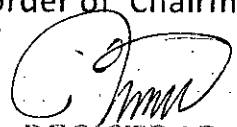


FORM OF ORDER SHEET

Court of _____

Review Petition No. 172/2024

No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26/02/2024	<p>The Review Petition of Mr. Hikmat Khan submitted today by Mr. Hidayat Ullah Khattak Advocate. It is fixed for hearing before Division Bench at Peshawar on _____, Original file be requisitioned. Parcha Peshi is given to the counsel for the petitioner.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL

Review Petition No. 172/2024

In

Service Appeal No.1697/2023

Mr. Hikmat Khan Petitioner

Versus

Government of Khyber Pakhtunkhwa and others

..... Respondents

I N D E X

S.No.	Description of documents.	Annexure	Pages.
1.	Review Petition		1-6
2.	Affidavit		7
3.	Suspension Application		8-9
4.	Affidavit		10
5.	Addresses of parties		11
6.	Copies of the minutes of the DPC dated 14.10.2020 and notification dated 10.12.2020	A & B	12-17
7.	Copy of the educational testimonials	C	18-20
8.	Copies of the letters	D	21-22
9.	Copy of the office order dated 19.05.2023	E	23
10.	Copy of the departmental appeal	F	24
11.	Copy of the consolidated order/ judgment dated 08.01.2024	G	25-34
12.	Wakalatnama		35

Dated 22.02.2024


Petitioner/ Appellant

Through


Hidayat Ullah Khattak

Advocate, High Court

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL

Review Petition No. 172/2024

In

Service Appeal No.1697/2023

Mr. Hikmat Khan, CT (BPS-15),
GMS Swaro Kot, District Orakzai

..... Petitioners

Versus

- 1) Government of Khyber-Pakhtunkhwa through Secretary
Elementary & Secondary Education, Civil Secretariat,
Peshawar
- 2) The Director Elementary & Secondary Education, Khyber
Pakhtunkhwa, Peshawar
- 3) District Education Officer, District Orakzai

.....Respondents

REVIEW PETITION U/S 114 OF CIVIL
PROCEDURE CODE READ WITH
SECTION 7 OF THE KHYBER
PAKHTUNKHWA CIVIL SERVICE
TRIBAL ACT, 1974 AGAINST THE
CONSOLIDATED ORDER/
JUDGMENT OF THIS HON'BLE
TRIBUNAL DATED 08.01.2024,
WHEREBY THE LEARNED
CHAIRMAN DISMISSED THE
APPEAL OF THE APPELLANT
ALONGWITH 23 OTHERS APPEALS.

PRAYER IN REVIEW:

On acceptance of this review petition, the impugned consolidated Order. judgment of this Hon'ble Tribunal dated 08.01.2024 and that of 19.05.2023 and 01.08.2023 may very graciously be set aside and the promotion order dated 10.12.2020 be restored with all back benefits OR any other relief which this Hon'ble Tribunal deems fit in the circumstances of the Review Petition may also be awarded in favour of the appellant.

Respectfully Sheweth;

- 1) That petitioner/ appellant is an employee of the respondents Department and performing his duty with full zeal & zest and up to the entire satisfaction of his high ups.
- 2) That it is pertinent to mention here that number of posts of CF (PPS-15) were laying vacant in the District Orakzai, That a DPC was held to fill up the subject posts and among these posts 36 number of posts were allocated to the quota of PST/PSHT/SPST. That a DPC meeting was held on 14.10.2020 wherein the petitioner/ appellant was recommended alongwith 23 others for the post of CT (BPS-15) and vide notification dated 10.12.2020 the appellant was promoted to the post of CT (BPS-15). **(Copies of the minutes of the DPC dated 14.10.2020 and notification dated 10.12.2020 are attached as annexureA & B).**
- 3) That the appellant is a highly experience and have required qualification in the education field. **(Copy of the**

educational testimonials are attached as annexure

C).

- 4) That vide letter dated 11.04.2023 the respondent No. 3 was asked to withdraw the promotion order dated 10.12.2020, in response to which the respondent No. 3 vide letter dated 09.05.2023 requested the respondent No. 2 for the review of the decision. **(Copies of the letters are attached as annexure D).**
- 5) That astonishingly vide impugned office order dated 19.05.2023 the promotion order dated 10.12.2020 of the petitioner/ appellant alongwith 23 others were withdrawn in utter violation of the law and rules on the subject. **(Copy of the office order dated 19.05.2023 is attached as annexure.....E).**
- 6) That the appellant feeling aggrieved from the impugned office order dated 19.05.2023 preferred departmental appeal. **(Copy of the departmental appeal is attached as annexure F)**
- 7) That the departmental appeal was rejected vide appellate order dated 09.08.2023 as note on the departmental appeal with no good reasons.
- 8) That appellant alongwith 23 others colleague preferred departmental appeals for the withdrawal of the impugned order dated 19.05.2023 and after rejection vide order dated

09.08.2023 filed appeal No. 1685-P/2022 alongwith 23 others.

- 9) That this Hon'ble Tribunal after calling replies/ comments and hearing arguments of both side dismissed the appeal of appellant alongwith 23 others appeal through a consolidated order/ judgment on 08.01.2024. (Copy of the consolidated order/ judgment dated 08.01.2024 is AnnexureG).
- 10) That feeling aggrieved by the order/ consolidated judgment dated 08.01.2024 the petitioner/ appellant approaches this Hon'ble Tribunal for the review of the impugned judgment on the following grounds:-

GROUND:

- A. That the impugned order of this Hon'ble Tribunal dated 08.01.2024 has been passed without due diligence. The mistake or error is floating on very surface of record. The elements of discrimination which is/was apparent on the record but this aspect of the appeal/ case has not been dealt with and the consolidated judgment/ order of this Hon'ble Tribunal has not address this important issue for determination of the case in hand. All other similar employees has been promoted and their promotion order has not been withdrawn and whereas the promotion orders of the petitioner/ appellant has

been withdrawn which needs indulgence of this Hon'ble Tribunal through the instant review against order/ judgment dated 08.01.2024.

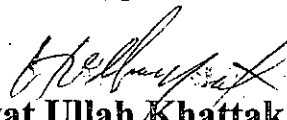
- B. That the principle of locus ponentia has also not been addressed, whereas there are plethora of judgments of the apex Courts that once an order has been passed and acted upon the same can neither be recalled/ withdrawn and in the instant case petitioner/ appellant has been promoted to PBS-15 and the same was acted upon therefore vested rights have been accrued in favour of petitioner/ appellant.
- C. That the order of this Hon'ble Tribunal dated 08.01.2024 is not the speaking order as the same does not address all issues and important issue has not properly addressed as per dicta of law and justice.
- D. That the Hon'ble Tribunal have not dilated upon the issue of the seniority of the petitioner / appellant after the withdrawal of the promotion order dated 19.05.2023 and after the dismissal of the appeals of the petitioner through consolidated order/ judgment dated 08.01.2024 is also silent about this important aspect of the case in hand which needs to be revisited/ reviewed.
- E. That the petitioner / appellant would like to seek the kind permission of this Hon'ble Tribunal to advance some other grounds at the time of arguments.

It is therefore, respectfully prayed that on acceptance of this review petition, the impugned consolidated Order judgment of this Hon'ble Tribunal dated 08.01.2024 and that of 19.05.2023 and 01.08.2023 may very graciously be set aside and the promotion order dated 10.12.2020 be restored with all back benefits OR any other relief which this Hon'ble Tribunal deems fit in the circumstances of the Review Petition may also be awarded in favour of the appellant.

Dated 22.02.2024

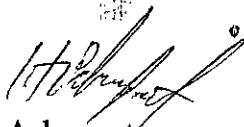

Petitioner/ Appellant

Through


Hidayat Ullah Khattak
Advocate, High Court

CERTIFICATE:

Certified that this is a fit case for review.


Advocate

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL

Review Petition No. _____/2024

In

Service Appeal No.1697/2023

Mr. Hikmat Khan Petitioner

Versus

Government of Khyber Pakhtunkhwa and others

..... Respondents

AFFIDAVIT

I, *Mr. Hikmat Khan, CT (BPS-15), GMS Swaro Kot, District Orakzai*, do hereby affirm and declare as per information furnished by my client that the contents of the accompanying **Review Petition** are true and correct and nothing has been concealed from this Hon'ble Court.

Deponent
Deponent

CNIC No. 21604-9177969-5

Cell No. 0332-9298284

Identified by: *Hidayat Ullah Khattak*
Hidayat Ullah Khattak
Advocate High Court



BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL

Review Petition No. _____/2024

In

Service Appeal No.1697/2023

Mr. Hikmat Khan Petitioner

Versus

Government of Khyber Pakhtunkhwa and others

..... Respondents

APPLICATION FOR SUSPENSION OF
OPERATION OF THE IMPUGNED
CONSOLIDATED ORDER/ JUDGMENT
OF THIS HON'BLE TRIBUNAL DATED
08.01.2024 TILL FINAL DECISION OF
REVIEW PETITION.

Respectfully Sheweth;

- 1) That the captioned Review petition is being filed in this Hon'ble Tribunal in which no date of hearing has yet been fixed.
- 2) That grounds of Review Petition may be read as part and parcel of this application.


- 3) That prima facie case exists in favour of petitioner and he is sanguine about its success.
- 4) That balance of convenience also lies in favour of petitioner.
- 5) That in case the relief as prayed for in the heading of application if not granted, then petitioner will be put to irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned consolidated order/ judgment of this Hon'ble Tribunal dated 08.01.2024 may kindly be suspended till final decision of review petition.

Dated 22.02.2024


Petitioner/ Appellant

Through


Hidayat Ullah Khattak

Advocate, High Court

BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL

Review Petition No. _____ /2024

In

Service Appeal No.1697/2023

Mr. Hikmat Khan Petitioner

Versus

Government of Khyber Pakhtunkhwa and others

..... Respondents

AFFIDAVIT

I, *Mr. Hikmat Khan, CT (BPS-15), GMS Swaro Kot, District Orakzai*, do hereby affirm and declare as per information furnished by my client that the contents of the accompanying **Application** are true and correct and nothing has been concealed from this Hon'ble Court.

Deponent
Deponent
Hikmat Khan

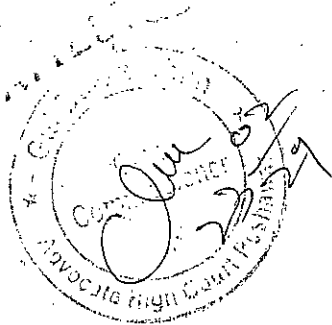
CNIC No. 21604-9177969-5

Cell No. 0332-9298284

Identified by:

Hidayat Ullah Khattak
Hidayat Ullah Khattak

Advocate High Court



BEFORE THE CHAIRMAN KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL

Review Petition No. _____/2024

In

Service Appeal No. 1697/2023

Mr. Hikmat Khan Petitioner

Versus

Government of Khyber Pakhtunkhwa and others

..... Respondents

ADDRESSES OF PARTIES

PETITIONERS

Mr. Hikmat Khan, CT (BPS-15),

GMS Swaro Kot, District Orakzai


RESPONDENTS

- 1) Government of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education, Civil Secretariat,
Peshawar
- 2) The Director Elementary & Secondary Education, Khyber
Pakhtunkhwa, Peshawar
- 3) District Education Officer, District Orakzai

Dated 22.02.2024


Petitioner/ Appellant

Through


Hidayat Ullah Khattak
Advocate, High Court



ANZ-NAV-10
District Education Office
District Orakzai

No: 3514

Phone: 0925-690017 FAX 0925-690017 Dated 14 / 10 / 2020.

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION COMMITTEE HELD ON 14-10-2020 AT 10:30 AM

A meeting of the Departmental Promotion Committee was held today on 14-10-2020 at 10:00 AM under the Chairmanship of District Education Officer District Orakzai to discuss the promotion cases of Male, PST/SPST/PSHT to CT B-15, in the District Education Office Orakzai. The following attended the meeting:

- | | |
|--|--------------------------|
| 1. Mr. Fareed Ullah Mehsud, District Education Officer | Chairman |
| 2. Mr. Hameed Ullhan Jan, Additional Director NMD | (KPE&SED Representative) |
| 3. Mr. Saif Ullah, Principal B-19 GHS Mandati District Orakzai | Member |
| 4. Mr. Muhammad Iqbal, HM GHS Mishti Bazar | Member |
| 5. Kausar Ali, ADEO District Orakzai | Member |
| 6. Mr. Abdul Abdul Malik, ADEO District Orakzai | Member |
| 7. Mst. Nabila Naz, ADEO District Orakzai | Member |
| 8. Mr. Shakeel Ahmed, SST GHS Swaro Kot | Member |
| 9. Mr. Wahid Ullah, SCT GMS Bagara Mishti | Member |

The meeting started with recitation from the Holy Quran. The Chair welcomed the participants. The following items were discussed in detail by the DPC keeping in view all the aspects of the case and finally unanimously recommended the promotion of the following teachers on the vacant post with immediate effect.

Item No. 1 PROMOTION OF PST/SPST/PSHT (MALE) FROM TO CT BPS-15 ON REGULAR BASIS

The case of promotion of PST/SPST/PSHT (MALE) to CT BPS-15 against vacant posts was considered and the DPC recommended as under:

Total No. of CT (M) Vacant Post	60
60 % share of PST/SPST/PSHT Posts	36
Share of promotion 100%	36
Net to be Promoted	36
Available for promotion	36
Recommended for promotion to CT	36

ATTACHED

13

S.L. #	Name of teacher	BP S.	Date of Birth	Reg. no. Service	Place of Posting	Remarks
1	Zeenat Ali	15	05/02/1970	01/03/1993	GPS Noor Ali Garhi	
2	Amal Hassan	15	01/08/1970	23/05/1995	GPS Garhi Mani Khel	
3	Hassanullah	15	13/02/1972	31/03/2001	GPS Khawas Khel	
4	Ali Majan	15	05/03/1979	01/09/2003	GPS Sarka	
5	Yasin Allah	15	02/01/1980	01/09/2003	GPS Aakhel	
6	Muhammad Shah	15	10/03/1982	01/10/2003	GPS Sarla Mishti	
7	Abdul Shakoore	15	01/03/1972	23/10/2003	GPS Sarki Khel	
8	Samar Gul	15	01/01/1979	29/07/2004	GPS Sama Mamozai	
9	Kh. Alil ur Rehman	15	05/06/1979	03/08/2004	GPS Sangra	
10	Muhammad Umer	15	22/04/1976	03/09/2005	GPS Taropi Ali Khel	
11	Mir Asehar	15	16/10/1984	05/09/2005	GPS Rambic Salai	
12	Waheed Ullah	15	02/02/1979	23/10/2005	GPS Khangar Boor	
13	Iqbal Hussain	12	05/05/1985	24/11/2009	GPS Biland Khel No.2	
14	Khaista Jan	12	01/03/1986	24/11/2009	GPS Ster Sam	
15	Muhammad Yaqoob	12	09/03/1987	24/11/2009	GPS Mir Kalam Khel	
16	Muhammad Hunif	12	21/12/1982	24/11/2009	GPS Malang garhi	
17	Nuseeb Rehman	12	05/10/1985	24/11/2009	GPS Bada Sheikhan	
18	Gul Karim	12	15/01/1982	03/12/2009	GPS Gul Cheri	
19	Dalil Shah	12	04/04/1980	24/11/2009	GPS Bilazawi	
20	Muti Ur Rehman	12	20/05/1984	24/11/2009	GPS Bazed Khel	
21	Gul Rahim	12	05/04/1979	24/11/2009	GPS Jaba Kada	
22	Ashfaq Ali	12	18/03/1985	24/11/2009	GPS Karapa Samana	
23	Maskeen Khan	12	10/04/1984	02/12/2009	GPS Khar Khushta	
24	S. Khadim Hussain	12	03/05/1985	24/11/2009	GPS Toor Kani	
25	Raees Akbar	12	16/02/1982	24/11/2009	GPS Shamer	
26	Hussain Asgher	12	10/02/1981	24/11/2009	GPS Zakhtan	
27	Munawur Khan	12	10/05/1986	24/11/2009	GPS Paloosi	
28	Sherin Hassan	12	09/10/1987	24/11/2009	GPS Injawar	
29	Amjad Khan	12	18/02/1985	25/11/2009	GPS And Khel Bala	
30	Sajib Ul Islam	12	20/04/1986	24/11/2009	GPS Beropi Ali Khel	
					GPS Panjam Ali Khel	

ATTENDED

31	303	Amir ur Rehman	12	03/10/1982	24/11/2009	GPS Khadizai No.1
32	304	Hikmat Khan	12	02/10/1983	24/11/2009	GPS Sawaro Kot
33	306	Munawar Khan	12	25/10/1982	24/11/2009	GPS Chapper Mishti
34	307	Muhammad Ghani	12	26/02/1985	24/11/2009	GPS Kot Ali Khel
35	308	Painda Khan	12	13/04/1984	25/11/2009	GPS Yusuf Khel
36	312	Israfil Khan	12	12/05/1986	24/11/2009	GPS Khadizai No.2

No. of PST/SPST/PSHT (Male) to CT cleared for promotion = 36

No. of CT (male) deferred for promotion = NIL

The meeting ended with a vote of thanks to and from the chair.

1. Wahid Ullah
SCT GMS Bagara Mishti
Member

2. Shakeel Ahmad
SST GHS Swaro Kot
Member

3. Mr. Abdul Malik
ADEO Orakzai
Member

4. Kausar Ali
ADEO Orakzai
Member

5. Mrs. Nabila Naz
ADEO Orakzai
Member

6. Muhammad Iqbal (HM)
GHS Mishti Bazar
Member

7. Mr. Rais Khan
ADEO Orakzai
Member

8. Saif Ullah Principal
GHS Mandati
Member

9. Fawaz Ullah Jan
Additional Director NMD
KP E&SED Representative

Mr. Fawaz Ullah Mehsud
District Education Officer Orakzai
(Chairman)

ATTACHED



District Education Office
District Orakzai

No. 6660

Dated 10/12/2020

Phone: 0925-690017 FAX 0925-690017

Notification:

As recommended by the Departmental Promotion Committee during its meeting held on 14/10/2020, vide Minutes No. 3514, the competent authority has been pleased to promote & adjust the following male PST/SPST/PSHT teachers from PST/SPST/PSHT to CT-Post BPS-15 against the vacant post in various schools mentioned against their names in district Orakzai with immediate effect in the interest of public service:

S#	S.L#	Name of teacher	BPS	Date of Birth	Regular Service	Current School	Name of the School where Posted
1	36	Zeenat Ali	15	05/02/1970	01/03/1993	GPS Noor Ali Garhi	GMS Mirzai
2	66	Amal Hassan	15	01/08/1970	23/05/1995	GPS Garhi Mani Khel	GHSS Kalaya
3	126	Hassanullah	15	13/02/1972	31/03/2001	GPS Khawas Khel	GMS Alwarha Mela
4	159	Ali Mojan	15	05/03/1979	01/09/2003	GPS Sarka Aakhe I	GHS Tooli Bagh, Orakzai
5	160	Yasin Ullah	15	02/01/1980	01/09/2003	GPS Sarla Mishiti	GHS Mishiti Bazar
6	161	Munawar Shah	15	10/03/1982	01/10/2003	GPS Sarki Khel	GHS Inzer Patti
7	166	Abdul Shakoor	15	01/03/1972	23/10/2003	GPS Sama Mamozai	GHS Dran Sheikhan
8	169	Samar Gul	15	01/01/1979	29/07/2004	GPS Sangra	GHS Mishiti Bazar
9	170	YnAli ur Rehman	15	05/06/1979	03/08/2004	GPS Taropi Ali Khel	GMS Sarki Khel
10	178	Muhammad Umer	15	22/04/1976	03/09/2005	GPS Rambic Salai	GHS Gulistan
11	218	Mir Asghar Waheed	15	16/10/1984	05/09/2005	GPS Khangar Boor	GMS Sarki Khel
12	219	Ullah	15	02/02/1979	23/10/2005	GPS Biland Khel No.2	GHS Biland Khel
13	277	Iqbal Hussain	12	05/05/1985	24/11/2009	GPS Ster Sam	GMS Ster Sam
14	278	Khoista Jan	12	01/03/1986	24/11/2009	GPS Mir Kalam Khel	GMS Qasim Khel, Orakzai
15	279	Muhammad Yaqoob	12	09/03/1987	24/11/2009	GPS Malang garhi	GMS Yakho Kandow
16	280	Muhammad Hanif	12	21/12/1982	24/11/2009	GPS Bada Sheikhan	GHS Mishiti Bazar
17	282	Naseeb Rehman	12	05/10/1985	24/11/2009	GPS Gul Cheri	GMS Babera Laki
18	283	Gul Karim	12	15/01/1982	03/12/2009	GPS Bilazawi	GMS Salri Feroz Khel
19	284	Dalit Shah	12	04/04/1980	24/11/2009	GPS Bazed Khel	GMS Mir Mela Sheikhan

District Education Officer
Orakzai District at Hangu

ATTESTED

Posted

20	285	Mali Ur Rehman	12	20/05/1984	24/11/2009	GPS Jaba Kadar	GHS Avi Mela
21	287	Gul Rahim	12	05/04/1979	24/11/2009	GPS Karapa Samana	GHS Gulistan
22	288	Ashfaq Ali Maskeen	12	18/03/1985	24/11/2009	GPS Khar Khushta	GMS Khalil Sepoy (Khura)
23	289	S.Khadim Khan	12	10/04/1984	02/12/2009	GPS Toor Kani	GMS Damber Lasti
24	290	Hussain	12	03/05/1985	24/11/2009	GPS Shamer	GHS And Khel
25	291	Raees Akbar	12	16/02/1982	24/11/2009	GPS Zakhtan	GHS Dran Sheikhan
26	293	Hussain Asgher	12	10/02/1981	24/11/2009	GPS Paloosi	GMS Khalil Sepoy
27	295	Mihawar Khan	12	10/05/1986	24/11/2009	GPS Injawai	GHS Saifal Dara
28	298	Shahir Hassan	12	09/10/1987	24/11/2009	GPS And Khel Bala	GMS Zera
29	300	Arjad Khan	12	18/02/1985	25/11/2009	GPS Batapi Ali Khel	GMS Zanka Khel
30	302	Saqib-Ul-Islam	12	20/04/1986	24/11/2009	GPS Panjam Ali Khel	GMS Alwarha Mela
31	303	Amir ur Rehman	12	03/10/1982	24/11/2009	GPS Khadizai No.1	GHS Swaro Kot
32	304	Hikmat Khan	12	02/10/1983	24/11/2009	GPS Sawaro Kot	GHS Swaro Kot
33	306	Munawar Khan	12	25/10/1982	24/11/2009	GPS Chapper Mishli	GMS Babera Laki
34	307	Muhammad Ghani	12	26/02/1985	24/11/2009	GPS Kot Ali Khel	GMS Damber Lasti
35	308	Painda Khan	12	13/04/1984	25/11/2009	GPS Yusuf Khel	GHS Bagh Nak
36	312	Israfil Khan	12	12/05/1986	24/11/2009	GPS Khadizai No.2	GMS Dana Khula

Terms & Conditions:

1. They would be on probation for a period of one year extendable for further period of one year.
2. They will be governed by such rules & regulations as and when 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 time to time.
4. Charge report should be submitted to all concerned.
5. There 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.

~~Signature~~
DISTRICT EDUCATION OFFICER
DISTRICT ORAKZAI

Endst No. 6661-69 dated: 10/12/2020

Copy forwarded for information and necessary action to the:

1. Director Education (E&SE) Khyber Pakhtunkhwa Peshawar.

~~Signature~~
ATTACHED

17

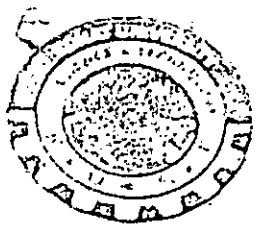
2. Deputy Commissioner, Orakzai.
3. District Monitoring Officer, Orakzai.
4. District Account Officer District Orakzai.
5. PS to the Secretary to Govt Khyber Pakhtunkhwa E& SE Department, Peshawar.
6. PA to the Director (E&SE) Khyber Pakhtunkhwa Peshawar.
7. Accountant Local Office, Orakzai.
8. Teacher concerned.
9. Master File

~~FILED~~
DISTRICT EDUCATION OFFICER
DISTRICT ORAKZAI

ATTESTED

Ann A & B

18



Form No. 1/2009

Kohat University of Science & Technology, Kohat (Pakistan) DETAILED MARKS CERTIFICATE Bachelor of Arts (BA) Part II Annual Examination, 2009

Name: Qasim Khan Roll No. 1009-2009-1138
Father's Name: Qasim Khan Registration No. 1009-2009-1138

Student that in this date secured the following marks and is placed in 2nd Division

S U B J E C T S	Maximum Marks	M A R K S O B T A I N E D	
		In figure	In words
English Compulsory	25	27	Twenty Seven
Urdu	15	30	Fifty
Islamic Studies	15	45	Forty Five
Mathematics	40	19	Nineteen
<i>Part-I Marks</i>	<i>95</i>	<i>121</i>	
Total	500	312	Three Hundred Twelve

The Examination was taken in Parts

(15% Marks in each Subject, written practical separately)
(10% in Aggregate)

It is Declared on: 23-Oct-09

CONTROLLED BY
Kohat University of Science & Technology

ACCEPTED

[Signature]
Assistant Education Officer
District Orakzai

[Signature]
Kohat University of Science & Technology

GOVERNMENT ELEMENTARY TEACHERS TRAINING COLLEGE

REPUBLIC OF INDIA (1970)

PROVISIONAL CERTIFICATE

Candidate's Name: Mohamed Akbar Roll No: 1001

Subject: Arabic Marks: 100 out of 100

Examination: 1970 Date: 12/12/70

Grade: First

The Education Officer is pleased to announce that

the candidate has secured the following marks

Roll No: 1001
Date: 12/12/70
Grade: First

[Signature]
Principal

HEAD MASTER
CHS CHURCH ROAD
DIST. GAZIABAD
PRINCIPAL

Government Elementary College
111, G. B. Wadgaon Road

[Signature]
District Education Officer
District Office



AND "D" # 2

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KHYBER PAKHTUNKHWA PESHAWAR
P.NO.61/GENERAL TRANSFER
No. 188/1 DATED 11/04/2023

To

The District Education Officer,
Orakzai at Hangu.

Subject: - INTER DISTRICT TRANSFER FROM DISTRICT ORAKZAI TO DISTRICT HANGU

I am directed to refer to this Office letter No. 14585 Dated 11-07-2023, on the subject cited above and to state that from the perusal of the Promotion Order, Mr. Safaeel Khan S/O Gulzar Shah PST (BS-12) including 23 others were promoted to the post of CT (BS-15) vide No. 6661-69 Dated 10-12-2020, which is clear cut violation of Service Rules, 2012.

In this regard, I am further directed to ask you to withdraw the Promotion-Order of the mentioned CT, including 23 others earlier notified vide Dated 10-12-2020, as well as such like cases, if any, and compliance report may be shared with this Office, please.

Assistant Director (Estab)
Elementary and Secondary Education
Khyber Pakhtunkhwa

Encl: No. 1

Copy of the above is forwarded to the

- 1. PA to Director, Elementary and Secondary Education, Khyber Pakhtunkhwa.

Assistant Director (Estab)
Elementary and Secondary Education
Khyber Pakhtunkhwa

withheld allah
70/11/23

ATTACHED



OFFICE OF THE DISTRICT EDUCATION OFFICER (M) ORAKZAI
DISTRICT HEADQUARTER ORAKZAI AT BABER MELA HANGU
Phone # 0925-690017 Fax # 0925-690017
Email: deorakzal2020@gmail.com

No. 1344 Dated 29/11/23



To: Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

Subject: REQUEST FOR REVIEW/APPRaisal

Reference to the Assistant Director (Estab), Elementary & Secondary Education, Khyber Pakhtunkhwa office letter bearing No. 18011, dated 11/04/2023, wherein it has been directed to withdraw the promotion order of twenty four (24) PSTs BPS: 12 to CT BPS: 15 in District Orakzai issued vide Notification of this office bearing No. 6660, dated 10-12-2020 to the extent of Serial Nos. 15 to 36, twenty four (24) in counting.

Foregoing in view of the above, the aforesaid twenty four (24) PSTs in BPS: 12 have been promoted to the post of CT BPS: 15 in District Orakzai by adhering the following criteria:

- 1) WHEREAS, the promoted PSTs have been appointed on 24/09/2009 as PST BPS: 12, hence having 11 years of continuous Govt. regular services during promotion in 2020.
- 2) WHEREAS, there are no sanctioned posts of SPST BPS: 14 for promotion of these PSTs.
- 3) WHEREAS, in case of availability of the sanctioned posts of SPST in BPS: 14, these promoted PSTs would have been eligible for promotion to the posts of SPST BPS: 14 prior to this promotion way-back in 2014 as per service rules 2012.
- 4) WHEREAS, there was no other eligible willing senior candidate than the promoted PSTs for promotion to the posts of CT BPS-15.
- 5) WHEREAS, 60 posts of CT in BPS: 15 (Male) in district Orakzai were lying vacant at the time of DPC in 2020 and those PSTs in BPS: 12 have been promoted under Service Rule: 2012 the 60% share of SPS/PSHT to the posts of CT in BPS: 15.
- 6) WHEREAS, the promoted PSTs had already been served on the posts of CTs in BPS: 15 since 11/12/2020 and one of the promoted PST (Mr. Saqib Ul Islam) has already obtained the inter-district transfer/NOC and serving in District Kohat on the post of CT in BPS: 15.

In the light of above, letter issued by your esteemed office dated 11/04/2023 may be reviewed in the interest of public service and to avoid any litigation, please.

DISTRICT EDUCATION OFFICER (M)
ORAKZAI

Copy of Even No. & Date:

Copy forwarded for information and necessary action to the:

1. Deputy Commissioner, Orakzai.
2. Additional Director (Estab), Directorate of E&SE, MAS, Khyber Pakhtunkhwa, Peshawar.
3. Assistant Director (Estab), Directorate of E&SE, Khyber Pakhtunkhwa w.r.t. his office letter vide cited above.
4. Office Copy.

DISTRICT EDUCATION OFFICER (M)
ORAKZAI

ATTENDED

Ann E - 23



OFFICE OF THE DISTRICT EDUCATION OFFICER- (M)-ORAKZAI
DISTRICT HEADQUARTER ORAKZAI AT BABER MELA-HANGU
Phone # 0925-690017 Fax # 0925-690017
Email: deorakzai2020@gmail.com



No. 1411 Date: 19/05/2023

OFFICE ORDER:

In compliance of the Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar vide letter bearing No. 18811, dated 11-04-2023, the competent authority DEO (M) Orakzai is pleased to withdraw the promotion orders bearing Endst: No. 6660, dated 10-12-2020 in respect of the following twenty four promoted PSTs in BPS: 12 to the posts of CTs in BPS: 15 in District Orakzai of the promotion order ibid. Furthermore, the following teachers are hereby adjusted in the schools mentioned against their names with immediate effect.

S#	NAME	CURRNT PLACE OF POSTING	PLACE OF ADJUSTMENT
1.	Iqbal Hussain	GMS Star Sam	GPS Bara Mela
2.	Khaista Jan	GMS Safri Feroz Khe	GPS Stara Kada
3.	Muhammad Yaqoob	GMS Yakho Kandow	GPS Sarki Khel
4.	Muhammad Hanif	GHS Mishli Bazar	GPS Bada Sheikhan
5.	Naseeb Rehman	GMS Babra Laeki	GPS Gul Cheri
6.	Gul Karim	GMS Safri Feroz Khe	GPS Ghutak Ali Khel
7.	Dalil Shah	GHS Bazid Khe	GPS Rangin Khel
8.	Mali Ur Rehman	GHS Avi Mela	GPS Dago Takhtak
9.	Gul Rahim	GHS Gulistan	GPS Khee Kada No.1
10.	Ashfaq Ali	GMS Khalil Sepoy	GPS Bal Kot
11.	Maskeen Khan	GMS Damber Lasli	GPS Dran Sheikhan
12.	Syed Khadim Hussain	GHSS Andkhel	GMPS Shamer
13.	Raees Akbar	GMS Wampanra	GPS Kagnai Sher Khel
14.	Hussain Asgher	GMS Khalil Sepoy	GPS Khar Khushta
15.	Minawar Khan	GHS Saifal Darrah	GPS Arkhio Killi
16.	Shiren Hassan	GMS Mirako Payan	GPS Suleman Khel
17.	Amjad Khan	GMS Zanka Khel	GPS Taghnai
18.	Saqib Ul Islam	GHS Jarma District Kohat	Will be adjusted as and when the Inter district transfer is withdrawn by the Directorate of Elementary & Secondary Education Khyber Pakhtun Khwa
19.	Amir ur Rehman	GHS Swaro Kol	GPS Swaro Kot
20.	Hikmat Khan	GHS Swaro Kol	GPS Khadzai No.1
21.	Munawar Khan	GHS Chapper Mishli	GPS Zor Chapper
22.	Muhammad Ghani	GMS Stara Kada	Kot Ali Khel
23.	Paında Khan	GHS Baghnak	Ghutak Ali Khel
24.	Israfil Khan	GMS Dana Khula	GPS Taropi Ali Khel

Note:

- 1) Fresh charge report in their original Basic Pay Scales as on 03-12-2020 should be submitted to all concerned within 15 days positively. In case of failure/refusal, they will be treated under the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011.
- 2) TAVDA is not allowed for joining of their duties.

DISTRICT EDUCATION OFFICER (MALE)
DISTRICT ORAKZAI

Copy of Even No. & Date:

Copy forwarded for information and necessary action to the:-

- 1) Director Elementary and secondary Education Khyber Pakhtunkhwa Peshawar with the request to withdraw Inter District transfer order in r/o S# 18, already transferred to District Kohat vide Directorate of E&SE KP No. 13656-61/F.No 51 Transfers Dated Peshawar the 27/12/2022.
- 2) Additional Director (Estab), Directorate of E&SE, MAs, Peshawar.
- 3) District Education Office (M), District Kohat
- 4) District Monitoring Officer, EMA, District Orakzai.
- 5) District Account Officer District Orakzai.
- 6) Deputy DEO (M), Orakzai.
- 7) Assistant Director (Estab), Directorate of E&SE, KP, Peshawar vide his office letter quoted above.
- 8) Principal/Head Masters/Incharge HM and Head Teachers concerned.
- 9) SDEOs concerned for further necessary action.
- 10) Superintendent/Pay Clerk O/O the DEO (M) Orakzai for further necessary actions.
- 11) Focal Person (HRMIS) for necessary action.
- 12) PSTs concerned
- 13) Office Copy

DISTRICT EDUCATION OFFICER (MALE)
DISTRICT ORAKZAI

-17/B-

"F/1" 24/A



SECONDARY EDUCATION KHYBER
PAKHTUNKHWA PESHAWAR
NO. 61/DISTRICT CADRE TRANSFERS
NO. 22904 DATED 09-08/2023

To

The District Education Officer (Male).
Orakzai at Hangu

Subject: - APPEAL FOR RESOTRATION OF PROMOTION ORDER.

I am directed to refer to the subject cited above and to state that the Appellant Authority is pleased to reject the appeal in respect of Mr Naseeb Ur Rehman Ex CT, and 23 others, promoted from the post of PSTs (BS-12) to the post of CTs (BS-15), against the existing rules/policy.

In this regard, I am further directed to ask you to inform the appellants accordingly, please.

9/8/2023
Assistant Director (Estab)
Elementary and Secondary Education
Khyber Pakhtunkhwa

Endst: No. _____ /F.No.37

Copy of the above is forwarded to the:-

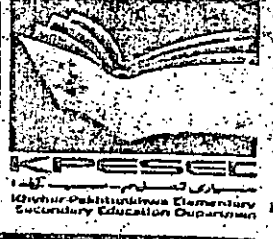
1. PA to Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.

Assistant Director (Estab)
Elementary and Secondary Education
Khyber Pakhtunkhwa

ATTESTED



OFFICE OF THE DISTRICT EDUCATION OFFICER-(M)-ORAKZAI
DISTRICT HEADQUARTER ORAKZAI AT BABER MELA-HANGU
Phone # 0925-690017 Fax # 0925-690017
Email: deorakzai2020@gmail.com
No. 1344 Dated 09/05/23



To,

Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

Subject: - REQUEST FOR REVIEW/APPRaisal

Reference to the Assistant Director (Estab), Elementary & Secondary Education, Khyber Pakhtunkhwa office letter bearing No. 18811, dated 11/04/2023 wherein it is has been directed to withdraw the promotion order of twenty four/24 PSTs BPS: 12 to CT BPS: 15 in District Orakzai issued vide Notification of this office bearing No. 6660, dated 10-12-2020 to the extent at Serial No. 13 to 36, twenty four/24 in counting.

Foregoing in view of the above, the aforesaid twenty four/24 PSTs in BPS: 12 have been promoted to the post of CT BPS: 15 in District Orakzai by adhering the following criteria.

- 1) WHEREAS, the promoted PSTs have been appointed on 24/09/2009 as PST BPS: 12, hence having 11 years of continuous Govt. regular services during promotion in 2020.
- 2) WHEREAS, there are no sanctioned posts of SPST BPS: 14 for promotion of these PSTs.
- 3) WHEREAS, in case of availability of the sanctioned posts of SPST in BPS: 14, these promoted PSTs would have been eligible for promotion to the posts of SPST BPS: 14 prior to this promotion way back in 2014 as per service rules 2012.
- 4) WHEREAS, there was no other eligible willing senior candidate than the promoted PSTs for promotion to the posts of CT BPS-15.
- 5) WHEREAS, 60 posts of CT in BPS: 15 (Male) in district Orakzai were lying vacant at the time of DPC in 2020 and those PSTs in BPS: 12 have been promoted under Service Rules 2012 the 60% share of SPS/PSHT to the posts of CT in BPS: 15.
- 6) WHEREAS, the promoted PSTs had already been served on the posts of CTs in BPS: 15 since 11/12/2020 and one of the promoted PST (Mr. Saqib ul Islam) has already obtained the inter district transfer/NOC and serving in District Kohat on the post of CT in BPS: 15.

In the light of above, letter issued by your esteemed office dated 11/04/2023 may be reviewed in the interest of public service and to avoid any litigation, please.

DISTRICT EDUCATION OFFICER-(M)
ORAKZAI

Copy of Even No. & Date:

Copy forwarded for information and necessary action to the:-

1. Deputy Commissioner, Orakzai.
2. Additional Director (Estab), Directorate of E&SE, MAs, Khyber Pakhtunkhwa, Peshawar.
3. Assistant Director (Estab), Directorate of E&SE, Khyber Pakhtunkhwa w.r.t his office letter vide cited above.
4. Office Copy.

DISTRICT EDUCATION OFFICER-(M)
ORAKZAI

ATTESTED



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1697 /2023

Mr. Hikmat Khan, CT (BPS-15),
GHS Swaro Kot, District Orakzai.

APPELLANT

VERSUS

- 1- The Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3- District Education Officer, District Orakzai.

RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 19.05.2023 WHEREBY THE PROMOTION ORDER DATED 10.12.2020 OF THE APPELLANT HAS BEEN WITHDRAWN AND AGAINST THE APPELLATE ORDER DATED 07-08-2023 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTEED ON NO GOOD GROUNDS.

PRAYER:

That on acceptance of this appeal the impugned order dated 19.05.2023, and the Appellate order dated 07.08.2023 may very kindly be set aside and the promotion order dated 10.12.2020 be restored with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SWETH:

ON FACTS:

1. That appellant was an employee of the respondent Department and performing his duty with full zeal & zest and up to the entire satisfaction of his high ups.
2. That the appellant being qualified was appointed as PST on 24.11.2009, in the respondent department and since then they are working with the full zeal and zest.
3. That it is pertinent to mention here that 60 number of posts of CT (BPS-15) were laying vacant in the District Orakzai. That a DPC was held to fill up the subject posts and amongst these posts 36 number of posts were allocated to the quota of PST/PSMT/SPST. That a DPC meeting was held on 14.10.2020 wherein the appellant was recommended for the post of CT (BPS-15) and vide notification

ATTESTED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

26

dated 10.12.2020 the appellant was promoted to the post of CT (BPS-15). Copies of the minutes of the DPC dated 14.10.2020 and notification dated 10.12.2020 are attached as annexureA&B.

4. That the appellant is a highly qualified person and his field. Copy of the educational testimonials are attached as annexureC.
5. That in pursuance to the notification the appellant started performing his duties with devotion and up to the entire satisfaction of his superiors.
6. That vide letter dated 11.04.2023 the respondent No. 3 was asked to withdraw the promotion order dated 10.12.2020, in response to which the respondent No. 3 vide letter dated 09.05.2023 requested the respondent No. 2 for the review of the decision. Copies of the letters are attached as annexureD.
7. That astonishingly vide impugned office order dated 19.05.2023 the promotion order dated 10.12.2020 of the appellant was withdrawn in utter violation of the law and rules on the subject. Copy of the office order dated 19.05.2023 is attached as annexureE.
8. That the appellant feeling aggrieved from the impugned office order dated 19.05.2023 preferred departmental appeal. Copy of the departmental appeal is attached as annexureF.
9. That the departmental appeal was rejected vide appellate order dated 09.08.2023 as note on the departmental appeal with no good reasons.
10. That having no other remedy preferred the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned order dated 19.05.2019 and appellate order dated 09.08.2023 issued by the respondents are against the law, facts, norms of natural justice and materials on the record hence not tenable in the eyes of law.
- B- That the appellant has not been treated in accordance with law and Rules by the respondents on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That no show cause notice has been served upon the appellant before the issuance of the impugned orders.
- D- That no right of defense has been provided to the appellant hence he has been condemned unheard thus violated Article-10-A of the constitution of the Islamic Republic of Pakistan, 1973.

ATTESTED

EXAMINER
Hydr P. Khattak
Service Tribunal
Peshawar

27

- E- That under the principle of *Locus Poenitentiae* the respondents are duly bound not to withdraw the promotion order.
- F- That no regular inquiry has been conducted in to the matter before the issuance of the impugned orders.
- G- That the respondents acted in arbitrary and malafide manner by issuing the impugned orders.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may very graciously be accepted as prayed for, please.

Dated: 31-05-2023

APPELLANT

[Signature]
HIKMAT KHAN

Through:

[Signature]
NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

[Signature]
KAMRAN KHAN

[Signature]
UMAR FAROOQ

[Signature]
MUHAMMAD AYUB

[Signature]
WALEED ADNAN

[Signature]
MAHMOOD JAN
Advocates, Peshawar

AFFIDAVIT

I, Hikmat Khan, CT (BPS: 15), GHS Swaro Kot,, District Orakzai, do hereby solemnly affirm and declare on Oath that the contents of this Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

[Signature]
DEPONENT

ACCEPTED

[Signature]
EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

-4- 28

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

C.M. NO. _____/2023
IN
APPEAL NO. _____/2023

HIKMAT KHAN VS EDUCATION DEPT.

**APPLICATION FOR SUSPENSION OF THE OPERATION OF THE
ORDER DATED 19.05.2023 TILL THE DISPOSAL OF THE
MENTIONED APPEAL.**

R.SHEWETH:

1. That, the titled appeal is submitted before this Honorable tribunal along with this application in which no date has been fixed yet.
2. That the applicant had filed the titled appeal against order dated 19.05.2023 whereby his promotion from PST to CT notification has been withdrawn.
3. That, all the three ingredients required for grant of stay are in favor of the appellant.
4. That the contents of the appeal may be kindly be considered as part and parcel of the instant application.
5. That, any other ground would be taken at the time of arguments with prior permission of this Honorable Tribunal.

It is therefore, most humbly prayed that on acceptance of this application the impugned order dated 19.05.2023 may very kindly be suspended till the disposal of the instant service appeal.

APPELLANT
THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

Date of Presentation of Application 20/2/24

Number of Words 47

Copying Fee 20/-

Urgent Yes

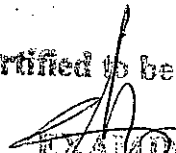
Total 20/-

Mode of Copying _____

Date of Completion of Copy 21/2/24

Date of Delivery of Copy 21/2/24

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1685/2023

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MRS. RASHIDA BANO ... MEMBER (J)

Mr. Naseeb Rehman, CT (BPS-15) GMS Babra Laaki, District Orakzai.
..... (Appellant)

VERSUS

1. The Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer, District Orakzai.
..... (Respondents)

Mr. Noor Muhammad Khattak
Advocate ... For appellant

Mr. Muhammad Jan
District Attorney ... For respondents

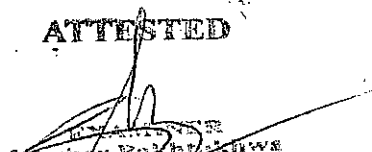
Date of Institution.....06.06.2023
Date of Hearing.....08.01.2024
Date of Decision.....08.01.2024

JUDGMENT

Rashida Bano, Member (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“On acceptance of this appeal the impugned order dated 19.05.2023 and the appellate order 09.08.2023 may very kindly be set aside and the promotion order dated 10.12.2020 be restored with all back benefits. Any other remedy which this Tribunal deems fit that may also be awarded in favor of the appellant.”

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

30

2. Through this judgment we intend to dispose of instant service appeal as well as twenty-three connected service appeals which are given as under:

1. Service Appeal No.1686/2023
2. Service Appeal No.1687/2023
3. Service Appeal No.1688/2023
4. Service Appeal No.1689/2023
5. Service Appeal No.1690/2023
6. Service Appeal No.1691/2023
7. Service Appeal No.1692/2023
8. Service Appeal No.1693/2023
9. Service Appeal No.1694/2023
10. Service Appeal No.1695/2023
11. Service Appeal No.1696/2023
12. Service Appeal No.1697/2023
13. Service Appeal No.1698/2023
14. Service Appeal No.1699/2023
15. Service Appeal No.1700/2023
16. Service Appeal No.1701/2023
17. Service Appeal No.1702/2023
18. Service Appeal No.1703/2023
19. Service Appeal No.1704/2023
20. Service Appeal No.1705/2023
21. Service Appeal No.1706/2023
22. Service Appeal No.1707/2023
23. Service Appeal No.1708/2023

In view of common questions of law and facts, the above captioned appeals are being disposed of by this order.

3. Brief facts leading to filing of the instant appeals are that the appellants were serving as PSTs. That different posts of Certified Teacher (BPS-15) were lying vacant and accordingly, the appellants were given promotion against the said posts vide Notification dated 14.10.2020. That in pursuance of the said notification, they started performing duties in BPS-15. That all of a sudden on 19.05.2023, the said notification was withdrawn by the respondent department.

B

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Feeling aggrieved, they filed departmental appeals which were rejected on 09.08.2023, hence, the instant service appeals.

4. We have heard learned counsel for the appellants and Mr. Muhammad Jan, District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

5. Learned counsel for the appellants argued that the impugned order dated 19.05.2019 was against law, facts and norms of justice, hence not tenable. He submitted that the appellants had not been treated in accordance with law/rules and as such, they had violated Articles-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. Further submitted that no show cause notice had been served upon the appellants before passing of the impugned order; that no right of defense had been provided to the appellants and under the principle of *Locus Poenitentiae*, the respondents were not duty bound to withdraw the promotion. Lastly, he concluded that no inquiry had been conducted into the matter and the respondents had acted in arbitrary manner, therefore, he requested for acceptance of the instant service appeals.

6. Conversely, learned District Attorney submitted that the appellants had been treated in accordance with law, rules and policy. He submitted that there was no rules/policy of promotion of PST to the post of CT, therefore, the respondents had rightly withdrew the promotion orders. Further submitted that the impugned order was rightly passed and the appellants were treated in accordance with law,

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

32

rules and policy in vogue. Therefore, he requested for dismissal of the instant service appeals

7. Perusal of record reveals that appellant was appointed as Primary School Teacher vide order dated 23.11.2009 in Education Department. Sixty posts of Certified Teacher (BPS-15) were lying vacant out of which 36 were allocated to the quota of PST/SPST/PSHT. DPC meeting was held on 14.10.2020 wherein appellant was also recommended for promotion, who accordingly promoted. After promotion, all of a sudden respondent No.3 was asked to withdraw the promotion orders of the appellant vide letter dated 11.04.2023 and resultantly promotion order of the appellant was withdrawn vide order dated 19.05.2023 without any reason. Respondent contended that appellants were mistakenly promoted (who were PST) to the post of CT as under the rules there is no channel of promotion provided for promotion of PST to CT, therefore, promotion order was withdrawn in accordance with rules. Relevant rules are notified on 13.11.2012, wherein appendix to the schedule provides method of recruitment, qualification and other conditions specified reveals that the post of Certified Teacher (G) BPS-15 is mentioned at serial No.13 of the appendix in accordance with which criteria for appointment given in column No.5 the method of recruitment is;

- a) Forty percent by initial recruitment and
- b) Sixty percent by promotion on the basis of seniority cum fitness, from amongst the Primary School Head Teacher with at least five year

ACCEPTED

Signature
Secretary
Services Tribunal
Patna

service and having qualification prescribed for initial recruitment of Certified Teacher (General). Provided that if no suitable candidate is available amongst the Primary School Head Teacher for transfer then the post will be filled by the promotion on the basis on seniority and fitness, from amongst Senior Primary School Teacher, with at least five year service and having qualification prescribed for initial recruitment of Certified Teacher (General).

8. So as per Service Rules only Primary School Head Teacher with at least five year service having Bachelor Degree or qualification from a recognized University with Certified Teacher Certificate or two year years Associate Degree in Education from a recognized University or Eighteen months Diploma in Education can be promoted to the post of CT (General) and if no suitable PSHT is available then Senior Primary School Teacher on the basis of seniority cum fitness with at least five year service and qualification mentioned above will be promoted in alternative and not PSTs. Admittedly appellants were Primary School Teachers at the time of their promotion to the post of CT vide notification dated 10.12.2020. As per rules mentioned above, PSTs are not entitled for promotion to the post of CT rather as per Serial No. 20 of the appendix, Primary School Teacher will be promoted to the post of Senior Primary School Teacher on the basis of seniority cum fitness and Senior Primary School Teachers on basis of seniority cum fitness will be promoted to the post of Primary School Head Teacher in accordance with Serial No. 19 of the appendix of notification dated 13.11.2012.

ATTESTED

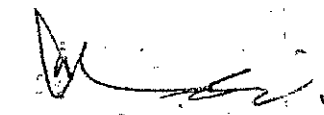
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

39

9. Appellants being PSTs were erroneously and mistakenly promoted to the post of CT (BPS-15) by the respondents vide notification dated 14.10.2020 which was subsequently realized by the department who reverted the appellants back to the post of PST (BPS-12) from CT (BPS-15) by withdrawing promotion order dated 10.12.2020 vide impugned notification dated 19.05.2023. When in the rules there is no provision/channel for promotion of PST to CT (General) then promotion order of appellants being PSTs to the post of CT (BPS-15) was rightly withdrew by the departments respondent. It is also important to note that appellant served for this intervening period of from 10.12.2020 till 19.05.2022 almost two and half year as Certified Teacher (G), therefore, salaries and benefits paid to the appellants could not be recovered from them being past and close transaction on the principle of 'locus poenitentiae' and estoppel on the part of respondents. Reliance is placed on 2020 SCMR 188.

10. For what has been discussed above, we are unison to dispose of the instant service appeal as well as connected service appeals with the observation that benefits paid to them could not be recovered from them. Costs shall follow the event. Consign.

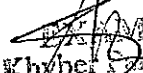
11. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 8th day of January, 2024.


 (KALIM ARSHID KHAN)
 Chairman


 (RASHIDA BANO)
 Member (J)

Date of Presentation of Application 20/2/24
 Number of Words 67
 Copying Fee 30/-
 Urgent
 Total 30/-
 Name of Copyist
 Date of Completion of Copy 21/2/24
 Date of Delivery of Copy 21/2/24

Certified to be true copy


 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

