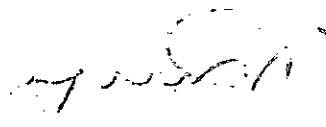


22/8/2017

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

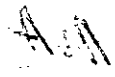
Learned counsel for the appellant present. Mr. Muhammad Jan, Learned Deputy District Attorney present. Vide separate/common judgment of today of this Tribunal placed on file bearing No. 627/2017 titled Mian Zia-ur-Rehman Versus The Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Civil Secretariat, Peshawar & other, 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

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.

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

Appellant Deposited  
Security & Process Fee

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 631 /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. Hanifullah 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 Mr. Hanif Ullah Govt. High School Jawzo Dir Lower 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- Annexures A and C of the appeal are illegible which may be replaced by legible/better one.
- 2- Copy of departmental appeal in respect of appellant is not attached with the appeal which may be placed on it.

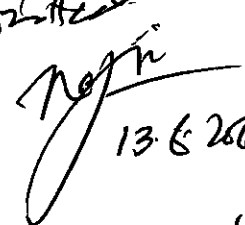
No. 985 /S.T,

Dt. 9/6 /2016

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Nazir Ahmad Adv. Pesh.

1. Annexure A, relevant part is legible, the Annexure C is the working paper which is just for record. The five are identical cases, which as a writ in High Court and then a petition in the Supreme Court was filed, which order is attached.
2. The VAs of the notification Annexure B are challenged, hence, the Appeal is a curious one.

Resubmitted  
  
13.6.2016

IN THE KPK Service Tribunal PESHAWAR

Service Appeal no 631 /2016

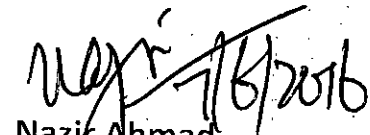
Hanif Ullah **VERSUS** Govt: of KPK and another.

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

  
Nazir Ahmad  
Advocate, Peshawar

IN THE KPK Service Tribunal PESHAWAR

①

Service Appeal no 631 /2016

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 580

Dated 07-6-2016

Hanif ullah Government High School Jawzo Dir  
Lower.....Appellant

VERSUS

1. Government of Khyber Pakhtun khwa 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 24<sup>th</sup> 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 Appellant of promotion to SST (BPS 16) Or any other relief which this

Filed to-day

Registrar

2/6/16.

Re-submitted to -day  
and filed.

Registrar

13/6/16.

2

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 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 MA, B.Ed.
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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1.	Secondary School Teacher (BPS-16)	<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><b>OR</b></p> <p>(ii) M.A in Education or Bachelor's Degree in Education from a recognized University.</p>	18 to 35 years	<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 24<sup>th</sup> 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

		<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>
--	--	---	--

16

				least five years service as senior Drawing Masters and Drawing Masters and having qualification mentioned in column No 3:
--	--	--	--	---

*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:-**

**GROUNDS:-**

- A. That the modification in the previous notification Dated November 13, 2012 and issuing another Notification of 24<sup>th</sup> 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/combinations once studied in 1990 i.e. two decade ago cannot be changed in 2014 or afterwards.

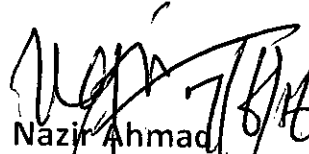
- 8
- I. That it is settled that the Appellant has not been treated equally before law and has been discriminated for unknown reasons against the Principle of fair competition which is tainted malafide and deemed to be done with ulterior motive.
  - J. That the impugned notification is without lawful 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

  
Nazir Ahmad  
Advocate. Peshawar.

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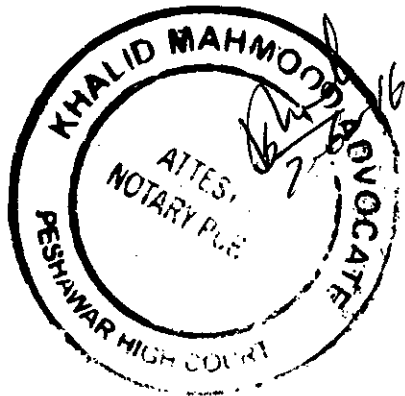
IN THE KPK Service Tribunal PESHAWAR

Service Appeal \_\_\_\_\_/2016

Hanif ullah **VERSUS** Govt: of KPK and another.

Affidavit

I Hanif ullah Government High School Jawzo Lower Dir SPET BPS 16 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.



Hanif  
ullah  
Deponent

**IN THE KPK Service Tribunal PESHAWAR**

(10)

Service Appeal No \_\_\_\_\_/2016

Hanif ullah **VERSUS** Govt: of KPK and another.

**ADDRESSES OF PARTIES**

**Appellant**

1. Hanif ullah Government High School Jawzo Dir Lower.

**Respondents:-**

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

Hanif  
ullah

Appellant

Through

Counsel Advocate.

Peshawar



IN THE KPK Service Tribunal, PESHAWAR.

Service Appeal no \_\_\_\_\_/2016

Hanif Ullah **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.

Hanif  
Ullah  
Appellant

Through Counsel



GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

NOTIFICATION

*Peshawar, dated the November 13, 2012.*

No. 51 (PE) 1-5/SSRC/Meeting/2012/Teaching Cadre: In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Services (Appointment, Promotion and Transfer) Rules, 1959 and in pursuance 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.

Reference to S.O. 123 as above

Copy is 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 to Govt. of 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 Muzam Durrani KPK

Attested  
to be true copy

Amirul Haque  
12/11/12

KPK

Attested  
Rajni

APPENDIX

13

3

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.
11	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 per cent 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. Jib R. 15/11/15*

Attested  
to be true copy

*Attested  
Muz*

- 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

J12

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Section Officer (Primary)

*[Handwritten signature]*

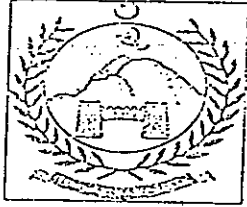
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R. (S)  
Amelw (S)  
(15)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 24<sup>th</sup> July, 2014.

NOTIFICATION

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

AMENDMENTS

In the Appendix,-

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

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

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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>

(16)

*Atul*  
*Agarwal*

*Atul*  
*Agarwal*

(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  
M. J. R.

1.8/16  
48

14

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:

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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:

- (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:

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:

- (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:

Provided that if no suitable candidate is available from amongst

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Major*

*TC*

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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;

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

(ii) twenty five percent by initial recruitment.

Note:

1. 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.
2. 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."

Attache  
As per

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SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Endst : of even No & date:

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

(ZAMIN KHAN MOMAND)  
SECTION OFFICER (PRIMARY)

Attested  
Signature



Directorate of Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar

PH No. 091-9201389, 9210938,  
9210137, 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 92

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/CL, SAT/AT, STT/TT, 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/CL,  
SAT/AT, STT/TT, 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 17<sup>th</sup>  
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.

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

Encls: No. 2200-02 / 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

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

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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
40% by promotion from SCT/CT	40
20% by promotion from PSHT/SPST/PST	20
4% by promotion from: SDM/DM	4
4% by promotion from SAT/AT	4
4% by promotion from STT/TT	4
4% by promotion from S.Qari/Qari	4
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	

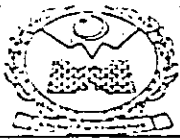
Certificate:

1. It is certified that all the SCT/CTs (Male) included in the panel for the Promotion of to SST Bio-Chem post
  - a) Hold the posts on regular basis and none of them is holding the post on adhoc/acting charge basis/contract.
  - b) Have completed the required minimum length of qualifying service and qualifications as required for Promotion to the post of SST under the Rules.
  - c) None of them is on deputation to any organization under the Federal/ Provincial / Autonomous/ Semi autonomous / International Organizations.
  - d) 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.
  - e) No one is on long leave / Ex-Pakistan leave.
  - f) Their ACRs, Synopsis are free from adverse remarks.
  - g) They are all alive and serving.
  - h) Their appointment orders against CTs posts are attached herewith.
  - i) The Seniority list of B-16 officers is final, undisputed and not subjudice.
2. 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.

District Education Officer  
(Male)/Female

Attested  
to be true copy

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Directorate of Elementary and Secondary  
Education Khyber Pakhtunkhwa Peshawar

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

197  
94

S.No.	District	1	2	3	4	5	6	7	8	9	10
1	Abbottabad	20	12	32	30	33	15	105	55	160	
2	Bannu	12	16	38	16	-	48	50	80	130	
3	Bara Gram	21	4	20	4	21	16	62	24	86	
4	Buner	34	15	44	17	50	17	118	60	187	
5	Charsadda	21	9	34	25	26	20	80	54	134	
6	Chitral	15	-	34	11	17	-	66	11	77	
7	DI Khan	45	8	42	31	46	-	172	39	212	
8	Dir Lower	30	20	20	20	45	55	105	104	209	
9	Dir Upper	23	4	29	5	68	8	121	17	138	
10	Hanau	18	7	20	7	26	21	63	35	98	
11	Haripur	36	4	15	30	53	27	114	61	175	
12	Karaka	11	10	12	17	17	12	49	39	88	
13	Kohat	27	5	30	30	68	20	125	53	178	
14	Kohistan	18	1	23	1	21	17	72	12	124	
15	Lakki Marwat	26	9	26	25	11	29	62	47	109	
16	Malakand	13	7	9	22	1	1	17	20	46	
17	Manshara	31	11	38	31	50	34	129	76	205	
18	Marichan	28	10	31	42	45	39	144	75	219	
19	Narsahora	28	28	32	22	60	20	122	78	200	
20	Peshawar	52	-	41	16	32	6	103	72	175	
21	Shangla	18	5	25	4	31	10	79	24	103	
22	Sudhan	12	11	29	11	26	29	127	39	216	
23	Swat	17	8	34	14	10	10	60	37	97	
24	Tank	17	7	17	6	40	11	69	15	84	
25	Tour Cher	7	-	7	-	24	1	30	1	31	
	<b>Total</b>	<b>607</b>	<b>200</b>	<b>679</b>	<b>458</b>	<b>955</b>	<b>508</b>	<b>2,241</b>	<b>1,175</b>	<b>3,416</b>	

Attested  
Page

By District	10% UT	224	111	302	233	600	271	1,195	627	1,822
	20% PNT	162	66	181	122	255	135	597	313	910
	3% DM	32	11	36	24	51	27	119	63	182
	4% AT	32	11	36	24	51	27	119	63	182
	5% TT	32	11	36	24	51	27	119	63	182
	7% Oor	21	8	27	18	38	20	90	47	137
	<b>Total</b>	<b>607</b>	<b>200</b>	<b>679</b>	<b>458</b>	<b>955</b>	<b>508</b>	<b>2,241</b>	<b>1,175</b>	<b>3,416</b>

Attested

to be true copy

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# 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 regular/adhoc basis	on		Period	
				From	To		

11. Total service \_\_\_\_\_ years \_\_\_\_\_ months \_\_\_\_\_ days.

12. Total service on the present post \_\_\_\_\_ years \_\_\_\_\_ months \_\_\_\_\_ days.

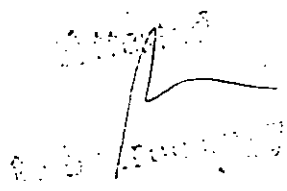
13. Detail of Non qualifying Service if any, \_\_\_\_\_

Signature

ADO /Principal /Headmaster

DY:DEO

Countersigned by DEO



Annex

(96)

15/7/14

بخدمت 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 بھورا نور ہے کہ محکمہ تعلیم روز 13 نومبر 2012 میں فزیکل ایجوکیشن ٹیچرز کیلئے 4 فیصد کوٹہ رکھا گیا تھا۔ جناب 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' 25 سالوں سے ایس ایس ٹی میں پر موشن کے انتظار میں بیٹھے تھے اس کے باوجود ہمیں نظر انداز کیا گیا، ہم سب فزیکل ایجوکیشن ٹیچرز ایم اے ایم اے سی اے بی اے ایم ایڈ ہیں اور اپنے اپنے سکولوں میں ریاضی، فزکس، کمپیوٹر 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

Attested  
by



**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

*Ahmed*

*(E)*

*(27)*

**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.

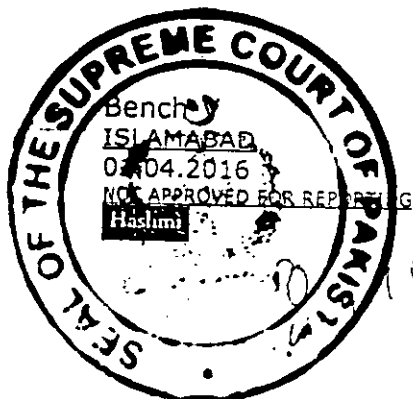
2. In the circumstances, this petition is dismissed as withdrawn. However, the petitioner may approach the Service Tribunal for redress of his grievance and the Tribunal will consider the case of the petitioner, on the point of limitation, sympathetically.

Sd/- Gulzar Ahmed, J.

Sd/- Qazi Faez Isa, J.

Certified to be True Copy

*(Signature)*  
Court Associate  
Supreme Court of Pakistan  
Islamabad



WAKALATNAMA

In the

P.K. Service Tribunal, Peshawar

Appellant/Plaintiff/Petitioner

Hariy Ullah

VS

Respondent/Defendant

Govt of P.K. High Education Dept

I/we

Hariy Ullah

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

Nazir Ahmad

Advocate, Peshawar

Hariy Ullah

Appellant/Plaintiff/Petitioner

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No: 631/2016

**Hanif Ullah PET GHS Jawzo District Dir(Lower)**

.....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-I 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.

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.

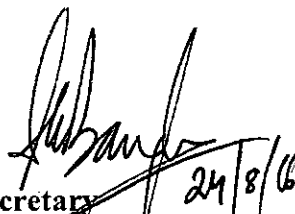
J Incorrect & denied. The impugned Notification dated 24/7/2014 is legally competent & is liable to be maintained as they are being promoted BPS-17 against DPE post on the reserved 50% quota in DPE for promotion against the PET.


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

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