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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No: 256/ 2015

Hameed Ur Rehman Senior Theology Teacher GHS Ikram Pur District Mardan ... Appellant

VERSUS

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

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS 1-3.

Respectfully Sheweth :-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

1. That the Appellant has got no cause of action / locus standi.
2. That the instant Service Appeal is badly time barred.
3. That the Appellant has concealed material facts from this Honorable Tribunal, hence liable to be dismissed on this score.
4. That the Appellant has filed the instant appeal on malafide motives.
5. That the Appellant has not come to this Honorable Tribunal with clean hands.
6. That the Appellant is not entitled for the relief he has sought from this Honorable Tribunal.
7. That the instant Service Appeal is against the prevailing law & rules.
8. That the instant appeal is based on malafide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
9. That this Honorable Tribunal has got no jurisdiction to adjudicate upon the present service appeal.
10. That the Appeal is not maintainable in its present form & circumstances of the case.
11. That the Appeal is bad for mis-joinder & non-joinder of the necessary parties.
12. That the Notifications dated 18-4-2014 is legally competent & is liable to be maintained in favour of the Respondents.
13. That no Departmental Appeal has been filed by the Appellant, hence liable to be dismissed at this score too.

ON FACTS

1. That Para-I needs no comments being pertains to the service & academic record of the appellant.

2 That Para-2 is correct to the extent that the Govt: of Khyber Pakhtunkhwa, has promoted /upgraded the post TT to STT in BPS-16 on the basis of seniority of 1/3rd of the total strength with at least 05-years qualifying service with at least BA/ B. Sc in 2nd Division from duly recognized University of the Country, alongwith the additional qualification of Shahadatul Alia from recognized by the Wafaqul Madaras Pakistan for the grant of promotion / upgradation against the STT (post) in the light of the policy issued vide Notification dated 13-11-2012 (copy of the said Notification is attached as Annexure-A).

3 That Para-3 is incorrect & misleading on the grounds that the appellant has been treated as per above referred upgradation policy. He has been promoted vide Notification dated 08-8-2014 issued by the Respondent No: 2 in favour of the appellant against the STT (M) post in BPS-16 with immediate effect & the interest of public service by the Respondents.

Furthermore, so far as the promotion of Zawar Hussain STT(M) is concerned, he is senior to the appellant on the basis of his date of birth. The date of birth the appellant has recorded in the said seniority as 07-2-1974, with the qualification of BA as against the academic qualification of MA is required for the promotion against the STT(M) in BPS-16. Whereas the date of birth of Mr. Zawar Hussain STT(M) is 14-4-1972. Therefore, the impugned Notification dated 08-5-2013 & 08-08-2014 are in accordance with law, rules & upgradation policy, hence is liable to be maintained.

4 That Para-4 is incorrect & denied. No departmental appeal has been filed by the appellant nor any such record is available in the office of the Respondent No: 2. Whereas rest of the Para regarding dismissal of his Service Appeal No: 1487/2013 vide order dated 26-3-2015 is correct to the extent that the appellant has been promoted to STT(M) BPS-16 post vide the impugned Notification dated 08-8-2014 by the Respondent No: 2 against which no Departmental Appeal has been filed by the appellant. Hence the matter had been seen badly time barred by law & is liable to be struck down in favour of the Respondents in the interest of justice.


5 That Para-5 is legal. However the Respondents further submit on the following grounds inter alia :-

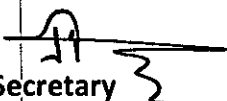
GROUND

- A Incorrect & denied. The appellant has been treated as per law, rules & cited policy dated 13-11-2012 by the Respondents in the instant case. Therefore, no violation of the said Article has been committed by the Respondent Department with regard to the Notification dated 18-4-2014 issued by the Respondent No: 2. Which is liable to be maintained in favour of the Respondents in the interest of justice.
- B Incorrect & denied. The act of the Respondents with regard to the impugned Notification dated 18-4-2014 vide which he appellant has been upgraded against the Senior Theology Teacher post with immediate effect is legally competent and liable to be maintained in favour of the Respondent Department.
- C Needs no comments being pertains to the service record of the appellant.
- D Incorrect & denied. The statement of the appellant is baseless ad without any merit, hence is liable to be struck down in favour of the Respondents.
- E Legal. However, the Respondents seek leave of this Honorable Tribuna! to submit additional case law & record at the time of arguments.

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


Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents NO: 2&3)


Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 1).

AFFIDAVIT

I, Khaista Rehman Asstt: Director (Lit: II) E&SE Department Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Parawise Comments in the titled Service appeal are true & correct to the best of my knowledge & belief & that nothing has been concealed from the ambit of this Honorable Tribunal. .


Deponent

43/18



Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

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Fax 091-9210936, 0800-33857
E-mail raj.q_kk851@yahoo.com

Annex "H"

Notification

Consequent upon the recommendations of the Departmental Promotion Committee and in pursuance of the Government of Khyber Pakhtunkhwa Elementary and Secondary Education Notification NoSO(B&A)/1-18/E&SE/2012 dated 11.07.2012 and Finance Department Endorsement No SO(FR)/FD/10-22(E)/2010 dated 16.07.2012, the following Male TTs B-15 are hereby promoted to the post of Senior TT BPS-16 (ks.10000-800-34000) plus usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government, on the terms and condition given below with immediate effect and further they will be posted in the Government Higher Secondary /High Schools by the District Education Officers concerned against the newly upgraded Senior TT BPS-16 posts:-

Total No. of TT (M) Posts duly verified by the DAO	202
1/3 share of Senior TT Posts	67
Share of promotion 100 %	67
Already Promoted to the post of Senior TT B-16	67
One TT B-16 Sharifullah retired from service.	01
Posts available for Promotion	01

S. No.	Sen No.	Name	Place of posting	Date of Birth	Remarks
1	95	Hameed ur Rahman	GMS Muti Banda	07/02/1974	Services placed at the disposal of DEO (M) Mardan for further posting.

Terms and conditions:-

- 1 They would be on probation for a period of one year extendable for another one year.
- 2 They will be governed by such rules and regulations as may be issued from time to time by the Govt.
- 3 Their services can be terminated at any time, in case his performance is found unsatisfactory during probationary period. In case of misconduct, he shall be proceeded under the rules framed from time to time.
- 4 Charge report should be submitted to all concerned.
- 5 Their Inter-Se- seniority on lower post will remain intact.
- 6 No TA/DA is allowed for joining his duty.
- 7 They will give an under taking to be recorded in their service book to the effect that if any over payment is made to him in light this order will be recovered and if he is wrongly promoted he will be reversed.

(Muhammad Rafiq Khattak)
Director
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.

1447-53

محمد رفیق خٹاک

Endst: No. / File No.: / Promotion Senior TT B-16: Dated Peshawar the 18/04/2014.

Copy forwarded for information and necessary action to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. District Education Officers (M) Mardan.
3. District Accounts Officer Mardan.
4. Official Concerned.
5. PS to the Secretary to Govt: Khyber Pakhtunkhwa E&SE Department.
6. PA to the Director E&SE Khyber Pakhtunkhwa, Peshawar.
7. M/File

8/8/2014

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

Attested to be True Copy H