


ORDER
28.06.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgement of today, separately placed on file of service appeal bearing No. 821/2019 titled Inamullah Khan versus Government of Khyber Pakhtunkhwa through the Finance Department (Regulation Wing) Peshawar and others, we find no merit, therefore, constrained to dismiss the instant service appeal. Consign.

03. Pronounced in open court at Camp Court, D.I.Khan and given under our hands and seal of the Tribunal this 28th day of June, 2022.



(KALIM ARSHAD KHAN)
CHAIRMAN
CAMP COURT, D.I.KHAN



(MIAN MUHAMMAD)
MEMBER (E)
CAMP COURT, D.I.KHAN

24.01.2022

Tour is Cancelled, therefore, case is adjourned to
23.05.2022 for the same as before.


Reader.

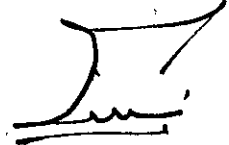
23.05.2022

Nemo for the appellant. Mr. Khalid Saleem, ADEO (Litigation) alongwith Mr. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel through registered post and to come up for arguments on 26.07.2022 before the D.B at Camp Court D.I.Khan.



(Rozina Rehman)
Member (J)
Camp Court D.I.Khan

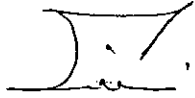


(Salah-ud-Din)
Member (J)
Camp Court D.I.Khan

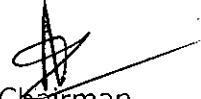
22.11.2021

Counsel for the appellant and Mr. Muhammad Rasheed, DDA alongwith Khalid Saleem, ADEO for the respondents present.

During the course of arguments on behalf of the appellant reference has been made to letter dated 13.01.2000 on the subject of option for re-fixation of pay and to another letter dated 06.11.2001 on the same subject meant to withdrawal of letter dated 13.01.2000. The said letters are not part of the record before us. It has been argued that subsequently the option for re-fixation of pay was restored and the appellant is seeking the relief for the period when the said option was not in field due to withdrawal of the same vide letter dated 06.11.2001. It is deemed appropriate to require that the said two letter and subsequent letter regarding restoration of option, if any, be made part of the file through formal application to enable us to settle the arguable point as to the relief being sought. The appellant is directed to do the needful. To come up for arguments on 24.01.2022 before the D.B at camp court, D.I.Khan.



(Salah-ud-Din)
Member(J)
Camp Court, D.I.Khan



Chairman
Camp Court, D.I.Khan

Due to COVID-19 therefore to
come up for the same on 27/9/21

Mr
Reader

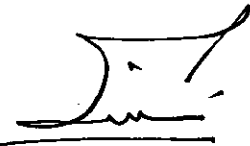
27.09.2021

Appellant in person present. Dr. Khalid Saeed Akbar, Litigation officer and Mr. Muhammad Shafique, Senior Clerk alongwith Mr. Usman Ghani, District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is out of station. Adjourned. To come up for rejoinder, if any, as well as arguments before the D.B on 22.11.2021 at Camp Court D.I.Khan.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT D.I.KHAN

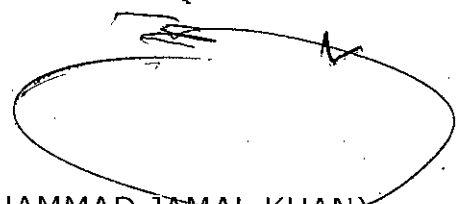


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN

27.10.2020


Appellant is present in person. Mr. Muhammad Jan, Deputy District Attorney alongwith representatives of the department Mr. Naseebullah, Section Officer on behalf of respondent No. 1 and Dr. Khalid, Litigation Officer on behalf of respondents No. 5 & 6, are also present.

Representative of respondents No. 5 & 6 submitted written reply on behalf of the said respondents which is placed on record. Representative of respondent No. 1 is seeking further time to submit written reply/comments. No one is present on behalf of remaining respondents No. 2 to 4, therefore, notice be issued to them for submission of written reply/comments for 21.12.2020 before S.B at Camp Court D.I.Khan.


(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT D.I.KHAN

21.12.2020

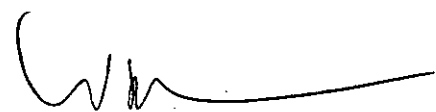
Due to Pandemic of Covid-19, the case is adjourned to 22.02.2021 for the same.


Reader

22.02.2021

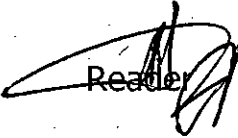
Appellant in person and Mr. Noor Zaman Khattak, learned District Attorney alongwith Dr. Khalid Saeed Akbar Litigation Officer for respondents present.

Representative of respondents submitted reply/comments which is place on file. Copy of the same is handed over to the appellant. To come up for rejoinder if any, and arguments on 24.05.2021 before D.B at Camp Court, D.I Khan.


(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court, D.I.Khan

21/3/2020

Due to COVID-19 the case is adjourned. To come up for the same 21/4/2020 at Camp Court, D.I Khan

Reader 

21/4/2020

Due to COVID-19 the case is adjourned. To come up for the same 22/9/2020 at Camp Court, D.I Khan

Reader 

22.09.2020

Appellant in person present.

Mr. Usman Ghani, District Attorney alongwith Khalid Saleem Akbar, Litigation Officer for respondents present.

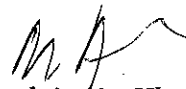
Written reply/comments on behalf of respondents was not submitted. Representative of respondents seeks time to file written reply/comments; granted. To come up for written reply/comments on 27.10.2020 before S.B at Camp Court, D.I Khan.



(Rozina Rehman)
Member (J)
Camp Court, D.I Khan

30.01.2020

Appellant in person and Mr. Usman Ghani, District Attorney alongwith M/S Muhammad Kamran, ADO (Litigation) and Mr. Muhammad Rashid, Assistant Account Officer for the respondents present. Written reply on behalf of respondents not submitted. Representatives of the department requested for adjournment. Adjourned to 27.02.2020 for written reply/comments before S.B at Camp Court D.I.Khan.



(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan.

27.02.2020

Appellant in person and Mr. Usman Ghani, District Attorney alongwith M/S Kamran, ADO (Litigation), Attaur-Rehman, SDM, Attaullah Khan, D.A.O and Muhammad Arshed, A.A.O for the respondents present. Written reply on behalf of respondents not submitted. Representatives of the department requested for further time to furnish written reply/comments. Adjourned to 24.03.2020 for written reply/comments before S.B at Camp Court D.I.Khan.



(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan.


Service Appeal No. 822/2019

28.11.2019

Appellant Saleem Nawaz Khan in person present. Preliminary arguments heard. It was contended by the appellant that he was serving as Junior Clerk (BPS-5) in Education Department. It was further contended that he was granted Selection Grade from BPS-5 to BPS-7 vide order dated 28.02.2005 with effect from 01.07.2001. It was further contended that when he was granted Selection Grade from BPS-5 to BPS-7, the respondent-department was bound to pay more salary to him than earlier but the respondent-department are paying less salary after granting Selection Grade from BPS-5 to BPS-7. It was further contended that he also filed departmental appeal but the same was not responded hence, the present service appeal. It was further contended that the respondent-department are bound to pay more salary from the date of granting Selection Grade than earlier.

The contention raised by the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 30.01.2020 before S.B at Camp Court D.I.Khan.

Appellant Deposited
Security & Process Fee


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

25.09.2019

Appellant with counsel present. Learned counsel for the present
Heard.

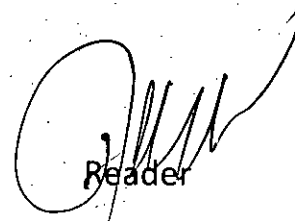
Learned counsel for the appellant contended inter-alia that the appellant was awarded selection grade on 01.07.2001; that the Notification of Finance Department, Excise & Taxation Department dated 13 January 2000 granted the appellant an option to get his pay re-fixed in the next higher scale, w.e.f first day of December of the year of his acquiring the selection grade however the appellant was deprived of exercising that option. Learned counsel for the appellant seeks adjournment for proper assistance. Adjourn. To come up for preliminary hearing on 23.10.2019 before S.B at Camp Court, D.I.Khan.



Member
Camp Court, D.I.Khan.

23/10/2019

Since tour to D.I.Khan has been cancelled .To come
for the same on 28/11/2019.






Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 822/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/06/2019	<p>The appeal of Mr. Saleem Nawaz received today by post through Malik Hidayatullah Malana 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 21/6/19</p>
2-	8-8-2019	<p>This case is entrusted to touring S. Bench at D.I.Khan for preliminary hearing to be put up there on <u>28-8-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>
28.08.2019		<p>None present on behalf of the appellant. Notice be issued to appellant and his counsel for attendance and preliminary hearing for 25.09.2019 before S.B at Camp Court D.I.Khan.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court D.I.Khan</p>

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

In Service Appeal No. 822 /2019

Saleem Nawaz
(**Appellant**)

Versus

Govt Of KPK, etc
(**Respondents**)

INDEX

S.No.	Description of document	Annexure	Pages
1	Grounds of Service Appeal with affidavit	--	1-7
2	Copy of letter dated 17/05/2003	A	8-9
2	Copy of letter dated 28/02/2005	B	10-11
3	Copy of departmental appeal	C	12-13
4	Wakalatnama	--	14

Dated 18 /06/2019

Your humble appellant,


Saleem Nawaz

Through counsel:-


Malik Hidayatullah Malana
Advocate High Court

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

**Khyber Pakhtunkhwa
Service Tribunal**

Service Appeal No. 822 /2019

Diary No. 883

Dated 21-6-2019

Saleem Nawaz son of Imam Bakhsh r/o Mohalla Phullah Jat near Lasani Hotel, Circular Road, Dera Ismail Khan. Presently posted as Senior Clerk, BPS-14, Government Girls Higher Secondary School, No.8 (Sherazi), Dera Ismail Khan.

.....(**APPELLANT**)

VERSUS

1. Government of Khyber Pakhtunkhwa, Through Finance Department (Regulation Wing) KPK, Peshawar.
2. Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. Section Officer, (Budgets & Accounts) Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
4. Director General, Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
5. Accountant General Khyber Pakhtunkhwa Peshawar.
6. District Accounts Officer, Dera Ismail Khan.

..... (**RESPONDENTS**)

**APPEAL UNDER SECTION 4 OF THE NWFP
SERVICES TRIBUNAL ACT, 1974.**

PRAYER

On acceptance of this appeal the respondents may kindly be directed to allow the appellant to get the benefits of Selection

Filed to-day

Registrar

21/6/19

am/ah

Grade w.e.f 01-12-2001 instead of 01-07-2001, or to fix the pay of appellant under **pay protection rules** in the large interest of justice.

Respected Sir,

1. That the appellant was appointed as Junior Clerk in Education Department, D.I.Khan on **11-10-1989 in BPS-05**; and during the service was granted move over in BPS-06.
2. That appellant's Pay on 01-12-2000 in BPS-05(1400-66-2390), Rs.2390/- as per service book, and after revision of pay scale his pay was fixed on 01-12-2001 as Rs.3600/-pm (2100-100-5100) and on 01-12-2002 pay was Rs.3700/-
3. That he appellant's was allowed Move-Over from BPS-05 to BPS-06 w.e.f 01-12-2001 vide EDO(S&Li) DIKhan Ends: No.6956-57/AE-IV dated 17-05-2003 is annexed as **Annexure-A.**

The pays are tabled hereunder after allowing Move- over w.e.f 01-12-2001:

Pay on 30/11/2000 in BPS-05 (1400-66-2390)	Rs.2390/-	
Pay on 01/12/2001 in BPS-06 (1440-73-2535)	Rs.2462/-	Move-Over
Pay on 01/12/2001 in BPS-05 (2100-100-5100)	Rs.3800/-	Pay fixed in original pay scale due to revision of Pay scales 2001.
Pay on 01/12/2002 in BPS-05 (2100-100-5100)	Rs.3900/-	Annual Increment
Pay on 01/12/2003 in BPS-05 (2100-100-5100)	Rs.4000/-	Annual Increment
Pay on 01/12/2004 in BPS-05 (2100-100-5100)	Rs.4100/-	Annual Increment

4. That thereafter, on 28/02/2005, the appellant was granted Selection Grade BPS-07 w.e.f **01-07-2001** vide letter No.720/DCO/LCS dated 28-02-2005 of the District Co-Ordination Officer (DCO), Dera Ismail Khan. Copy of letter dated 28/02/2005 is annexed as **Annexure-B.**
5. That in the light of Selection Grade BPS-07 w.e.f 01-07-2001 appellant's pay has wrongly been fixed by the department. Which is as under;

un/Jan

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Pay on 30/06/2001 in BPS-05 (1400-66-2390)	Rs.2390/-	
Pay on 01/07/2001 in BPS-07 (1480-81-2695)	Rs.2533/-	Pay fixed due to award of Selection Grade.
Pay on 01/12/2001 in BPS-07 (2220-120-5820)	Rs.3780/-	Less pay fixed in BPS-07 either than BPS-05 on 01-12-2001
Pay on 01/12/2002 in BPS-07 (2200-120-5820)	Rs.3900/-	Annual Increment
Pay on 01/12/2003 in BPS-07 (2200-120-5820)	Rs.4020/-	Annual Increment
Pay on 01/12/2004 in BPS-07 (2200-120-5820)	Rs.4140/-	Annual Increment

Thus due to the grant of Selection grade from BPS-05 to BPS-07, (by taking right of option) appellant's pay should have been fixed as detailed below:

Pay on 30/06/2001 in BPS-05 (1400-66-2390)	Rs.2390/-	
Pay on 01/12/2001 in BPS-06 (1440-73-2535)	Rs.2462/-	Move Over
Pay on 01/12/2001 in BPS-05 (1400-66-2390)	Rs.2522/-	Original Scale
Pay on 01/12/2001 in BPS-05 (2100-100-5100)	Rs.3800/-	Pay fixed in original pay scale due to revision of Pay scales.
Pay on 01/12/2001 in BPS-07 (2220-120-5820)	Rs.4020/-	Selection Grade
Pay on 01/12/2002 in BPS-07(2200-120-5820)	Rs.4140/-	Annual Increment
Pay on 01/12/2003 in BPS-07 (2200-120-5820)	Rs.4260/-	Annual Increment
Pay on 01/12/2004 in BPS-07 (2200-120-5820)	Rs.4380/-	Annual Increment

But, on the award of Selection grade in BPS-07 the appellant's pay was wrongly fixed on 01/12/2001 in BPS-07 as Rs. 3780/-; which was even less from the pay of BPS-05 fixed as Rs.3800/- on 01/12/2001, and these wrong entries have further been carried forward in the Annual increments of the year 2002, 2003 & 2004, resulting into a great loss of pay to the appellant.

6. That thereafter the appellant moved a departmental appeal to the respondent#1 being appellate authority against the discrimination of the respondents because the grievance of the appellant is legitimate and genuine. Copy of departmental appeal is annexed as **Annexure-C**, which has not been replied by the respondent#1,2,3,4 till date.
7. That denial of the departmental appeal of the appellant, the appellant is left with no other efficacious remedy except to prefer the instant appeal, on inter alia the following grounds:-

am/ash

GROUNDS

- a. That acts and omissions of the respondents is illegal, without jurisdiction and discriminatory in nature, hence, not tenable in the eye of law.
- b. That the appellant has always been performed his duties with great zeal and zest according to the entire satisfaction of his superior but the respondents are intending to deprive the petitioner from his valuable rights which is against the natural justice.
- c. That in view of the promotion of appellant, his hard work and better performance in Education Department as also in view of his laudable and favourable and be treated on equality.
- d. That non awarding benefits to the appellate cast an adverse effect upon his entire career which badly resulted his expected ancillary benefits thereon.
- e. That illegal behaviour of the respondents has brought a bleak disaster not only to his impeccable career but also has financially straightened.
- f. That the appellant has been discriminated and as the said discrimination smacks of malafides, the impugned act of respondents is merit annulment.
- g. That counsel for the appellant may kindly be allowed to raise additional grounds at the time of arguments.

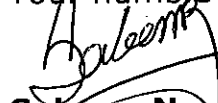
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For the afore-stated grounds, this appeal may please be allowed as prayed above.

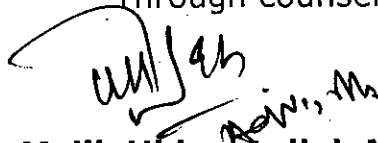
Dated 18/06/2019

Your humble appellant,



Saleem Nawaz

Through counsel:-



Malik Hidayatullah Malana

Advocate High Court

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

In Service Appeal No. _____/2019

Saleem Nawaz
(Appellant)

Versus

Govt Of KPK, etc
(Respondents)

AFFIDAVIT

I, **Saleem Nawaz**, appellant herein, do hereby solemnly affirm on oath that all parawise contents of the accompanying appeal are true and correct to the best of my knowledge, belief and information; that nothing has been concealed or kept secret from this worthy Tribunal, nor anything contained therein is based on exaggeration or distortion of facts.

June _____, 2019

*Muhammad
Identified by
counsel*

Saleem
Deponent

VERIFICATION

Verified on oath at DIKhan, this 10 day of June, 2019, that all contents of the above appeal are true and correct.

June 10, 2019

Saleem
Appellant

7

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

In Service Appeal No. _____/2019

Saleem Nawaz
(**Appellant**)

Versus

Govt Of KPK, etc
(**Respondents**)

ADDRESSES OF PARTIES

Saleem Nawaz son of Imam Bakhsh r/o Mohallah Phulla Jat,
Near Lasani Hotel, Circular Road, Dera Ismail Khan
presently posted as Senior Clerk, BPS-14, Government Girls
Higher Secondary School, No.8 (Sherazi), Dera Ismail Khan.

.....(**APPELLANT**)

-
1. Government of Khyber Pakhtunkhwa, Through Finance Department (Regulation Wing) KPK, Peshawar.
 2. Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
 3. Section Officer, (Budgets & Accounts) Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
 4. Director General, Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
 5. Accountant General Khyber Pakhtunkhwa Peshawar.
 6. District Accounts Officer, Dera Ismail Khan.

RESPONDENTS

my/Jan

(13)

9	10	11	12	13		14	15
Signature and designation of the head of the office or other Attesting Officer in the columns 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer dismissal etc)	Signature of the Head of the office of other Attesting Officer	LEAVE Allocation of periods of leave on average pay upto four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government		Signature of the head of the office or other Attesting officer	Reference to any recorded punishment, or censure or reward or praised of the Government servant
دستخط مجاز	تاریخ انقطاع ملازمت	وجوہات انقطاع ملازمت ترقی، تبادلہ یا برطرفی	دستخط افسر مجاز	Nature and duration of leave taken رضت کی نوعیت و معیار	Govt. to which debitable گورنمنٹ رقم ادا ہوگی	دستخط افسر مجاز	سزا یا جزا یا غیر مناسبت کارکردگی کا ریکارڈ
	2007 OFFICE OF THE ACCOUNTANT GENERAL N.W.F.P. PESHAWAR. PAY FIXED IN THE REVISED BASIC PAY SCALES 2007 OF RS. 2840-160-7740 (2) AT RS. 5820/- With Next Increment on				Period عرصہ		
	Principal G.G.H.S No 5 Qasaban D.I.K				Granted M/O ver from BPS-5 To BPS-6 wef 01-12-2001 Promoted vide EDO (S/Lit) DKW an Encl: no 6956-57/AE-IV dt: 17/05/2003.		Admn.
	Pay Fixation Party N.W.F.P. Peshawar				1-243 Drawn Rs: 3570/- on 415 a/c of M/O ver from B-5 to B-6 wef 1-12-2001 to 30-11-2003		17/5/03
Head of Office G.G.H.S. No 5 Qasaban D.I.K	30/08 (A) Incent:				Service Verified From 01-12-2002 to 30-11-2003 From the Acy: Roll and Other Office record.	Principal G.G.H.S No 5 Qasaban D.I.K	

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating, and whether permanent or temporary	If officiating, state— (i) substantive appointment or (ii) whether service counts for pension under rule 3.20 of C.S.R. (Pb.) volume II	Pay in substantive post	Additional pay for officiating	Other emoluments falling under the term "pay"	Date of appointment	Signature of Government servant
درجہ ملازمت	عارضی مستقل یا قائم مقام	اگر عارضی ہے تو کی وہ رول کے مطابق پنشن کا مستحق ہے	تنخواہ بطور عارضی ملازمت	زائد تنخواہ زائد تنخواہ بطور قائم مقام	ماسوائے تنخواہ دیگر الاؤنس	تاریخ تقرری	دستخط سرکاری ملازم
BPS-07 (3530-196-9230) J/clerk G.H.S No-8, Sherazi, D.I.Khan.		077	RS. P.	RS. P. Rs. 7330/- pm		01/12/08	
<p>Granted one Special Adv. Increment w.e.f 01/8/07 vide Govt. of NWFP Finance Deptt. notification FD (SR-1) 2-4/2008 dt. 04/04/2008</p>							
<p>Head Mistress G.H.S. No.8 Sherazi, D.I.Khan.</p>							
<p>Deptt. Fixation of Pay w.e.f 01/9/07</p>							
<p>Pay on 31-8-07 5820/-</p>							
<p>" " 01-9-07 5980/-</p>							
<p>" " 01-12-07 6140/-</p>							
<p>" " 01-7-08 7330/-</p>							
<p>" " 01-12-08 7520/-</p>							
<p>With next increment on 01-12-09</p>							
<p>Head Mistress G.H.S. No.8 Sherazi, D.I.Khan.</p>							

DISTRICT GOVERNMENT DERA ISMAIL KHAN

NO 720 DCO(LCS)

DATED 28/2/2005

OFFICER ORDER

On the recommendation of Departmental Promotion Committee, office of the District Co-ordination Officer D.I.Khan the following Junior Clerks (BPS-05) of Education Department D.I.Khan placed in Selection Grade (BPS-07) w-e-f 01-07-2001. Decision taken in DPC meeting held on 28.02.2005 in DCO's office, D.I.Khan.

S NO	NAME OF OFFICIALS	PRESENT BPS	SELECTION GRADE ALLOWED
01	SAADULLAH DEO S/L DIKHAN	BPS-05	BPS-07
02	GHULAM RASOL G.C PAHRPUR	BPS-05	BPS-07
03	MUHAMMAD DARA GGHS DARABAN KALAN	BPS-05	BPS-07
04	FAZAL REHMAN GHS HAJI MORA	BPS-05	BPS-07
05	MUHAMMAD AYUB GHS WANDA LALI	BPS-05	BPS-07
06	MUJAZAM HUSSAIN GHS ROT JA	BPS-05	BPS-07
07	SHAH JEHAN GHS KECH	BPS-05	BPS-07
08	IJAMULLAH KHAN GHSS NO.4 DIKHAN ✓	BPS-05	BPS-07
09	MUHAMMAD ARIF GDC NO.1 DIKHAN X	BPS-05	BPS-07
10	IFTIKHAR HUSSAIN GHS MADDI X	BPS-05	BPS-07
11	MUHAMMAD ASHRAF GHS NIMAT	BPS-05	BPS-07
12	SALÉEM NAWAZ GGHS CHOWI WAN	BPS-05	BPS-07
13	GHULAM YASEEN GHSS PAROA	BPS-05	BPS-07
14	KIFAYAT ULLAH GHS GILOTI	BPS-05	BPS-07
15	MUHAMMAD SHAKEEL QAISER GGHS NO.2	BPS-05	BPS-07
16	PIR MUHAMMAD KHAN GDC NO.1 DIKHAN	BPS-05	BPS-07
17	MUHAMMAD ASLAM GHSS NO.2 DIKHAN	BPS-05	BPS-07
18	ASHIQ ALI GGHS NO.4 DIKHAN	BPS-05	BPS-07
19	TANVEER AHMED GGHS NO.6 DIKHAN	BPS-05	BPS-07
20	ABDUR RAUF DYDO(F) KULACHI	BPS-05	BPS-07
21	MUHAMMAD IQBAL GGHS NO.5 DIKHAN	BPS-05	BPS-07
22	GHULAM RABANI GHS DARABAN KALN	BPS-05	BPS-07

X

(11)

23	SHAH NAWAZ	GHS DAEABAN KIRI
24	JAN MUHAMMAD	GHS POTHAN
25	LIAQAT ALI	GHS KORAI
26	FIROZ KHAN	EDO SAL DUKHAN
27	FARID JAN BHATTI	EDO SAL DUKHAN
28	NASIB KHAN	GHS BANDRI
29	ABDUL GHAFFUR	GHS ABDUL KHAN
30	SAJID IQBAL	GHS KAT GARI
31	M.ZAFFAR IQBAL	GHS DOKHAN
32	MUHAMMAD JALEEL	GHS KIRI SAL DUKHAN
33	SAADULLAH KHAN	GHS KAT GARI

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BP3-06	BP3-07

DISTRICT CO-ORDINATION OFFICER
DERA ISMAIL KHAN

No. 721-24 /DCO(LCS)

Copy to the:-

- 1. EXECUTIVE DISTRICT OFFICER SCHOOLS & LT. DIKHAN
- 2. EXECUTIVE DISTRICT OFFICER FINANCE & PLANNING DIKHAN
- 3. DISTRICT ACCOUNT OFFICER DIKHAN
- 4. OFFICIAL CONCERNED

DISTRICT CO-ORDINATION OFFICER
DERA ISMAIL KHAN

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (S & L) D.I.KHAN.

Encl: No. 4727-18 /S/Grade B-5 to 7 Dated DIA the 6 /3 /05

Copy of the above is forwarded to the:-

- 1. All the Principals/Headmaster/Headmistresses/Govt. Colleges GHS/GHS/Male & Female for information and n/a please.
- 2. The District A/C, n officer D.I.Khan.

M. Nawaz
District Officer
(M) Schools & Literacy
Distt. D.I.Khan

Annex: "c"

(12)

To,

The Secretary Finance,
Finance Department (Regulation Wing)
Khyber Pakhtunkhwa, Peshawar

Through Proper Channel.

Subject: **Fixation/Re-Fixation of Pay by getting the right of option w.e.f 01.12.2001 instead of 01.07.2001 of Selection Grade OR Anomaly Increments OR Pay Protection.**

Respected Sir,

With profound respect and deepest veneration it is implored that I was appointed as Junior Clerk in Education Department on 11.10.1989

That my pay on 01-12-2000 in BPS-05 was Rs.2390/-PM and due to revision of pay scale on 01-12-2001 my pay was fixed as Rs.3600/-pm

That after that I was allowed move over from BPS-05 to BPS-06 w.e.f 01-12-2001

1. The pays are tabled hereunder:

Pay on 01/12/2000 in BPS-05	Rs.2390	
Pay on 01/12/2001 in BPS-06	Rs.2462/-	
Pay on 01/12/2001 in BPS-05 (2100-100-5100)	Rs.3800/-	Pay fixed in original pay scale due to revision of Pay scales.
Pay on 01/12/2002 in BPS-05 (2100-100-5100)	Rs.3900/-	Annual Increment
Pay on 01/12/2003 in BPS-05 (2100-100-5100)	Rs.4000/-	Annual Increment
Pay on 01/12/2004 in BPS-05 (2100-100-5100)	Rs.4100/-	Annual Increment

2. That thereafter, on **28/02/2005**, I was granted Selection Grade BPS-07-w.e.f **01-07-2001** vide letter No.720/DCO/LCS dated 28-02-2005 of the District Co-Ordination Officer (DCO), Dera Ismail Khan.

In the light of Selection grade BPS-07 w.e.f 01-07-2001 my pay was wrongly been fixed departmentally as under; (which was also passed by D.A.O, DIKhan)

Pay on 01/12/2000 in BPS-05	Rs.2390/-	
Pay on 01/07/2001 in BPS-07	Rs.2533/-	
Pay on 01/12/2001 in BPS-07 (2200-120-5820)	Rs.3780/-	
Pay on 01/12/2002 in BPS-07 (2200-120-5820)	Rs.3900/-	Annual Increment
Pay on 01/12/2003 in BPS-07 (2200-120-5820)	Rs.4020/-	Annual Increment
Pay on 01/12/2004 in BPS-07 (2200-120-5820)	Rs.4140/-	Annual Increment


But, on the award of Selection grade in BPS-07 the pay was wrongly fixed on 01/12/2001 in BPS-07 as Rs.3780/-; which was even less from the pay of BPS-05 fixed as Rs.3800/- on 01/12/2001, and these wrong entries have further been carried forward in the Annual increments of the year 2002, 2003 & 2004, resulting into a great loss of pay to me and on the basis of aforesaid wrong fixation,

Next on page-2

It is therefore requested that I may please be allowed to get the right of option for getting the benefit of Selection Grade w.e.f 01-12-2001 instead of 01-07-2001, OR to Re-fix my pay under pay protection rules OR allow me anomaly increments to save me from the financial loss in my pay.

Yours Faithfully

Dated: 22/02/2019


Saleem Nawaz
Senior Clerk(BPS-14)
G.G.H.S.S No.8, Sherazi, DIKhan
Cell No.03339962006

Copy in advance for further necessary action to:-


- 01) The Section Officer (Budget & Accounts) E&SE Deptt, Khyber Pakhtunkhwa, Peshawar.
- 02) The Secretary E&SE Department, Govt of Khyber Pakhtunkhwa, Peshawar.
- 03) The Secretary Finance, Finance Department (Regulation Wing), Pakhtunkhwa, Peshawar.
- 04) Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.

OFFICE OF THE PRINCIPAL, GOVT; GIRLS HIGHER SECONDARY SCHOOL, NO.8 (SHERAZI), DERA ISMAIL KHAN.

No: _____

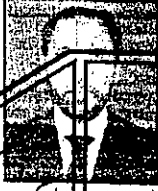
Dated DIKhan the 22/02 /2019

Forwarded and recommended the original application in respect of Mr. Saleem Nazwa, Senior Clerk of this office to the District Education Officer (Female), Dera Ismail Khan for onward submission to the quarter concerned for further necessary action please.


Principal,
Govt: Girls Higher Secondary
School No.8(Sherazi) DIKhan.

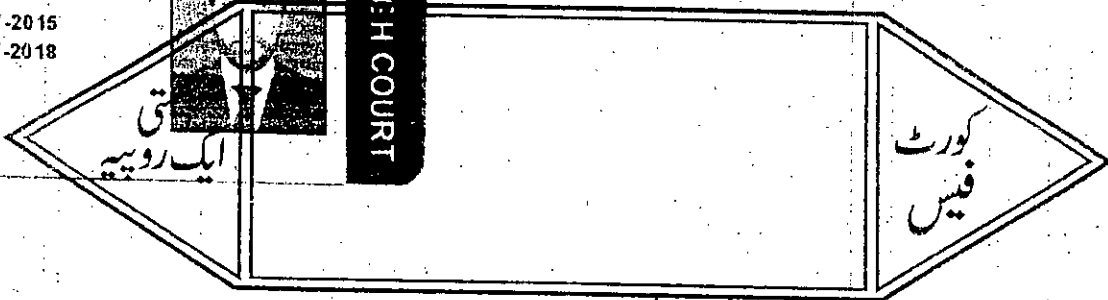
No

MALIK Hidayatullah MALLANA
Advocate High Court
bc-09-0868
Date of Issue: 29-07-2015
Valid upto: 28-07-2018



Secretary
KP Bar Council

وکالت نامہ



جناب سر جسٹس کورٹ RPR

مخاب اپیلانٹ

نام RPR

سید نسیم نواز
سر جسٹس کورٹ

دعوی یا جرم

تفصیل دعوی یا جرم

باعث تحریر آنکہ

مقدمہ مذکورہ بالا عنوان میں اپنی طرف واسطے بیرونی وجوہات ہی برائے پیشی یا تعہیف مقدمہ بنام

سید نسیم نواز اپیلانٹ راجہ سلیمان ایڈووکیٹ بائی کورٹ ڈیپریٹیشن خان

کو حسب اہل شرانہ پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا بڑا یا ریفر رو بہ عدالت حاضر ہوتا رہوں گا اور ہر وقت نکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ بڑی غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر پکھری کے علاوہ اور جگہ نہ ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے یا پیچھے پیش ہونے پر مظہر کوئی انتہا نہ پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی مواد کے ادا کرنے یا رعیت نہ دہانے کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے مجھ کو کل ساختہ پر واکتہ صاحب موصوف شکل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعوی یا جواب دعوی یا درخواست اجراء اسلئے ذاتی نظر خانی اپیل گرانی و ہر قسم درخواست ہر قسم کے بیان دینے اور پر فالتی یا راضی نہ ہونے و فیصلہ بر طلق کرنے اقبال دعوی کا بھی اختیار ہو گا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مرکز بیرون از پکھری صدر بیرونی مقدمہ مرکز نظر خانی اپیل ونگرانی و برآمدگی مقدمہ یا منسوفی ڈگری یک طرفہ یا درخواست حکم اتنا ہی یا حرقی یا گرفتاری قبل از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ مقررہ بیرونی کا اختیار ہو گا اور تمام ساختہ پرواکتہ صاحب موصوف شکل کردہ از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو گا کہ مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی یا بصورت درخواست نظر خانی اپیل گرانی یا دیگر معاملہ و قدمہ مذکورہ کسی دوسرے وکیل یا بیرونی کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ایسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانب التواء پڑے گا وہ صاحب موصوف کا حق ہو گا مگر صاحب موصوف کو پوری نہیں تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے
مورخہ 18 جولائی 2019

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

Attest & Accepted
[Signature]

[Signature]
18/6/19

BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 822/2019.

Saleem Nawaz, Senior Clerk B-14, District GGHSS No.8 Sherazi DIKhan.....Appellant.

VERSUS

Govt. of KPK through the Secretary E&SE Department, & others.....Respondents.

JOINT PARAWISE COMMENTS & FOR BEHALF OF the RESPONDENTS No:1-4.

Respectfully Sheweth :-

The Respondents No.1-4 submits 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 in the instant Service Appeal.
- 4 That the instant Service Appeal is based on mala fide intentions.
- 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 mala fide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
- 9 That the Appellant has been treated as per law, rules & up-gradation policy.
- 10 That the Appeal is not maintainable in its present form.
- 11 That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 12 That the instant Service Appeal is barred by law.
- 13 That the Appellant is not competent to file the instant appeal against the Respondents.
- 14 That the appellant is not entitled for the grant/award of selection grade wef 01/12/2001 & has correctly allowed wef 01/07/2001 against the Senior Clerk Post in the respondent Department.

ON FACTS

1. That the para-1 needs no comments being pertains to the service record of the appellant against the junior Clerk post inducted vide order dated 11/10/1989 in B-05 & was allowed move over in B-06 by the then authority.
2. That para-2 is also pertains to the office record Respondents No.5 & 6 who are in better position to reply to this Para being a relevant Department /authority.
3. That para-3 need verification from the office of the District Education Officer (M) DIKhan that vide letter No.6956-57/AE-IV dated 17/05/2003, the appellant has been allowed move over from B-05 to B-06 wef 01/12/2001 by the then Executive District officer (S&L) now District Education officer (M) DIKhan which is subject to the verification but the appellant has not made them as a Respondent in the instant case on mala fide intentions.
4. That para-4 is also needs no comments being pertains to the office record of the then District Coordination Officer now Deputy Commissioner DIKhan which is also subject to the verification but the appellant has not made them as a Respondent in the instant case on mala fide intentions.
5. That para-5 is incorrect & denied on the grounds that in the light of the award of selection grade in BPS-07 wef 01/07/2001, the pay of the appellant has correctly been fixed by the Respondent Department under the relevant rules, hence, the claims of the appellant regarding his wrong pay fixation is illegal & even time barred, hence liable to be rejected.
6. That para-6 is incorrect & denied as no Departmental Appeal has been filed by the appellant to the appellate authority against his pay fixation till date hence the pay fixed by the Respondent Department is not only legal but has also got finality against the appellant under the Law of limitation Act 1908.
7. That para-7 is legal, however the Respondents further submit on the following grounds inter alia :-

ON GROUNDS.

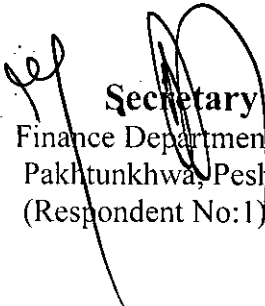
- a **Incorrect & not admitted.** The stand of the appellant is without any moral & legal justification on the grounds that the appellant has been treated as per Law rules & criteria within jurisdiction having no question of discrimination towards the appellant in the instant case.
- b **Incorrect & not admitted.** The act of the Respondent Department is legal & liable to be maintained as each & every civil servant is legally bound to perform his duty honestly & regularly for the pay & allowances he is drawing from the Govt. Treasury.
- c **Incorrect & not admitted.** The stand of the appellant is without any proof, hence, the plea of the appellant is liable to be rejected.
- d **Incorrect & not admitted.** The appellant has been treated as per Law & rules in the present case by the Department, hence, the claim of the appellant is liable to be rejected.
- e **Incorrect & not admitted.** The appellant has been treated in accordance with Law & rules by the Respondents in the instant case, hence, the plea of the appellant is liable to be rejected.

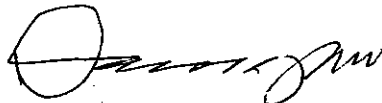
- f **Incorrect & not admitted.** The appellant has been treated as per Law & rules in the present case by the Department having no question of discrimination towards the appellant on the part of the Respondent Department hence, the plea of the appellant is liable to be rejected.
- g **Legal.** However, the Respondents also seek leave of this Honorable Tribunal to submit additional grounds & case law at the time of arguments.


PRAYER

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 in favor of the Respondent Department in the interest of justice.

Dated __/__/2020.

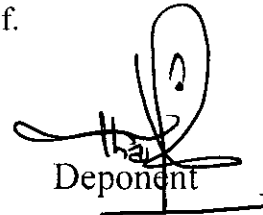

Secretary
Finance Department Khyber
Pakhtunkhwa, Peshawar
(Respondent No:1)


Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 4)


Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar
(Respondents No: 2 & 3)

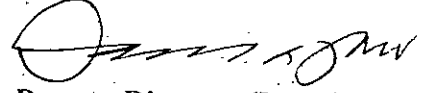
AFFIDAVIT

I, Dr. Khalid Saeed Akbar (Litigation Officer) E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm and declare on oath that the contents of the instant Parawise Comments are true & correct to the best of my knowledge & belief.


Deponent

AUTHORITY LETTER

Mr. Dr. Khaiid Saeed Akbar (Litigation Officer) Directorate of E&SE Khyber Pakhtunkhwa Peshawar, is hereby authorized to appear in S/A No.821-822/2019 under titled as Inam Ullah & Saleem Nawaz Vs Govt. of KPK & others, on behalf of the Director E&SE Department Khyber Pakhtunkhwa Peshawar before the Honorable Khyber Pakhtunkhwa Service Tribunal.



**Deputy Director (Legal),
E&SE Khyber Pakhtunkhwa,
Peshawar.**