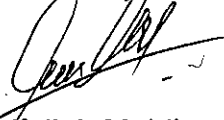
..... Respondents

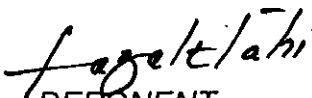
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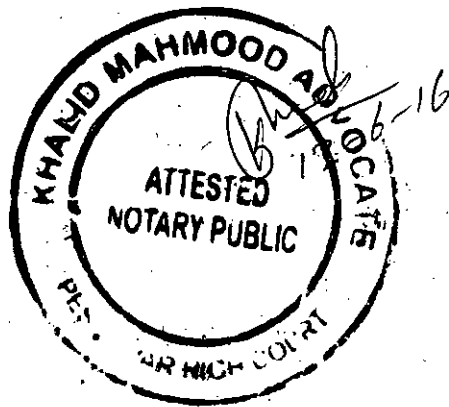
I, Fazli Ilahi S/o Fariq Khan R/o Kalabat Swabi,

do hereby solemnly affirm and declare on oath that the contents of this accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Identified by


Saifullah Muhib
Advocate Peshawar


DEPONENT
CNIC NO:-



(4)

Amir A

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PRIMARY SWABI.

OFFICE ORDER.

The following appointments of Un-trained candidates are hereby ordered against PTC posts in BPS-7 (Rs. 1095/-P.M. fixed plus usual allowances purely on merit basis and strictly in accordance with the existing Rules & policy on the terms and conditions given at the end:-

S.No:	NAME, PARANTAGE, & ADDRESS.	QUALIFICATION / MERIT MARKS	WHERE APPOINTED	REMARKS
1.	Abdul Manan S/O Abdul Hanan VPO Sikandera.	735	GMPS Narshak (Zaida).	Newly created post.
2.	<u>P.F-25</u> Sartaj Khan S/O Mutaleb Khan VPO Takail (Gadoon).	PTC One subject failed.	GPS Anwar Hamid Shah Banda	Against vacant post.
3.	Ziarat Shah S/O Alim Shah VPO Besak(G)	do	GPS Gandaf	do
4.	Shamsur Rehman S/O Mohammad Rehman VPO Solai Topi.	732	GPS No:2 Topi	do
5.	Niaz Mohammad S/O Wali Mohammad VPO: Baja	727	GPS Redwan	do
6.	Abdul Amin S/O Gul Din VPO: Topi	718	GPS Batakara	do
7.	Jauhar Zaman S/O Wazir Zada VPO: Punj paw Topi.	716	GMPS Gul Bahar No:1	do
8.	Mohammad Nughman S/O Mohammad Siddique VPO: Gar Munara.	691	GPS Pathia (Maini)	do
9.	Noor Zob S/O Mohammad Imran VPO: Kabgani	683	GMPS Kabgani	do
10.	Fazli Ilhai S/O Farid Khan VPO: Kalabat	682	GMPS Dhoro	do
11.	Salim Khan S/O Hashim Khan VPO: Kotha	680	GPS No:1 Pabani	do
12.	Gohar Zaman S/O Mira Khan VPO: Baja	666	GMPS Daftar Banda	do
13.	Zarin Khan S/O Taus Khan VPO: Dagi (Kabgani)	665	GMPS Sandawa	do
14.	Abdur Rabi S/O Ghulam Haider VPO: Pabani	657	GPS No:1 Pabani	do
15.	Mohammad Islām S/O Mohammad Hanif VPO: Kotha	655	GMPS Majid Abad	do
16.	Rehman Sher S/O Aman Sher VPO: Pabani	653	GMPS Bakyana	do
17.	Noor Dad Khan S/O Alam Dad VPO: Bara Hemlet Bala.	647	GMPS Ali Sher khail Payan.	do
18.	Iftekhar Ali S/O Raza Khan VPO: Baja	642	GMPS Dalori	do
19.	Amanullah Khan S/O Mirza Khan VPO: Shahcedan	641	GPS Sarkoi Payan	do
20.	Zulfiqar S/O Mohammad Sherin VPO: Kalabat.	641	GPS Sherbaz Banda	do
21.	Imtiaz Khan S/O Waris Khan VPO: Topi	640	GMPS Langow (Mazghand)	do
22.	Mohammad Ashfaq S/O Mohammad Qasim VPO: Topi	639	GPS Bada Serai	do
23.	Muzamil Khan S/O Gulzar Khan VPO Achelai	637	GPS Nogram	do
24.	Israr Ahmed S/O Abdur Hameed VPO: Potha	634	GPS Check Sokailai	do
25.	Akbar Khan S/O Mohammad Shah VPO: Chani	629	GMPS Palara Mangal Chai.	do
26.	Wali Bad Shah S/O Rahim Shah VPO: Gandaf	627	GPS Abdul Ajab Banda	do
27.	Sabz Ali S/O Khan S/O Izat Khan VPO: Topi	627	GPS Mian Noor Abad	do
28.	Noor Mohammad S/O Kabat Khan VPO: Dewal Bala.	627	GMPS Dewal Garhi	do
29.	<u>P.F-26.</u> Said Ghani S/O Imam Shah VPO: Kalu Khan	PTC one subject failed.	GMPS Jamil Abad Yaqubi.	do
30.	Ali Zar Khan S/O Faiz Mohammad Khan VPO Sheikh Jana	711	GMPS Mada Khela Noraz Banda.	do
31.	Abdur Rauf S/O Abdur Rashid VPO: S. Jana	704	GMPS Parmoli (Puri)	do
32.	Razaullah S/O Zainullah VPO: S. Jana	701	GMPS Fazal Mohammad Palocai.	do
33.	Khan Sher S/O Mohammad Sher VPO: S. Jana	697	GPS Sher Dara	do
34.	Ishfaq Ahmed S/O Zaidul Khan VPO: S. Jana	695	GPS Bahader Khel Narangi.	do
35.	Badiuz Zaman S/O Abdus Samad VPO: Kalu Khan	694	GPS Mir Shahi	do
36.	Abdul Wakil S/O Abdur Rashid VPO: S. Jana	677	GMPS Parmoli	do
37.	Khayal Mohammad S/O Shor Mohammad VPO: Tarka Sard China.	671	GMPS Sadrali Banda Sard China.	do
38.	Afsar Taj S/O Miraj Mohammad VPO: S. Jana	668	GMPS Narangi	do

(Contd: on page No:2)

Shah Mansur Khan S/O Anwar Peshan VPO: 565
Sheikh Jans.

GPS Rahim Gul Banda A.V.P.

P.F-27

Sl No	Name & Address	Phone No	Remarks	GPS No	Location
40	Shah Khalid S/O Anwar Peshan VPO: Jalsai	711	One subject failed.	GPS No:3 Jalsai	---do---
41	Inayat Ullah S/O Anwar Peshan VPO: Jalsai	711		GPS No:1 Beita	---do---
42	Fazle Anis S/O Anwar Peshan VPO: Jalsai	733		Peros pur	---do---
43	Hakim Khan S/O Anwar Peshan VPO: Jalsai	724		GPS No:1 Hanke	---do---
44	Faiz Mohammad S/O Anwar Peshan VPO: Jalsai	718		GMPS Tano Dheri	---do---
45	Hias Gul S/O Anwar Peshan VPO: Jalsai	716		GPS Pak Kara	---do---
46	Lutfullah S/O Anwar Peshan VPO: Jalsai	714		GPS Bacha Dhok Jalsai	---do---
47	Zinullah Khan S/O Anwar Peshan VPO: Jalsai	703		GPS No:4 Jalsai	---do---
48	Shaukat Ali S/O Anwar Peshan VPO: Jalsai	705		GPS Bawan	---do---
49	Sher Wali Khan S/O Anwar Peshan VPO: Jalsai	706		GPS Dheri	---do---
50	Mohammad Usaid S/O Anwar Peshan VPO: Jalsai	637		GPS Wisal Abad	---do---
51	Mohammad Anis S/O Anwar Peshan VPO: Jalsai	684		GPS Rest House Jalbai	---do---
52	Mohammad Yaqoob S/O Anwar Peshan VPO: Jalsai	685		GPS Tangeewadi Jalbai	---do---
53	Iftikhar Hussain S/O Anwar Peshan VPO: Jalsai	667		GPS Rest House Jalbai	---do---
54	Sikandar Hayat S/O Anwar Peshan VPO: Jalsai	635		GMPS Gajranoo Koorona	---do---
55	Khalid Khan S/O Anwar Peshan VPO: Jalsai	661		GPS Bawan Dheri	---do---
56	Faramanullah S/O Anwar Peshan VPO: Jalsai	657		GMPS Faqir Abad Jalbai	---do---
57	Attur Peshan S/O Anwar Peshan VPO: Jalsai	657		GMPS Muzaf Khan Banda	---do---
58	Saydar Shah S/O Anwar Peshan VPO: Jalsai	652		GMPS Jalbai	---do---
59	Zulfikar Hussain S/O Anwar Peshan VPO: Jalsai	640		GPS Bawan	---do---
60	Mahmood Khan S/O Anwar Peshan VPO: Jalsai	634		GMPS Qasyan Jehangira	---do---
61	S.Mohammad Khan S/O Anwar Peshan VPO: Jalsai	633		GMPS Hassan Abad	---do---
62	Muhsin Khan S/O Anwar Peshan VPO: Jalsai	632		GMPS Bado Baba Jehangira	---do---
63	Saadat Ali S/O Anwar Peshan VPO: Jalsai	630		GMPS Rest House Jalbai	---do---
64	Abdul Wahab S/O Anwar Peshan VPO: Jalsai	626		GMPS Ghari Khan Khel	---do---
65	Attul Haq S/O Anwar Peshan VPO: Jalsai	626		Lahor.	---do---
66	Rahman Wali S/O Anwar Peshan VPO: Jalsai	623		GMPS-----do-----	---do---
67	Fazli Wahab S/O Anwar Peshan VPO: Jalsai	621		GMPS Shaheed Jalsai	---do---
68	Mohammad Siddiq S/O Anwar Peshan VPO: Jalsai	620		GMPS Miangan Tordher	---do---
69	Noorul Hassan S/O Anwar Peshan VPO: Jalsai	618		GPS Allah Dheri	---do---
70	Mahmood Khan S/O Anwar Peshan VPO: Jalsai	609		GPS Faqir Abad Jalbai	---do---
71	Iftikhar Ahmad S/O Anwar Peshan VPO: Jalsai	608		GMPS Farooq Banda	---do---
72	Mohammad Anis S/O Anwar Peshan VPO: Jalsai	607		GMPS Rahim Abad Jehangira	do-- do--
73	Saeed Ahmad S/O Anwar Peshan VPO: Jalsai	606		GMPS Allah Dheri Lar	do-- do--
74	Sher Anwar S/O Anwar Peshan VPO: Jalsai	604		GMPS Hajat Abad No:2	---do---
75	Binyamin S/O Anwar Peshan VPO: Jalsai	604		Jehangira,	---do---
76	Fazli Wahab S/O Anwar Peshan VPO: Jalsai	603		GMPS Gal Abad Jehangira	---do---
77	Falak Zeb S/O Anwar Peshan VPO: Jalsai	6 598		GPS No:1 Jalbai	---do---
				GPS Jalo Banda	---do---
				GMPS Chakti Kund	---do---

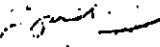
Condition Page No:3

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TERMS AND CONDITIONS

This order shall be effective from 1.9.1992, if any one fails to take over charge by 14.9.1992 the appointment shall stand cancelled.

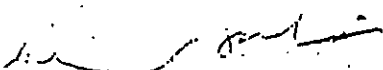
2. These appointments are purely temporary and liable to termination without assigning any reason and without any prior notice.
3. They will have to produce the Medical Certificate ~~within 7 days~~ ~~of the date of joining~~ ~~of the date of joining~~ ~~of the date of joining~~ of Physical fitness from the MS, DHO Hospital Swabi.
4. Their age should not be below 18 years and above 25 years, However the upper age limit may be relaxed upto the period of ~~5 years~~ ~~of the date of joining~~ ~~of the date of joining~~ ~~of the date of joining~~ Ban on recruitments.
5. The 1.9.1992 must check all the certificate before handing over charge.
6. In case of resignation, they will have to submit one month's prior notice or forfeit the monthly salary for the month.
7. In case of non-availability of vacancies the appointments of the last candidate upwards shall stand cancelled.
8. Change reports must be submitted to and approved.
9. No. T. D. No. 11/92.


 (SARIF ZADA) 1/9/92
 DISTRICT EDUCATION OFFICER
 (MALE) PRIMARY SWABI.

Encls: No. 11/92, T. No. 11/92 of Deptt. of P.E.O. Dated 29/7/1992.

Copies forwarded to the:

1. Director Primary Education, Muzt Masud Peshawar.
2. P.O. to the Director Primary Education, Muzt Masud Peshawar.
3. District Education Officer, Swabi.
4. Medical Superintending DHO, Hospital, Swabi.
- 5-6. Superintendent, Education Officer (Male) Swabi & Rahona.
7. Candidates concerned.
8. Headmaster, Govt. Primary School, Tanderi.
9. Suptt: Local Office.


 (SARIF ZADA) 1/9/92
 DISTRICT EDUCATION OFFICER
 (MALE) PRIMARY SWABI.

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Annex "B"

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (ELEMENTARY & SECONDARY EDUCATION) SWABI
TENTATIVE SENIORITY LIST OF PST MALE (DISTRICT SWABI)

S#	Name of Teacher	Father Name	Name of School	Name of own U/C	U/C where presently posted	BPS	Qualification	Pre-Qualification	Do Birth	D/1st Entry to Govt.	D/1st Appo: in E & SE dept	D/O passing PTC exam	D/o TOC Against PST post
1	Muhammad sadeeq	AbdulMukthair	GPS Sanoo Banda	Sudher	Sudher	12	FA	CT	22/08/1952	18/04/1972	18/04/1972	21/07/1972	21/07/1972
2	Hassan Khan	Shah Nazar Khan	GPS Guldara	Kabgani	Kabgani	12	FA		10/04/1953	18/04/1972	18/04/1972	21/07/1972	18/04/1972
3	Raidar Khan	Ezzat Khan	GPS No. 2 Dagai	Dagai	Dagai	12	SSC	PTC	25/07/1954	01/10/1972	01/10/1972	01/01/1971	01/10/1972
4	Ibrar Hussain	Sayed Habib	GPS # 1 Adina	Adina	Adina	12	B.A	PTC/CT	05/02/1953	23/01/1974	23/01/1974	31/08/1973	23/01/1974
5	Zarshad	Zardad	GPS .3.Manki	Manki	Manki	12	F.A	PTC	15/02/1954	26/01/1974	26/01/1974	31/08/1973	26/01/1974
6	Sher Qand	Jamil	GPS No.1 Zaida	Zaida	Zaida	12	M.A	PTC, CT	05/01/1953	28/09/1974	28/09/1974	24/10/1974	24/10/1974
7	Zanoon Khan	Gul Zaman	GPS Mashal Koroona	Tarakai	Tarakai	12	SSC	PTC	05/02/1953	01/09/1974	01/09/1974	24/10/1974	24/10/1974
8	Safdar Ali	Kiran Sher	GES Khoro Koty K.K	Kalu Khan	Kalu Khan	12	B.A	PTC/CT	11/10/1953	08/03/1975	08/03/1975	20/03/1975	20/03/1975
9	Amir Jehan	Abdul Ghani	GPS Habib Abad	Parmoli	Parmoli	12	F.A	PTC/CT	14/04/1954	19/02/1975	19/02/1975	20/03/1975	20/03/1975
10	Fazal Karim	Abdul Hameed	GPS No.3 Zaida	Zaida	Zaida	12	SSC	PTC	05/02/1953	15/09/1975	15/09/1975	20/03/1975	15/09/1975
11	Ihsan Ullah	Shakir Ullah	GPS Sukhta	Yaqoobi	Sardchina	12	SSC	PTC	01/09/1952	27/10/1974	27/10/1974	21/10/1975	21/10/1975
12	Ihsan Muhammad	Mir Afab	GPS Jungal Khel K.K	Kalu Khan	Kalu Khan	12	B.A	PTC/CT	05/10/1952	15/12/1974	15/12/1974	21/10/1975	21/10/1975
13	Noorul Anwar	Shamsul Qamar	Gps Kalo Dhok Jaisai	Jaisai	Jaisai	12	FA	PTC/CT	11/11/1952	05/01/1976	05/01/1976	15/03/1975	05/01/1976
14	Sultan Ali	Rehman Ali	GPS Marghuz Aka Khel No.2	Marghuz	Marghuz	12	M.A	PTC, CT	05/01/1956	06/03/1976	06/03/1976	20/03/1975	06/03/1976
15	Abdul Jamil	Madar Khan	GPS Chachayano Killi	Sheikh Jana	Sheikh Jana	12	B.A	CT, BED, PTC	02/02/1953	18/03/1976	18/03/1976	20/03/1975	18/03/1976
16	Hidayat Ullah	Muhammad Yousaf	GPS No 1 Dobian	Dobian	Dobian	12	F.A	PTC/CT	05/04/1954	11/04/1976	11/04/1976	21/10/1975	11/04/1976
17	Fazli Subhan	Fateh Muhammad	GPS Darra	Panipir	Panipir	12	FA	PTC	12/11/1956	02/05/1976	02/05/1976	20/03/1975	02/05/1976
18	Usman Shah	Khaista Mir	GPS Gani Chatra	G.Chitra	G.Chitra	12	SSC	PTC	20/04/1954	09/05/1976	09/05/1976	20/03/1975	09/05/1976
19	Fazal Muhammad	Zibar Shah	GPS Turlandi No. 3	KSK	Turlandi	12	SSC	PTC	20/08/1953	20/05/1976	20/05/1976	21/10/1975	20/05/1976
20	Faiz Mohd	Shad Mohd	Cps. Shaheed Jalsai	Jalsai	Jalsai	12	SSC	PTC	20/05/1953	10/08/1976	10/08/1976	20/03/1975	10/08/1976
21	Mushtaq Ahmed	Ghufranullah	GPS No. 2 Shagai	Maneri Bala	Maneri Bala	12	SSC	PTC (Army)	01/09/1954	05/09/1976	05/09/1976	15/11/1973	05/09/1976
22	Sabz Ali Khan	Sharif Khan	GPS Hamza Dair	KSK	Cheknodeh	12	BA	PTC	05/03/1954	11/10/1976	11/10/1976	21/10/1975	11/10/1976
23	Israr Ullah	Safi Ullah	GPS Chachayano Killi	Sheikh Jana	Sheikh Jana	12	M.A	PTC, CT	12/08/1952	12/11/1976	12/11/1976	20/03/1975	12/11/1976
24	Saiqi Shah	Fazal Mir	GPS Gani Chatra	G.Chitra	G.Chitra	12	SSC	PST	15/02/1953	13/11/1976	13/11/1976	01/07/1974	13/11/1976
25	Shah Jehan	Gujar Khan	GPS-1 Y.H	Y.H(W)	Y.H(W)	12	SSC	PTC	15/04/1956	18/12/1976	18/12/1976	20/03/1975	18/12/1976
26	Muhammad Salim	Muhammad Shah	GPS No.2 Topi	Topi (E)	Topi (E)	12	F.A	PST	12/03/1956	18/12/1976	18/12/1976	20/03/1975	18/12/1976
27	Abdul Haq	Abdul Halim	GPS KSK	KSK	KSK	12	SSC	PTC	15/12/1952	21/12/1976	21/12/1976	24/10/1974	21/12/1976
28	Sabzur Rehman	Abdul Manan	GPS No. 1 Maneri Bala	Swabi Maneri	Maneri Bala	12	FA	CT, PTC	01/02/1953	25/12/1976	25/12/1976	20/03/1975	25/12/1976
29	Mohammad Saleh	Ali Asghar	GPS Jhanda	Jhanda	Jhanda	12	SSC	PTC	09/02/1956	13/01/1977	13/01/1977	01/11/1974	13/01/1977
30	Muhammad Jamil	Noor Ilahi	GPS Dodher	Marghuz	Thand Koi	12	FA	PTC, CT	14/04/1955	05/09/1977	05/09/1977	20/03/1975	05/09/1977
31	Nawar Khan	Ajab Khan	GPS Dandqa Dagai	Tarakai	Dagai	12	F.A	PTC	22/08/1952	01/10/1977	01/10/1977	01/08/1974	01/10/1977
32	Muhammad Jaisal	Said Akbar	GPS Marghuz	Marghuz	Marghuz	12	SSC	PTC	01/12/1954	04/10/1977	04/10/1977	20/03/1975	04/10/1977
33	Abdur Raziq	Noshad Khan	GPS No.2 Mian Dheri	Panipir	Panipir	12	F.A	PTC, CT	13/06/1953	25/12/1977	25/12/1977	30/05/1975	25/12/1977
34	Ahmad Gul	Khetab Gul	GPS Kalo	Yaqubi	Yaqubi	12	FA	PTC	12/11/1953	31/12/1977	31/12/1977	20/03/1975	31/12/1977
35	Habiz ur Rehman	Muhammad Rehman	GPS No.2 Zarobi	Zarobi	Zarobi	12	SSC	PST	02/02/1957	11/01/1978	11/01/1978	01/07/1975	11/01/1978
36	Nobat Khan	Azeem Khan	GPS Miskin Abad	Yaqubi	Yaqubi	12	BA	CT	02/02/1953	01/02/1978	01/02/1978	20/03/1974	01/02/1978
37	Laiq Ahmad	Ali Jan	GPS Gar Munara	Gar Munara	Gar Munara	12	B.A	PTC	01/02/1954	11/03/1975	11/03/1975	20/03/1975	05/02/1976
38	Khaiber Khan	Mamur Khan	GPS Chachayano Killi	Kalu Khan	Sheikh Jana	12	SSC	PTC	10/02/1954	05/03/1978	05/03/1978	24/10/1974	05/03/1978
39	Ayub Khan	Saad Ullah Khan	GPS Sokatli	G.Chitra	G.Chitra	12	F.A	PST	04/10/1954	11/03/1978	11/03/1978	01/07/1975	11/03/1978

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Sr	Name of Teacher	Father Name	Name of School	Name of own U/C	U/C where presently posted	SPS	Acad. Qualification	Pro. Qualification	D/O Birth	D/1st Enty to Govt.	D/1st Appo in E & SE deprt	D/C passing PTC exam	D/O T. C Against ST post
1303	Habib ul Wahab	Nadir Shah	GPS Marghuz	Marghuz	Marghuz	12	B.A	PTC	10/03/1971	28/10/1995	28/10/1995	09/01/1995	28/10/1995
1304	Mir Rehman	Sultan Muhammad	GPS No 1 Main.	Maini	Maini	12	F.A.	PTC	17/12/1973	29/10/1995	29/10/1995	07/10/1994	27/10/1995
1305	Hussain Muhammad	Shah Muhammad	GMPS B. kotha	Kalabat	Kotha	12	F.A.	PST	12/01/1968	30/10/1995	30/10/1995	30/10/1995	30/10/1995
1306	Muhamma Saleem	Mohammad Said	GPS-1 Pabaini	Jhanda	Pabaini	12	MA	PTC/CT / B.Ed	09/12/1971	30/10/1995	30/10/1995	10/01/1994	30/10/1995
1307	Noor U	Wahid Ullah	GPS G.Bala	Gandaf	Gandaf	12	B.A	PST	10/03/1973	31/10/1995	31/10/1995	07/01/1994	31/10/1995
1308	Muhammad Khan	Muhammad Khan	GPS No.2 Beja	Jhanda	Jhanda	12	B.	PTC,CT	12/05/1971	01/11/1995	01/11/1995	10/01/1994	01/11/1995
1309	Muhammad Zahid	Muhammad Ayub	GPS Adda KSK	KSK	KSK	12	FA	PTC	16/03/1968	17/09/1992	17/09/1992	25/05/1995	01/11/1995
1310	Nawar Zaman	Atter Shah	GPS M.Banda	Betgali	Gandaf	12	MA	PST/B.ed/Med	11/04/1970	04/11/1995	04/11/1995	07/11/1994	04/11/1995
1311	Riaz Ali	Shamshad	GPS Ranizai Koti	Turlandi	Turlandi	12	SSC	PTC	05/04/1968	13/12/1995	13/12/1995	30/01/1993	13/12/1995
1312	Mujeeb Khan	Imam Shah	GPS Z.U.Banda	G.Chitra	G.Chitra	12	FA	PST	10/04/1972	24/12/1995	24/12/1995	07/12/1994	24/12/1995
1313	M.Arif Shah	Umar Shah	GPS No.5 Jalbai	Jalbai	Jalbai	12	M.A	PTC, CT, B.Ed	08/10/1970	01/09/1992	01/09/1992	01/01/1996	01/09/1992
1314	Hakeem Khan	Manaf Gul	GPS No.2 JHR	M.Changan	Jehangira	12	B.A	PTC, CT, B Ed	05/03/1973	01/09/1992	01/09/1992	04/01/1996	01/09/1992
1315	Mohsin Nabi	Sher Nabi	GPS No.2 JHR	Jehangira	Jehangira	12	M.A	PTC	14/02/1974	01/09/1992	01/09/1992	04/01/1996	01/09/1992
1316	Noor U. Basar	Mona Yousaf Khan	Gps Budho Lahor	Lahor Gharbi	Lahor Gharbi	12	MA	PTC/CT	02/03/1974	09/01/1992	09/01/1992	04/01/1996	04/01/1996
1317	Shamsur Rehman	Muhammad Rehman	GPS.No.2 Topi	Topi W	Topi (E)	12	F.A.	PST	01/02/1970	09/01/1992	09/01/1992	04/01/1996	09/01/1992
1318	Pir Zaman	Nawab Khan	GPS M.Khel	Gandaf	Gandaf	9	B.A	PST/Bed	05/07/1966	30/05/1993	30/05/1993	04/01/1996	04/01/1996
1319	Imtiaz Khan	Waris Khan	GPS.No.1 Topi	Topi (E)	Topi (F)	12	F.A.	PST	12/01/1969	01/09/1992	01/09/1992	04/01/1996	04/01/1996
1320	Abdul Qayum Shah	Wahid Ullah Shah	GPS T.S.Banda	G.Chitra	G.Chitra	12	F.A	PST	24/02/1971	07/01/1991	07/01/1991	09/01/1996	09/01/1996
1321	Gul Bahman	Habib Ullah Khan	GPS Sakindan	Bachai	Bachai	12	M.A	PTC/CT/B.Ed	09/04/1971	10/01/1996	10/01/1996	04/01/1996	10/01/1996
1322	Abdul Rabi	Cham Haider	GPS said Shan Ghatti	Pabaini	Pabaini	12	BA	PTC	03/03/1967	02/09/1992	02/09/1992	04/01/1996	04/01/1996
1323	Shah Nawar Zaman	Abdur Rehman	GPS No.3 S.Jana	Sheikh Jana	Sheikh Jana	12	M.A	CT, BED, PTC	01/02/1973	01/03/1992	01/03/1992	01/04/1996	01/04/1996
1324	Junas Khan	Amir Sultan	GPS Rafiq Abad	Asota Sharif	Asota Sharif	12	B.A	CT, BED, PTC	08/11/1976	25/10/1995	25/10/1995	01/04/1996	01/04/1996
1325	Fida Mohd	Zar Ullah	GPS Afzal Khan Banda	Manki	Manki	12	S.S.C	PTC	05/02/1970	18/03/1992	18/03/1992	05/05/1996	18/03/1992
1326	Nisar Muhammad	Rahim Shah	GPS G.Bala	Gandaf	Gandaf	9	MA	PST/CT	13/06/1975	10/03/1994	10/03/1994	05/05/1996	05/05/1996
1327	Faqir Zada	Sakin Muhammad	GPS No1 Maneri Bala	Maneri Bala	Maneri Bala	12	FA	PTC	10/02/1971	26/05/1990	26/05/1990	05/05/1996	05/05/1996
1328	Ayaz Anwar	Chad Muhammad	GPS Firdos Abad	KSK	Cheknodah	12	BA L.Sc	B ED, CT, PTC	25/01/1972	07/05/1996	07/05/1996	01/04/1996	07/05/1996
1329	Tariq Ahmad	Mohd Sultan	GPS Sogandi	maini	Kotha	12	B.A.	PST	02/08/1968	31/05/1988	31/05/1988	25/05/1996	25/05/1996
1330	Said Ul Ibrar	Ahmad Said	GPS No.1 Zaida	Zaida	Zaida	12	F.A	PTC	15/03/1964	30/11/1986	30/11/1986	25/05/1996	25/05/1996
1331	Muhammad Asim	Muhammad Nawar	GPS Fazli Qadeem Banda	Saleem Khan	Saleem Khan	9	BA	PTC	12/01/1974	21/04/1999	21/04/1999	25/05/1996	25/05/1996
1332	Shams ul Islam	Musanif Shah	GPS Goher Abad(Ismaila)	Ismaila	Ismaila	12	SSC	PTC	12/02/1966	06/12/1987	06/12/1987	25/05/1996	25/05/1996
1333	Qabil Ahmad	Khan Wali	GPS Dhok	Marghuz	Gar Munara	12	F.A	PTC	25/04/1974	30/05/1996	30/05/1996	25/05/1996	30/05/1996
1334	Sabzali	Shamas	GPS # 1 Kalu Khan	Kalu Khan	Kalu Khan	12	B.A	PTC	27/03/1970	07/07/1996	07/07/1996	01/04/1996	07/07/1996
1335	Aman Ullah	Sher Ullah	GES Nabi	Anbar	Beka	12	BA	PTC	01/01/1970	11/04/1990	11/04/1990	30/05/1996	30/05/1996
1336	Abdul Aziz	Shah Nazar	GPS No 1 Maini	Maini	Maini	12	F.A.	PTC	02/04/1955	29/03/1990	29/03/1990	30/05/1996	30/05/1996
1337	Fazal Elahi	Farid Khan	GPS.No.1 Kalabat	Kalabat	Kalabat	12	B.So	PST/M.Ed	04/03/1967	09/01/1992	09/01/1992	30/05/1996	30/05/1996
1338	Muhammad Sulman Taj	Sher Afzar Nisar	GPS Dodher	Zaida	Thand Koi	12	BA	PTC	20/11/1972	27/05/1991	27/05/1991	30/05/1996	30/05/1996
1339	Sher Aman	Umer Khan	GPS Shalmani	Gabasani	Gabasani	12	B.A	PST	25/02/1971	11/06/1995	11/06/1995	15/05/1996	15/05/1996
1340	Fazl Muhammad	Umar Khan	Gps Pak Kaya	Anbar	Kunda	12	BA	PTC/Bed	02/05/1970	09/01/1992	09/01/1992	30/11/1996	09/01/1992
1341	Akber Khan	Muhammad Shah	GPS No.1 Chanai	Gabasani	Gabasani	12	BA	PST	01/01/1973	09/01/1992	09/01/1992	31/12/1996	09/01/1992
1342	Momin Khan	Miskeen Shah	GPS Haji Khel	Kabgani	Maini	9	F.A	PTC	03/07/1966	14/03/1992	14/03/1992	31/12/1996	14/03/1992

(9)

Annex "C"

بخدمت جناب ڈسٹرکٹ آفیسر صاحب، ابتدائی و ثانوی تعلیم (مردانہ) صوابی

عنوان: درخواست بمراد فراہمی سینیاریٹی از تاریخ تقرری

جناب عالی!

گزارش ہے۔ کہ سائل مورخہ 01-09-1992 سے محکمہ تعلیم صوابی میں من حیث پرائمری سکول ٹیچر فرائض منصبی نبھا رہا ہے۔ سائل کی تعلیمی قابلیت B.Sc جبکہ پیشہ ورانہ قابلیت M.Ed/PTC ہے۔
سائل کو سنیاریٹی تاریخ تقرری (01-09-1992) کی بجائے 30-08-1996 (PTC پاس کرنے کی تاریخ) سے دیا گیا ہے۔ حالانکہ سائل کو سروس ٹریبونل کی فاضل عدالت نے تاریخ تقرری سے گریڈ ڈپے دیا ہے۔ (عدالتی فیصلے کا نقل منسلک ہے)۔ جس پر محکمہ تعلیم نے عمل بھی کیا ہے۔ لیکن نامعلوم وجوہات کے بناء پر سائل کو تاریخ تقرری سے سنیاریٹی سے محروم رکھا گیا ہے۔ نتیجتاً محکمہ تعلیم میں 24 سال مسلسل سروس کے باوجود سائل BPS-15 میں ترقی سے محروم ہے۔
استدعا ہے کہ مذکورہ بالا حقائق کی تناظر میں سائل کو تاریخ تقرری سے سنیاریٹی کا حق دینے کے لئے مناسب احکامات صادر فرمائیں۔ نوازش ہوگی۔

العارض

fazal tahi

فصل الہی SPST / GPS نمبر 1 کلابت تحصیل ٹوپی ضلع صوابی

No: 310

Dated: 30/4/2016

Forwarded to the SDEO (M) Topi

For n/a please

No: 352

Dt: 02/5/16

مفتی علی

TO

DEO (M) Swabi,

HEAD TEACHER
G.P.S. No: 1 Kalabat
Dist: Swabi

The applicant is a competent and professional teacher. His request is justified and genuine. Please consider pragmatically.

Abdur Rahman
SDEO (M) Topi

Sub. Div. Educ. Officer
(Dist) Topi



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Annex "D"

DISTRICT EDUCATION OFFICE (MALE) SWABI

(Office phone & Fax No 0938280239, emis_swabi@yahoo.com)

No. 5499 Dated Swabi the 14/5 /2016

To,

Mr. Fazli Ilahi, SPST
GPS No.1 Kalabat (Swabi)

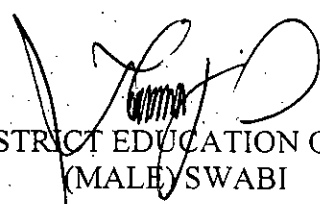
Subject:- GRANT OF SENIORITY FROM THE D/O APPOINTMENT

Memo:

Reference your appeal received through SDEO(M) Topi on the subject noted above.

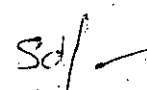
You are hereby informed that the award of financial benefits in the light of Government notifications and Court decisions is only to facilitate the employees financially and it is not a justification for seniority.

The rules of seniority say that a person will be given seniority from the date of passing of PTC or date of appointment as trained PTS which ever is earlier.]

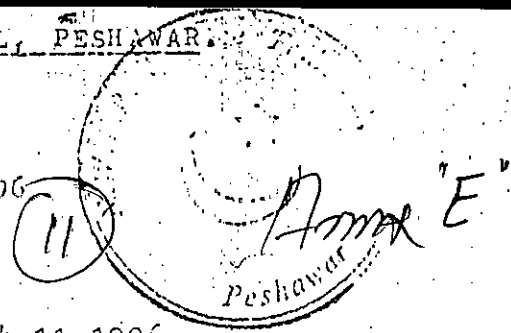

DY/DISTRICT EDUCATION OFFICER
(MALE) SWABI

Endst:No. _____

Copy of the above is forwarded to the SDEO(M) Topi for information.


DY/DISTRICT EDUCATION OFFICER
(MALE) SWABI

APPEAL NO. 690/1996



Date of institution ... 24.11.1996

Date of decision ... 25.11.1997

Fazal Elahi, PTC Teacher
Govt. Primary School No.1,
Kalabutt, District Swabi. ... Appellant.

VERSUS

- 1- Government of NWFP through Secretary Education, Peshawar.
- 2- Director of Education (Schools), NWFP, Peshawar.
- 3- Divisional Education Officer, Primary (M) Swabi. ... Respondents

Mr. Arshad Ali,
Advocate. ... For appellant

Mr. Mohammad Faheem Jan,
Advocate (Govt. Pleader). ... For respondents

Mr. Mohammad Qaim Jan Khan, Chairman
Arbab Azizullah Khan, Member

JUDGMENT

MOHAMMED QAIM JAN KHAN, CHAIRMAN: This is a service appeal filed by Fazal Elahi appellant under section 4 of the Service Tribunals Act, 1974 for the award of graded pay.

Brief facts giving rise to the present appeal are that the appellant was appointed as PTC (BPS-7) vide office order dated 29.7.92. (copy Annexure-A). That the appellant

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obtained Grade-'A' in his Secondary School Certificate Examination by obtaining 617 marks out of 850 in the year, 1983 (Annual). The appellant in the year, 1986 appeared for his Higher Secondary School Certificate Examination and obtained Grade (C) and declared successful. Finally the appellant was awarded his Bachelor of Science Degree from the University of Peshawar in 1994. Copies of relevant degrees are Annexures B1 to B3. That the appellant applied for PTC post advertised by the respondents and after undergoing test and interview was declared successful by obtaining 10th position out of 77 successful candidates. After being declared successful, the appellant joined the Education Department as PTC at GMPS, Dhera on 1.9.92 and is presently performing the duties of PTC at GPHS No.2, Maini. That the appellant since his appointment never earned a single adverse report and is performing his duties to the best satisfaction of his superiors and to the best of his own capability. That the appellant has not received the due service increments until 26.5.1996 which compelled the appellant to file the departmental representation to the concerned authorities through proper channel vide letter dated 26.5.96. Copy of the representation is Annexure-D. The appellant has successfully completed his PTC training and received his result on 30.8.96 and thereafter when appellant received his pay for the month of October, he was allowed graded pay w.e.f August, 1996 although the appellant is entitled for the same w.e.f 29.7.92 (the date of appointment). As the department has not replied his representation, hence the present appeal. The grounds of appeal are that the appellant is perfectly-qualified to hold the post and has served the Education Department for 4/5 years with good service record, so the appellant is perfectly entitled for the award of graded pay and increments. Moreover, the conduct of the respondent department

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OFFICE OF THE DIRECTOR
 EXAMINATIONS
 PESHAWAR
 AT J. S. T. P.



is discriminatory as other teachers have been allowed increments as well as graded pay. The action of the respondent department is blatantly against law and the established rules. In the prayer, the appellant has asked for the acceptance of the present appeal and for the award of graded pay w.e.f 1.9.92 (the date of appointment) alongwith other financial benefits admissible under the rules to the post of PTC (BPS-7).

Notices were issued to the respondents. They appeared through their respective representative/counsel, submitted reply rebutting all the allegations of the appellant. The appellant has also submitted his re-joinder after which detailed arguments of Mr. Arshad Ali, Advocate for appellant and Mr. Mohammad Faheem Jan, Advocate (Govt. Pleader) for respondents have been heard and record perused.

As far as the preliminary/legal objections are concerned, this is a matter of pay (financial matter) which is a recurring cause and limitation does not attract in such like matters. Moreover, from the date of departmental appeal, the present appeal is perfectly within time. The appellant alleges to be qualified for the post of PTC but has been denied graded pay for no obvious reasons, thus he has got every cause of action. As far as the mistake in the designation of respondent No. 3 is concerned, this is a clerical mistake which can be rectified and last of all Accountant General is not a necessary party in the present case.

On factual side the case is quite simple and clear. The appellant has been appointed as untrained teacher vide his appointment order (Annexure-A). Later on he has improved his educational qualification and has successfully passed his Higher Secondary School Certificate Examination

25-11-92

ATTESTED
 EXAMINED
 DEPT. SECRETARY
 PESHAWAR



and has also passed/obtained the Bachelor of Science Degree from the University of Peshawar in 1994. The appellant has got 4/5 years teaching experience at his credit with good service record and results. The appellant has been allowed graded pay from August, 1996, the date on which he qualified for the post. As far as the remaining period i.e. period from his appointment (29.7.92) upto 30.8.96 is concerned, he has worked on the post and he should be allowed minimum of his scale (BPS-7). As far as the objection of untrained teacher taken by the respondents is concerned, in this behalf the law is clear on the point. The Supreme Court of Pakistan has held that "on no discoverable principle the untrained teachers could be refused graded pay to their disadvantage by an executive fiat". If an authority is needed SCMR 1976 (297) will suffice. So with these observations, we accept the appeal as prayed for, with no order as to costs. File be consigned to the record.

ANNOUNCED
25.11.1997

(Signature)
(MOHAMMAD QAIM JAN KHAN)
CHAIRMAN

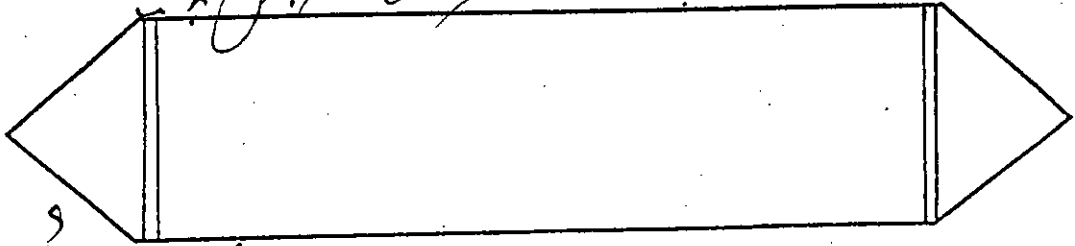
(Signature)
(ARBAE AZIZULLAH KHAN)
MEMBER

Date of receipt 25-11-97
 Number of copies 1600
 Copying fee 6-00
 Urgent
 Total 6-00
 Name of capital ARBAE AZIZULLAH KHAN
 Date of receipt 9-12-97
 Date of delivery of 9-12-97

(Signature)



بعدالت حسب رس لہجہ اولیٰ و
RPK



۹
۲۰۱۶ء منجانب مہمل
فضل الہی بنام گوردھند

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام سیالکوٹ کیلئے سیال محمد الہی کا فضل مندرجہ بالا مندرجہ بالا مندرجہ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ نیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائہ التوائے مقدمہ کے سبب سے وہ ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

الرقوم 13 ماہ جول 2016

العب گ واہ الع

کے لئے منظور ہے۔

بمقام

(Signature)

(Signature)
Saij Ullah Malik
Advocate Pesh

(Mian Muhiy Uddin Karimkhal
Advocate S. Court)

4/17/2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.637/2016

Fazal Ilahi SPST GPS No.1 Kalabat (Swabi).....Appellant

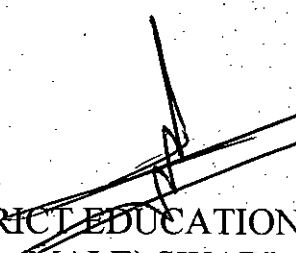
VERSUS

1. Secretary E&SE Khyber Pakhtunkhwa Peshawar
2. District Education (E&SE) Male Swabi

.....Respondents

INDEX

S#	Description of Documents	Annexure	Page
1	Para wise Comments with affidavit	-	01-02
2	Govt:of NWFP Finance Department Regulation Wing letter	Annexure-A	03
3	Honouralbe Service Tribunal Court decision Dated 13.06.2016	Annexure-B	04-06


DISTRICT EDUCATION OFFICER
(MALE) SWABI
Distt: Education Officer
(Male) Swabi

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.637/2016

Fazal Ilahi SPST GPS No.1 Kalabat (Swabi).....Appellant

VERSUS

1. Secretary E&SE Khyber Pakhtunkhwa Peshawar
2. District Education (E&SE) Male Swabi

.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 01 TO 03

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

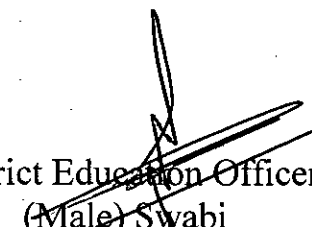
1. That the instant Appeal is badly time barred.
2. That the Appellant has no locus standi or cause of action to file the instant Appeal
3. That the Appellant has not come to the Tribunal with clean hands.
4. That the Appellant concealed the material facts from the Honourable Tribunal.
5. That the Appellant has filed the instant Appeal just to pressurize the respondents.
6. That the Appellant is estopped by his own conduct to file the instant appeal.
7. That, the Appeal is not maintainable in the present form and also in the present circumstances of the issue.
8. That the instant Appeal is against the prevailing laws and rules.

ON FACTS.

1. That this para of the appeal relates to the service record of the appellant
2. That the appellant was initially appointed as untrained PST teacher on 09.01.1992, his appointment was purely adhoc and on fixed pay due to lack of prescribed professional qualification i.e. PTC. He passed PTC examination on 30.08.1996. The seniority of the appellant has rightly been reckoned from 30.08.1996 by the respondent. The rules of seniority say that a person will be given seniority from the date of passing professional examination prescribed for a certain post i.e. PTC or from the date of appointment as trained PST teacher which ever is earlier
3. That the said rejection order is self explanatory.
4. Incorrect and denied, this Honourable tribunal vide order dated 25.11.1997 has granted Annual increment for the purpose of financial benefits which has no relevancy with seniority or regularization of the service from the date of appointment.
5. Incorrect and denied, as per laws/rules concerning seniority which including Ss 8(4) of civil act 1973, "Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post. Hence seniority of any civil servant is reckoned from the date of regular appointment.

6. Incorrect and denied, the Superior Courts have held in so many judgments that the seniority shall be reckoned from the date of regular appointment, not from the date of adhoc/fixed/contract appointment of the civil servant. The appointment of the appellant has been made as untrained teacher on fixed pay. Moreover the decision of the Honourable Courts are quite silent about the determination of seniority after the award of annual increment of untrained period, and such like queries have been clarified by the Finance Department in letter No.FD(PRC(5-2/2002 dated 30.10.2009 which has also remained silent about determination of seniority which clearly means that seniority will be determined after acquiring prescribed qualification for a certain post. As per annexure B, the same nature case has been dismissed by this Honourable Tribunal (Annexure-A& B attached)
7. Incorrect and denied, the impugned order passed by the respondent is legal, with jurisdiction, with lawful authority and according to law, rules and Government prevailing policy.
8. Incorrect. That the impugned order has been passed according to law, rules and government prevailing policy. Furthermore no legal or constitutional right of the appellant has been violated by the respondent. That the respondent seek permission to argue any other points during the hearing of this case.

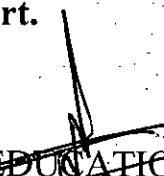
In wake of the above submissions, it is requested that this Honourable Tribunal may graciously be pleased to dismiss the instant appeal with cost in favour of the respondents.


District Education Officer
(Male) Swabi
Distt. Education Officer
(Male) Swabi


Secretary Elementary & Secondary Education
Department Govt:of KPK

AFFIDAVIT

We do hereby solemnly affirm and declare on oath that the contents of the comments are true and correct to the best of our knowledge and belief, nothing has been concealed from this Honourable Court.


DISTRICT EDUCATION OFFICER
(MALE) SWABI
Distt. Education Officer
(Male) Swabi

Annexure - A

120

82



GOVERNMENT OF N.W.F.P
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD (PRC) 5-2/2002
Dated Peshawar the: 30-10-2009

The Secretary to Govt. of NWFP,
Elementary & Secondary Education Department,
Peshawar.

Subject:

GRANT OF ANNUAL INCREMENT / RUNNING PAY TO
UNTRAINED TEACHERS IN THE LIGHT OF SUPREME
COURT JUDGMENT.

Dear Sir,

I am directed to refer to this Department letter No. FD (PRC) 5-2/2002 dated 30-03-2009 on the subject noted above and to say that certain quarters have raised some queries about the subject matter which are clarified as under:-

- i. All those untrained teachers who were appointed on fix pay and were subsequently regularized against their posts, on acquiring / completing requisite training successfully, would be entitled for such benefits of annual increments from the date of their first appointments as such, but without arrears.
- ii. The above benefit would also be admissible to all those retired teachers who fulfil the above conditions.
- iii. The above benefit would not be admissible to those who themselves resigned, or were removed / terminated from service.

2. This Department letter of even number dated 30-03-2009 shall be deemed to have been modified to the above extent.

Yours Faithfully,

(SHAUKAT ULLAH)
SECTION OFFICER (SR-1)

Endst: of even No. & date.

Copy for information and necessary action:-

1. Accountant General, NWFP.
2. All District Coordination Officers, NWFP.
3. All District / Agency Accounts Officers, NWFP / FATA.

Distt. Education Officer
(Male) Swabi

SECTION OFFICER (SR-1)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEALS NO. 11/2015

Date of institution ... 06.07.2012
Date of judgment ... 13.06.2016

Annexure-B

Sanaullah Jan, Senior Primary School Teacher (BPS-14),
Govt: Primary School Loya Banda, District Malakand,

... (Appellant)

VERSUS

1. Govt: of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar.
2. Director School Elementary and Secondary Education Directorate of Elementary and Education of Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) Elementary and Secondary Education Malakand.

... (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE ORDER DATED 31.08.2012 OF DIRECTOR SCHOOL ELEMENTARY AND SECONDARY EDUCATION DIRECTORATE OF ELEMENTARY AND EDUCATION OF KHYBER PAKHTUNKHWA PESHAWAR OR ANY RULE WHEREBY THE SENIORITY CANNOT BE CONSIDERED FROM THE DATE OF APPOINTMENT AS UNTRAINED TEACHER.

Mr. Nazir Ahmad, Advocate.
Mr. Muhammad Jan, Government Pleader

.. For appellant.
.. For respondents

MR. PIR BAKHSI SHAH
MR. ABDUL LATIF


.. MEMBER (JUDICIAL)
.. MEMBER (EXECUTIVE)

JUDGMENT

PIR BAKHSI SHAH, MEMBER: Admittedly, the appellant was appointed as untrained PTC Teacher on 29.10.1989 and his name was included in the seniority list of PTC Teachers when he passed PTC examination on 24.12.1993. He has brought this service appeal for the following prayer:-

That on acceptance of this appeal,

2296/A/KC/SET(M&F)SL/inform dated 31.8.2012 or any order

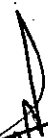

Distt. Education Officer
(Male) Swabi

or rule in respect of not considering untrained service towards seniority be set aside, declare discriminatory, arbitrary, void ab-initio and the appellant untrained service w.e.f 01.11.1989 be considered towards seniority, consequent thereof the appellant be given seniority w.e.f 01.11.1989, the (date when the appellant was regularly appointed) with all consequential benefits.”

2. Arguments heard and record perused.




3. Learned counsel for the appellant argued that the department has wrongly considered regular appointment of the appellant w.e. from 24.12.1993 the date on which appellant passed his PTC course and his service period as untrained teacher was wrongly ignored which started from 29.10.1979. He submitted that even the first appointment of the appellant on 29.10.1979 was a regular appointment when seen in the light of the Finance Department Notification dated 30.03.2009 and dated 12.10.2009. He submitted that by way of the said notifications the untrained teaching period was excluded only for the purpose of arrears of the increments and allowances but once the graded pay was allowed to the appellant from the date of their first appointment on 29.10.1979 so his seniority cannot be refused to the reckoned from the said date.

4. The appeal was resisted by learned Government Pleader on the ground that the above referred notification were valid to the extent of the graded pay and by no stretch of imagination those could be stretched to include regular appointment of the appellant. He submitted that the appellant was appointed on contract basis, on fixed pay, and he was never regular appointee much-less in the prescribed manner in accordance with rules. He further submitted that the subject matter of this appeal is seniority but it is evident that no private respondents who now stands senior to the appellant, have been made party in this appeal. He submitted that being devoid of merits, the appeal may be dismissed.


Distt: Education Officer
(Swabi)

5. We have heard pro & contra arguments at length and have carefully perused the record. Ordinarily on a post for which a certain special training/examination is must so such appointment without such course/examination cannot be treated as a regular examination. The admitted position in this case is that the appellant was initially appointed as untrained teacher. He was appointed against a fixed pay. There is no legislation or notification from the respondents side specifying in particular that appointment of the PTC Teacher (appellant) will be regular appointment from the date of their first appointment. The Tribunal is afraid to subscribe to the view of the learned counsel for the appellant that in the light of the referred notifications the appellant became regular servant from the date of their first appointment. A regular appointment means an appointment of a duly qualified person in the prescribed manner in accordance with the law and rules which standard is evidently lacking in case of the appellant. After passing the PTC course on 24.12.1993 it seems that the appellant was accordingly regularized in service, therefore, he was given his due position in the seniority list after his regular appointment which step is in accordance with the law and the rules on the subject. In the light of the foregoing discussion, the Tribunal is of the considered view that being devoid of merits, the instant appeal is liable to be dismissed. The same is therefore, dismissed. Parties are left to bear their own cost. File be consigned to the record room.

ANNOUNCED
13.06.2016



Dist. Information Officer
(Male) Swahi

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
(AT PESHAWAR)

In Re: Service Appeal No.637 of 2016

Fazal Ilahi.....Appellant

V E R S U S

Govt. of Khyber Pakhtunkhwa
Through Secretary Education & other.....Respondents

REJOINDER TO THE PARAWISE
COMMENTS OF RESPONDENTS

Respectfully Sheweth:

That all the preliminary objections taken in the parawise comments, are totally wrong, incorrect, baseless and against the rules/law and judgments of Superior Courts.

ON FACTS:

1. Needs no comments.
2. Incorrect, hence denied. The recent Judgments of Supreme Court of Pakistan are in favour of the appellant in which a principle has been laid down that seniority shall be reckoned from the date of initial appointment. The respondents have failed to annex any rules with the

comments or any Judgment of Superior Court has been quoted by the respondents.

3. Needs no comments.
4. Incorrect, hence vehemently denied. As mentioned above, the seniority of the appellant will be reckoned from the date of initial appointment and the august Supreme Court of Pakistan has held that there is no difference between trained and untrained teacher.
5. Detailed reply has already come in the preceding paragraph, hence need no comments.
6. Incorrect, hence denied. The recent Judgment on this point as mentioned above in the preceding paragraph is that no distention could be drawn between the untrained and trained teachers.
7. Legal, hence need no comments.
8. Legal, hence need no comments.

It is, therefore, respectfully prayed that on acceptance of this rejoinder, the relief as prayed for in the service appeal may be granted in favour of the appellant against the respondents, in the best interest of justice.

Any other order deemed appropriate in the circumstances may also be passed. The appellant may be

allowed to put forward any other arguments/documents
at the time of hearing of the case.

Fazal Ilahi

Appellant

Through

Mian Muhibullah Kakakhel
Mian Muhibullah Kakakhel
Senior Advocate
Supreme Court of Pakistan.

&

Syed Saifullah Muhib Kakakhel
Syed Saifullah Muhib Kakakhel
Advocate High Court.

Dated: 06/4/2017

AFFIDAVIT

I, Fazal Ilahi s/o Farid Khan R/O Kalabat Swabi, do hereby solemnly affirm and declare on oath that contents of **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

Identified by:

Mian Muhibullah Kakakhel
Mian Muhibullah Kakakhel,
Sr. Advocate
Supreme Court of Pakistan

Fazal Ilahi

DEPONENT
CNIC: 16202-0888329-7



No.S.O (SE-III) 7-36/2012
GOVERNMENT OF THE PUNJAB
SCHOOL EDUCATION DEPARTMENT

To,

Dated Lahore the 10th July, 2017.

The Chief Executive Officer,
District Education Authority,
Narowal.

Subject:-

IMPLEMENTATION OF ORDER DATED 01.03.2017 PASSED BY THE HONOURABLE SUPREME COURT OF PAKISTAN IN CIVIL PETITION NO.1068/L-2013 TITLED WALI MUHAMMAD NASIR VS GOVT. OF THE PUNJAB THROUGH CHIEF SECRETARY PUNJAB AND OTHERS.

I am directed to refer to the subject noted above and to state that Honourable Supreme Court of Pakistan disposed of the above cited civil petition vide order dated 01.03.2017 with the direction as under:

"We, therefore, direct the department to consider the promotion of the petitioner from the date of his initial appointment, subject to other relevant factors. The petition is converted into appeal and allowed in the above terms".

2. I am further directed to state that Competent Authority has directed to implement the aforementioned Court order dated 01.03.2017 in letter and spirit. It is therefore, advised that the seniority of the petitioner i.e EST (English) may kindly be considered from his date of initial appointment.

SECTION OFFICER (SE-III)

No. & Date Even.

A copy is forwarded for information and necessary action to:

1. The Accountant General Punjab, Lahore.
2. All Chief Executive Officers, District Education Authorities in the Punjab.
3. All District Education Officers (Male / Female) in the Punjab.
4. All District Accounts Officers in the Punjab.

SECTION OFFICER (SE-I)

C.C

1. PS to Secretary, School Education Department.
2. PS to Special Secretary (Operation) School Education.
3. PS to Additional Secretary (Schools).
4. PA to Deputy Secretary (EE).

قسط الہی
محکمات حکومت

BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWAR

Service Appeal No. 309 /2013

Dr. W. F. Bhatti
Secretary
160
18/11/13

Inayat Said PST
GPS Namsair
District Dir (Lower).....Appellant

Versus

1. Govt. of K.P.K., through Secretary Elementary & Secondary Education, Peshawar.
2. Secretary to Govt. of K.P.K., Finance Department, Peshawar.
3. Director Elementary & Secondary Education Govt. of K.P.K., Peshawar.
- 4. Deputy Commissioner (District Coordination Officer) District Dir Lower.
- 5. District Education Officer Elementary & Secondary Education Dir Lower.
6. District Accounts Officer District Dir (Lower).
7. Private Respondents from S.No. 1 to 681 who has been selected for BPS-15 vide impugned seniority list issued by the respondent No. 5

Hand to day
18/11/13

re-submitted to
and filed.

3/11/13

Note: The list of the private respondents is attached with Service Appeal may be considered integral part of the Service Appeal.

.....Respondents

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALCAMP COURT, SWAT

Service Appeal No. 309/2013

Date of Institution... 18.01.2013

Date of decision ... 05.07.2017

Inayat Said PST-GPS Namsair, District Dir (Lower) ... (Appellant)

VERSUS1. The Government of Khyber Pakhtunkhwa through Secretary, E&SE,
Peshawar and others. ... (Respondents).SYED ABDUL HAQ,
Advocate

... For appellant.

MR. MUHAMMAD ZUBAIR,
District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN, ...
MR. MUHAMMAD AMIN KHAN KUNDI, ...CHAIRMAN
MEMBERJUDGMENTNIAZ MUHAMMAD KHAN, CHAIRMAN:- Arguments heard and
record perused.2. This judgment shall dispose of the instant service appeal as well as
connected service appeals No. 106/2013 Aurangzeb, No. 107/2013 Rahatullah
Khan, 108/2013 Mujeeb Said, No. 109/3013 Badshah Mahmood, No. 310/2013
Hussain Shah, No. 311/2013 Muhammad Saleem, No. 312/2013 Jan-e-Alam, No.
313/2013, Sikandar Shah, 314/2013 Alam Khan, 315/2015 Hussain Muhammad,
No. 316/2013 Rahat Khan, No. 317/2013 Amanullah, No. 318/2013 Mohibullah,
No. 319/2013 Azizullah, No. 359/2013 Muhammad Khan, No. 360/2013
Karimullah, No. 361/2013 Khaista Khan, No. 362/2013 Ismail, No. 363/2013
Muhammad Ishaq, No. 364/2013 Zahid Khan, No. 365/2013 Waris Khan, No.

366/2013 Shakirullah, No. 367/2013 Bakht Baidar, No. 368/2013 Abdul Bari, No. 369/2013 Mukhtar-ud-Din, No. 370/2013 Hidayat Khan, No. 371/2013 Badshah Rahman, No. 372/2013 Muhammad Iqbal, No. 373/2013 Abdul Malik, No. 374/2013 Muhammad Nawaz, No. 375/2013 Rehman Bahader, No. 376/2013 Mst. Noor Jehan Begum, No. 377/2013 Gulab Zair, No. 378/2013 Humesh Gulab, No. 379/2013 Fazal Mahmood, No. 380/2013 Bakht Rawan, No. 381/2013 Fazal Muhammad, No. 382/2013 Mehboob-ur-Rehman, No. 383/2013 Hayat Khan and No. 384/2013 Jan Rehman, as common question of law and facts are involved in all the appeals.

FACTS

3. Brief facts of the case are that the appellants were appointed as untrained PST teachers originally on temporary basis. Their seniority was reckoned by the department after their regular appointment. In their present appeals the appellants have assailed the decision of the department for putting them junior to those trained PST Teachers who were appointed on regular basis later than the appellants and before the dates when the appellants were regularized on the basis of passing their professional examination.

ARGUMENTS

4. The learned counsel for the appellants argued that the seniority of the appellants was based on an order issued by the Deputy Director on 25.09.2012 and he was no person to issue any order regarding any policy or rules on the subject of seniority. That under Civil Servants Seniority Rules, 1993 (Rule-2) read with Rule 17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 the seniority of the civil servant is to be determined from the date of initial recruitment and not from the date when the appointee passes the

professional examination. In this regard he relied upon certain judgments of the superior courts including 2011-SCMR-1584 and 2014-SCMR-1289. He further argued that even in some judgments it has been held that seniority shall be reckoned from the date of assumption of charge. In this regard learned counsel for the appellant has relied upon a judgment of the august Supreme Court of Pakistan reported as 1993-PLC (C.S) 535. He also referred to method of recruitment framed under sub rule-2 of Rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 framed on 13.11.2012 wherein the promotion of the PST is to be made on the basis of seniority-cum-fitness from amongst senior PST Teachers with at least 10 years service and having the qualification prescribed for initial recruitment of PST Teachers. That the seniority list is prepared contrary to these last mentioned method of recruitment.

5. On the other hand learned District Attorney argued that the appellants were untrained teachers and at the relevant time they were not qualified to be appointed on regular basis, therefore they could only be considered for regular appointment when they have passed the required professional examination. The learned District Attorney referred to sub section 4 of Section 8 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 where under the seniority inter-se the civil servant is to be reckoned from the date of regular appointment.

CONCLUSION.

6. After hearing the arguments of the learned counsel for the parties and perusing the record this Tribunal reaches the conclusion that the rules referred to by the learned counsel for the appellant of 1993 have got no concern with the provincial civil servants as these rules have been framed under Section 25 of the

Federal Civil Servants Act, 1973. Rule-17 of Khyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules, 1989 are relevant in the present appeals. If we read Rule 17 read with sub section 4 of Section 8 of the Act then the seniority in a post or service or cadre shall take effect from the date of regular appointment or promotion to that post. Rule 17 says that the seniority of civil servant shall be determined in the case of person appointed by initial recruitment in accordance with the order of merits assigned by the Commission or Departmental Selection Committee and if no such examination is conducted then the seniority shall be determined with reference to the dates of their **continuous regular appointments** which means that Rule-17 lays down that the seniority of a civil servant shall be reckoned from the date of continuous regular appointment. Though Civil Servants Seniority Rules, 1993 are inapplicable to the present appeals yet if we go through rule 2 of the said rules it regulates the seniority on the initial appointment of person recommended for selection through an open advertisement and appointed on merits which is not the case of the appellants here. So far as method of recruitment referred to above issued on 13.11.2012 is concerned that method of recruitment had been issued under sub rule 2, of Rule-3 of Khyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules, 1989 which only lays down method of appointment, qualification and other conditions applicable to a post which does not include the seniority. The seniority as referred to above is dealt with by Rule 17 of these Rules and if for arguments sake we go to the said method of recruitment for PSHT it says that the promotion shall be made on the basis of **seniority-cum-fitness** with certain experience of teachers having **prescribed qualification for initial recruitment**. It means that at the time of promotion the promoting authority shall take into consideration three factors, one is **prescribed qualification**, the second is experience and third is seniority-cum-

fitness. It means that seniority is determined not by method of recruitment but by another provision of law as referred to above. Since the appellants have acquired prescribed qualification much after their initial appointment, they could not be considered for promotion due to lack of prescribed qualification and how could they be placed in seniority list without passing professional examination. Additionally the method of recruitment cannot be given retrospective effect as the same has been laid down on 13.11.2012 after the issuance of the seniority list (25.10.2012). It is settled law that delegated legislation cannot be given retrospective effect. The result of the whole discussion is that no case is made out by the appellants.

7. This appeal alongwith aforementioned connected appeals are dismissed, leaving the parties to bear their own costs. File be consigned to the record room.

ANNOUNCE
05.07.2017



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 21021 /ST Dated: 15/9/2017

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

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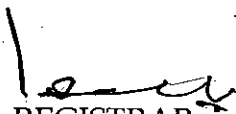
To,

The District Education Officer (Male),
Government of Khyber Paktunkhwa,
Swabi.

Subject: - **JUDGMENT IN APPEAL NO. 637/2016, FAZAL ILAHI.**

I am directed to forward herewith a certified copy of judgment dated 28/08/2017 passed by this tribunal on the above subject for strict compliance.

Encl: as above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR