

14.12.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Addl. AG for respondents present. Counsel for the appellant seeks adjournment. To come up for arguments tomorrow i.e. on 15.12.2017 before the D.B.


MEMBER

CHAIRMAN

15.12.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Addl. AG for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, in connected service appeal No. 640/2015, entitled "Issa Dad Vs. Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar and others", this appeal is also dismissed. Parties are left to bear their own costs. File be consigned to the record room.


MEMBER


CHAIRMAN

ANNOUNCED
15.12.2017

21/8/2017

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG for the respondent present. The Hon'ble Member is on leave, therefore, case to come for reply on 15/11/2017 before SB.


READER

15.11.2017

Clerk of counsel for the appellant and Addl. AG for the respondents present. Rejoinder submitted. The learned counsel for the appellant is not in attendance. Seeks adjournment. To come up for arguments on 30.11.2017 before the D.B.

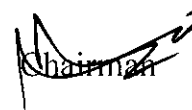

Member


Chairman

30.11.2017



Appellant in person and Addl: AG for respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 14.12.2017 before D.B.


Member


Chairman



15.08.2016

Agent to counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG for respondents present. Rejoinder not submitted and requested for further time to file rejoinder. To come up for rejoinder and arguments on 22-12-16 before D.B.

 Member  Member



22.12.2016

Appellant in person and Additional AG for the respondents present. Rejoinder not submitted. Appellant requested for adjournment due to non-availability of his counsel. Adjourned. To come up for rejoinder and arguments on 10.05.2017 before D.B.

 (ASHFAQUE TAJ)
MEMBER  (MUHAMMAD AAMIR NAZIR)
MEMBER

10.05.2017

Agent to counsel for the appellant and Asst. AG for respondents present. Counsel for the appellant requested for time to file rejoinder. To come up for rejoinder on 21.08.2017 before D.B.

 (Ahmad Hassan)
Member  (Muhammad Amin Khan Kundi)
Member

12.11.2015

Counsel for the appellant and Mr. Daud Jan, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 10.02.2016 before S.B.


Chairman

10.02.2016

Counsel for the appellant and Mr. Daud Jan, Supdt. Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 25.4.2016 before S.B.


Chairman

25.4.2016

Agent of counsel for the appellant and Mr. Daud Jan, Head Clerk alongwith Addl. AG for the respondents present. Written reply by respondents No. 3, 4 & 5 submitted. Learned Addl. AG relies on the same on behalf of respondents No. 1 & 2. The appeal is assigned to D.B for rejoinder and final hearing for 15.08.2016.


Chairman

28.07.2015

Counsel for the appellant present. Learned counsel for the appellant requested for adjournment as he has not annexed the decision of the Hon'ble High Court passed in Writ Petition furnished by the appellant. Adjourned to 11.8.2015 for preliminary hearing before S.B.


Chairman

11.08.2015

Agent of counsel for the appellant present. Learned counsel for the appellant is stated busy before the august Supreme Court of Pakistan. Appellant shall submit copy of Writ Petition within a week in office where-after the appeal shall be posted for preliminary hearing for 25.8.2015 before S.B.


Chairman


25.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was initially appointed as Community School Teacher and later on his services regularized on the basis of judgment of the High Court passed in writ petition No. 263 of 201 read with judgment in No. 2265-P/2012. That the services of appellant were regularized on the basis of order dated 30.8.2013 with effect from 1.9.2013 while he was entitled to regularization of the services with effect from the date of appointment. That the appellant preferred departmental appeal on 27.2.2015 which was not responded and hence the instant service appeal on 15.6.2015.

That the appellant is entitled to the services benefits including regularization of his services with effect from the date of appointment.

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 12.11.2015 before S.B.






Chairman

Security & Process Fee


Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 658/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	16.06.2015	<p>The appeal of Mr. Gulzar presented today by Mr. Ghualm Nabi Kihan Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	22-6-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>23-6-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	23.06.2015	<p>None present for appellant. Adjourned to 28.7.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p> <p style="text-align: right;"></p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. 658 /2015

Gulzar.....**APPELLANT**

V E R S U S


Government of Khyber Pakhtunkhwa
Through Secretary Education, & Others.....**RESPONDENTS**

I N D E X


S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-4
2.	Affidavit		5
3.	Copy of the Appointment Letter of the Appellant	"A"	6
4.	Copy of Closing Letter	"B"	7
5.	Copy of letter of Respondent No.5	"C"	8
6.	Copy of Re-Appointment letter	"D"	9-11
7.	Copy of Departmental Appeal	"E"	12-14
8.	Copies of letter/documents of FATA Secretariat & Central Government	"F to F/3"	15-22
9.	Wakalatnama		

Appellant

Through:


(Ghulam Nabi Khan)
Advocate,
Supreme Court of Pakistan
B-17, Haroon Mansion,
Khyber Bazar, Peshawar
Cell No.0300-5845943

&


(Mian Tajammal Shah)
Barrister, Peshawar

Dated ___/06/2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 658 /2015

A.W.P. Province
Service Tribunal

Diary No. 707

Dated 16-6-2015

Gulzar Son of Khan Said
PST GPS Bahi Dag,
Mohmand Agency

APPELLANT

V E R S U S

1. Government of Khyber Pakhtunkhwa
Through Secretary Education, Peshawar
2. Additional Chief Secretary, FATA,
FATA, Secretariat, Warsak Road, Peshawar
3. Director Education FATA,
FATA Secretariat Warsak Road, Peshawar
4. Agency Education Officer Mohmand Agency at Ghallanai,
5. Secretary Social Sector Department,
FATA Secretariat, Warsak Road, Peshawar

.....**RESPONDENTS**

Appeal UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER OF RESPONDENT NO.4 DATED
30.08.2013, WHEREBY THE APPELLANT HAS BEEN RE-
APPOINTED AT HIS POST WITH EFFECT FROM
01.09.2013 INSTEAD OF FROM THE DATE OF HIS
INITIAL APPOINTMENT i.e. 06.03.2003.

Filed to

Registrar

Prayer

*On acceptance of this Appeal the concerned
respondents may please be directed to give effect to the*

appointment of the appellant from 06.03.2003 instead of re-appointing him on 30.08.2013.

Respectfully Sheweth:-

1. That the appellant was appointed on 06.03.2003 at the Post of PST at Community School GPS Bahi Dag, at Mohmand Agency. (Copy of the Appointment letter is attached herewith as Annexure "A").
2. That the Appellant has been serving on the above said post till 31.12.2010, whereafter the services of the Appellant were terminated on closure of all Community Schools. (Copy of termination letter is attached herewith as annexure "B").
3. That as post of the appellant was a Project Post, however, later on it was shifted to the Regular Budget and because of the struggle of the appellant and his colleagues they were re-appointed by respondent No.4 on the same post on 30.08.2013 on Regular Basis. (Copy of the letter of respondent No.5 alongwith appointment letter issued by respondent No.4 are attached as herewith as annexures "C" & "D").
4. That being aggrieved of the above noted re-appointment instead of regularizing the services of the appellant from the date of his original appointment the appellant filed a Departmental Appeal before respondent No.3 on 27.02.2015, however, no heed whatsoever was paid to the said Departmental Appeal. (Copy of the Departmental Appeal is attached herewith as annexure "E").
5. That the regularization of the appellant alongwith his colleagues were made after a long process carried on in the FATA secretariat and the Central Government. (Copies of the said documents are attached as annexures "F to F/3").

6. That the appellant having no other remedy now approaches this Hon'ble Tribunal on the following grounds amongst the others:-

GROUND:-

- A. That the issuance of re-appointment letter instead of regularizing the services of the appellant from the date of his initial appointment is illegal, unlawful, without authority as well as based on the malafide intentions.
- B. That the appellant is eligible to be regularized on his service from the date of his initial appointment i.e. 06.03.2003 instead of the date mentioned in the re-appointment letter i.e. 01.09.2013.
- C. That the malafide of the respondents is very much clear from the fact that then the posts of Community Schools were shifted to the Regular Budget instead of regularizing the appellant on the said post they terminated the appellant just to give benefit to their own blue eyed persons, however, after a long struggle the appellant and his colleagues were able to get regularization letter whereby again they were treated for giving effect of their regularization from 01.09.2013.
- D. That even in the settled areas as well as the FATA area thousands of Civil Servants have been regularized and it has clearly been mentioned therein that it should be considered that they have been appointed on the Regular Basis.
- E. That even the Apex Courts in the similar cases have been pleased to accept the Writ Petitions, whereby the regularization was sought from the date of initial appointment.
- F. That the appellant is eligible to be regularized from the date of initial appointment and the regularization of his service given effect from


01.09.2013 is an act illegal/unlawful at the part of the concerned respondents.

It is, therefore, respectfully prayed that on acceptance of this appeal the concerned respondents may please be directed to give effect to the regularization of service of the appellant from the date of his initial appointment i.e. 06.03.2003 instead of the date of mentioned in the Notification i.e. 01.09.2013.

Any other relief deemed proper and fit in the circumstances of the case may also very graciously be granted to the appellant.


Appellant

Through:


(Ghulam Nabi Khan)
Advocate,
Supreme Court of Pakistan
B-17, Haroon Mansion,
Khyber Bazar, Peshawar
Cell No.0300-5845943

&


(Mian Tajammal Shah)
Barrister, Peshawar

Dated ___/06/2015

CERTIFICATE:-

Certified that as per instructions of my client no such Service Appeal on behalf of the petitioner has earlier been filed in this Hon'ble Tribunal on the subject matter.


ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2015

Gulzar.....**APPELLANT**


V E R S U S

Government of Khyber Pakhtunkhwa
 Through Secretary Education, & Others.....**RESPONDENTS**

AFFIDAVIT

I, Gulzar Son of Khan Said PST GPS Bahi Dag, Mohmand Agency, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by:


(Ghulam Nabi Khan)
 Advocate, Peshawar




 DEPONENT

OFFICE OF THE AGENCY EDUCATION OFFICER MOHMAND AGENCY AT GHALLANAI
OFFICE ORDER

6

A

Consequent upon the recommendation of the selection committee and nomination of Political Agent Mohmand Agency vide his office No.1085-89 Dated. 20/02/2003, the following candidates are here by appointed against PTC Posts in the community schools under president special development package in Khwaizai / Baizai inaccessible areas in BPS. 7 plus Usual allowances as admissible under the rules on contract base for the project period in the schools noted against their names with immediate effect.

S.#	Name of candidate with Father name	School where appointed
1	Mohammad Shah S/O Musa Yar Khan	C.S Bad Manai Ghafoor
2	Munir Khan S/O Ali Rehman	C.S Sham Shah Yousaf Khan
3	Noor Ullah Khan S/O Mukaram Kltan	Do
4	Dawood Shah S/O Sadrud Din	C.S Shah Mir Kore Khan Abad
5	Qadar Khan S/O Shah Jehan	Do
6	Syyar Khan S/O Amir Zada Khan	C.S Badmanai Gulzar
7	Ajmal Khan S/O Pir Ghulam	C.S Ghair Dhand Akram
8	Fazal-Subhan S/O Abdul Latif	C.S Manzari Cheena Faqir
9	Mohammad Israr S/O Mir Zada Khan	C.S Badmanai Ghafoor
10	Abdul Samad S/O Mohammad Rafiq	C.S Lakhkar Killi Gul Wali
11	Abdul Malik S/O Feroz Khan	C.S Landi Shah Zarin
12	Bashir Ahmad S/O Said Akram	C.S Lakhkar Kili Gul Wali
13	Shad Ali Khan S/O Hasham Khan	C.S Bad Manai Gul Zar
14	Saadullah S/O Haji Dawa Jan	C.S Mama Zai Sekandar
15	Nazir Gul S/O Nawab Khan	Do
16	Zauta Khan S/O Khan Syed	C.S Manzari Cheena Shinwari
17	Tajawal Khan S/O Fazal Mohammad	C.S Jarobai Fazal
18	Ahmad Khan S/O Nilz Din	C.S Masti Kore Gulab
19	Hazrat Shah S/O Saib Jamal	C.S Kung Mehrab Gul
20	Ali Akbar S/O Hazrat Mohammad	C.S Ucha Jewara Naik Mohd
21	Sajjad S/O Khanzad Gul	C.S Kung Mehrab Gul
22	Sultan Mohammad S/O Haji Mohammad Shah	C.S Khan Baig Kore Ijazat
23	Halceem Khan S/O Zarif Khan	Do
24	Samar Ahmad S/O Ahmad Gul	C.S Kuzu Kass Ghulam Bashir
25	Daftar Khan S/O Mohammad Akbar	C.S Khan Baig Kore Fazlai Manan
26	Khaista Zar S/O Ihsanullah	C.S Khan Baig Kore Fazlai Mannan

360/20
PA

Abdul

Hakim Khan (D.E.O.)
Mohmand Agency at Ghallanai

Cont Next page

12/02/2003

6
1

S.//	Name of Candidate with Fathers Name	School where appointed
27	Jamil Shah S/O Hakeem Khan	C.S Nazar Kore Aslam
28	Aslam Khan S/O Hazrat Mohammad	C.S Ucha Jewara Naik Mohd
29	Mohammad Quraish S/O Mohammad Akbar	C.S Nazar Kore Aslam
30	Mohammad Khan S/O Ghulam Sakhi	C.S Soor Dagi Yaqub Khan
31	Raz Mohammad S/O Shah Rasool	C.S Kaka Kore Hunar Jan
32	Gul Nabi S/O Lal Said	C.S Soor Dagi Yaqub
33	Anwar Shamim S/O Ahmad Gul	C.S Kuzu Kass Ghulam Bashir
34	Ghal Zar S/O Khan Said	C.S Sam Ghakhai Siraj Khan
35	Fida Mohammad S/O Arsala Khan	Do
36	Saz Mohammad S/O Shah Rasool	C.S Kaka Kore Hunar Jan
37	Niqab Khan S/O Khan Sharif	C.S Kung Sabzali
38	Saddi Khan S/O Mawceez Khan	Do
39	Khyali Jan S/O Joor Jan	C.S Spinki Tangi Nadar
40	Amir Khan S/O Hamid Khan	Do
41	Shah Nazir S/O Arsala Khan	C.S Spinki Tangi Sikandar
42	Sultan Murad S/O Gula Dad	Do
43	Tahir Ali S/O Gula Khan	C.S Bad Manai Bakht Jamal
44	Mawad Gul S/O Hayat Gul	C.S Toora Khwa Sherin
45	Mohd Raz S/O Zarghun Shah	Do
46	Siyar S/O Dost Mohammad	C.S Gulma Haji Almas
47	Azmat Gul S/O Rahat Gul	Do
48	Liaqat Ali S/O Mumtaz Khan	C.S Atam Killi Ghulam Sarwar
49	Khuzair Khan S/O Noor Jamal	C.S Atam Killi Mohdi Gul
50	Jamal Shah S/O Habib Khan	C.S Bad Manai Bakht Jamal
51	Khanadan S/O Wazir Khan	C.S Atam Kili Ghulam Sarwar
52	Azaz Ullah S/O Ibar Khan	C.S Sham Shah Biland
53	Issa Dad Khan S/O Lula Dad	C.S Atam Kili Mohdi Gul
54	Akbar Khan S/O Shar Jan	C.S Landi Shah Zarin Khan
55	Ijaz Ali S/O Wazir Khan	C.S Badmanai Yad Mohd
56	Hussain Shah S/O Syed Mastan Shah	C.S Manzari Cheena Faqir
57	Janat Gul S/O Zulfan	C.S Ghair Dhand Akram
58	Mazullah S/O Najeem Khan	C.S Baidmani Yad Mohd
59	Said Ahmad S/O Mohammad Afzal	C.S Manzari Cheena Shinwari
60	Mohammad Khan S/O Mohammad Wali	C.S Toor Khel Ahmad Noor
61	Irfan Ullah S/O Alqash Khan	Do
62	Pazeer Khan S/O Mohammad Hanif	C.S Khanjar Killi Malik Abid
63	Ali Gohar S/O Ajmir Khan	C.S Yara Khel Haji Madar
64	Zahir S/O Bashir Khan	C.S Khanjar Killi Malik Abid
65	Sakhi Jan S/O Izzat Gul	C.S Jarobi Fazal
66	Zahid Ullah S/O Najcem Khan	C.S Sham Shah Biland
67	Ghulam Said S/O Noor Siad	C.S Jarobi Abdullah
68	Bad Shah Hassan S/O Ibrahim Shah	Do
69	Shah Jehan S/O Shamroz Khan	C.S Shamrad Khel Noor Zada
70	Liqat Ali S/O Ikram Khan	Do
71	Asif Khan S/O Jamal Khan	C.S Maim Khel Malik Islam Bacha

	Name of Candidate with Fathers Name	School where Appointed
72	Saddar Shah S/O Mir Zaman Khan	C.S Maim-Khel Malik Islam Bacha
73	Sartaj S/O Mahboob Khan	C.S Yara Khel Haji Madar
74	Mohammad Naseer S/O Ghani Khan	C.S Mula Khel Toora Tangi Ayub
75	Asal Khan S/O Saidan Khan	Do
76	Fayaz Khan S/O Badam Khan	C.S Shakar Khel Khatam Jan
77	Ajmal Khan S/O Harifullah	Do
78	Darwaish Khan S/O Gul Said	C.S Ughazado khel Farooq
79	Mustafa Khan S/O Wasil Khan	Do
80	Arif Shah S/O Rahil Shah	C.S Abdul Khel Hingar M.Amin
81	Shah Bad Shah S/O Hazrat Bad Shah	Do
82	Mohammad Hazoor S/O Hazrat Bad Shah	C.S Sana Khel Yaqub
83	Subhat Shah S/O Amir Khisro	Do
84	Ihsan Ullah S/O Gul Alam	C.S Abdul Khel Saedd Ullah
85	Kiramat Shah S/O Musharaf Shah	Do
86	Dawood Shah S/O Sulman Shah	C.S Matina Malik
87	Fazlai Dayan S/O Sadrud Din	C.S kankar Killi M.Farid Ullah
88	Muzafar Khan S/O Zaman Khan	C.S Dag Killi Syed Qahar
89	Fazlai Subhan S/O Mirza Hakeem Sadrud Din	C.S Masti Kore Masahib Khan
90	Yousaf Khan S/O Syed Rahman	C.S Zoor Killi
91	Abdul Malik S/O Said Mohammad Shah	C.S Lakhka Killi Faiz Ali

TERMS/CONDITIONS:-

- 1:- The appointments of the Teachers are made on temporary basis and liable to termination without any notice/assigning any reasons.
- 2:- They should produce their Health and Age certificates from the Agency Surgeon Mohmand Agency at Ghallanai.
- 3:- Charge report should be submitted to this office in duplicate within a specific period.
- 4:- If the candidates/Teachers failed to report of their arrival to the concerned schools within fifteen days(15) their orders will be automatically considered as cancelled.
- 5:- Academic qualification is must to be verified.

(HAJI GUL RAHMAN)
Agency Education Officer
Mohmand Agency at Ghallanai.

Endst No. 4993-5089 Dated: 06/02/2003.

Copy of the above is forwarded to:-

1. Director of Education, FATA, NWFP, Peshawar.
2. Political Agent Mohmand Agency at Ghallanai w/r his office memo No. as cited.
3. Agency Surgeon Mohmand Agency at Ghallanai.
4. Asstt. Political Agent (Upper Mohmand) at Ghallanai.
5. Agency Accounts Officer, Mohmand Agency at Ghallanai.
6. Acct/Pay Clerk in local office.
- 7-97 Candidates concerned.

Agency Education Officer,
Mohmand Agency at Ghallanai.

Hakim Khan (D.E.O.)
Mohmand Agency at Ghallanai

7

FATA SECRETARIAT
DIRECTORATE OF EDUCATION
 KHIBER PAKHTUNKHWA, WARDER ROAD PESHAWAR, PAKISTAN
 PHONE: 011-2521115 FAX: 011-2521214
 No. 8578-87
 Date Recd: 13/12/2010

To: All the Agency Education Officers
 in FATA

Subject: CLOSURE OF ALL COMMUNITY SCHOOLS IN FATA W.E.F
31.12.2010

Memo: I am directed to convey the policy decision of the competent authority on the above noted subject and to ask you to close all the community schools in FATA w.e.f 31.12.2010. The teachers and class IV working in these schools should be given a Notice to the effect that their services will be dispensed with on 31.12.2010. However, they may be given preference in recruitment against regular posts by giving experience marks for the service rendered in community schools as per policy. The regular vacant posts be advertised immediately and recruitment process completed as per prescribed procedure on priority.

[Signature]
 Dy. Director (P&M)

Encls: No. _____

Copy to the:-

1. Addl: Chief Secretary, FATA.
2. Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
3. Secretary A&C, FATA Secretariat, Peshawar.
4. Secretary P&D, FATA Secretariat, Peshawar.
5. Secretary Law & Order, FATA Secretariat, Peshawar.
- 6-12. All Political Agents in FATA.
- 13-18. District Coordination Officers Peshawar, Kohat, Bannu, Laski, Tank, D.I.Khan.
19. AGPR Sub Office Peshawar
- 20-26. All Agency Accounts Officers.
- 27-32. District Accounts Officers Kohat, Bannu, Laski, Tank, D.I.Khan.
33. P.A to Director Education FATA.

[Signature]
 Dy. Director (P&M)

[Handwritten Signature]



FATA SECRETARIAT
Social Sectors Department
Warsak Road Peshawar

C/B
8

Notification

No. SO(E)/SSD/CSTR/99-108/ The Governor Khyber Pakhtunkhwa in his capacity as the Competent Authority has been pleased to approve the re-appointment of Community School Teachers who qualify to be posted against the regular posts of PST (BS-7) in phased manner at the respective Agencies & FRs, purely on merit basis in accordance with the existing recruitment criteria but in relaxation of upper age limit with immediate effect as specified below.

- ✓ 1. The available regular vacant PST (BS-7) posts in the Primary/Middle Schools in FATA will be filled up from amongst the Community School Teachers and no fresh candidate considered for recruitment till all the eligible Community School Teachers are absorbed against regular posts in their respective Agencies/FRs.
2. The non-local eligible Community School Teachers shall be considered for re-appointment against the regular vacant posts of PST (BS-7) after adjustment of local qualified teachers.
- ✓ 3. The services of the un-qualified teachers shall be dispensed with.
4. The Community Schools whose teachers are appointed and shifted to other schools against regular posts, would be closed down.
5. The respective Community Schools students would be shifted to nearby regular schools and no further recruitment of Community School teachers will be made.

Secretary
Social Sectors Department,
FATA Secretariat, Peshawar

Encl No. Even Dated Peshawar the 11/05/2012

Copy forwarded to the:-

1. Secretary to Governor, Khyber Pakhtunkhwa Peshawar.
2. Addl. Accountant General (PR) Sub Office Peshawar.
3. Director Education FATA, Peshawar.
4. All Political Agents in FATA.
5. DCO Peshawar, Kohat, Bannu, Lakkj, D.I.Khan & Tank.
6. Agency/ District Accounts Officers concerned
7. All the Agency Education Officer in FATA
8. PS to Additional Chief Secretary FATA Peshawar.
9. PS to Secretary Social Sectors Department, FATA Secretariat, Peshawar.
10. PS to Secretary P&D, FATA Secretariat, Peshawar.

Perb

Section Officer (Edu) SSD
FATA Secretariat, Peshawar

(9)

D

OFFICE OF THE AGENCY EDUCATION OFFICER MOHMAND AGENCY AT GHALLANAI

REGULARIZATION OF COMMUNITY TEACHERS.

Consequent upon the notification No.SOE/SSDC/SCR 99-108, dated 11.5.2012 and on the basis of honourable High Court decision dated 06.8.2013, re-appointment order of 52 community teachers issued vide this office No.1636-12 dated 17.8.2012 and No.16-13-19 dated 17.8.2012 is hereby implemented with effect from 01.9.2013 in the interest of public service, with partial modification at S.No.19 and 42 in order No.1636-12 and at S.No.3 in order No.16343-19, with the remarks that:-

1. The said appointment was made from Agency wise merit on the verbal directions of Director of Education (FATA) at that time, if Directorate of Education (FATA) declared this order against the present recruitment policy of the Govt. in response to this office letter No.1306 dated 20.8.2013, then regularization of community teacher will be made on tehsil wise merit basis.
2. If any post against which community teacher was regularized was not vacant, then the incumbent will vacate the post for the community teacher on his regularization.
3. Any Community school for which regular posts have not been sanctioned and teachers of this Community Schools got regular posts then this community school will be considered as closed, and class IVs of this school will be considered as terminated w.e.f 1.9.2013 and students of this schools will be advised by the teachers to get admission in near by regular school.
4. Documents, both Professional and academic will be verified by the committee constituted for the purpose. A single person will not carryout the verification process.

Note:- Cases regarding the scales of newly adjusted teachers will be decided individually on the basis of their qualification.

S.No	Name with Father's Name	Name of Community School	Station of regular PST	Tehsil	Remarks
1	Fazle Subhan S/O Abdul Latif	CS Atam Killi	GPS Zoor Killi Aflatoon	Baizai	Against newly created post
2	Muhammad irshad S/O Abdul Rahman	CS Manzari Cheena	MPS Abdul Jabbar	Halimzai	Against Vacant Post
3	Abdul Samad S/O Muhammad Rafiq	CS Gul Wali	GPS Lakhkar Killi Faiz Ali	Baizai	Against newly created post
4	Salim Saradar S/O Hakim Said	CS Shamir Khan Abad	GPS Babi Khel Kamali	Halimzai	Against Vacant Post
5	Sameer Ahmad S/O Ahmad Gul	CS Kuzl Kas	GPS Manzari Cheena	Khwezai	Against newly created post
6	Adil Shah S/O Gul Shah	CS Atam Killi	GPS Said Rahman Gurbaz	Halimzai	Against Vacant Post
7	Aslam Khan S/O Hazrat Muhammad	CS Naik Muhammad	GPS Bahi Dag	Khwezai	Against newly created post
8	Azizullah S/O Ithar Khan	CS Yad Muhammad	GPS Crang No.3	Halimzai	Against Vacant Post
9	Khanadan S/O Malik wazir Khan	CS Ijazat	GPS Karrer Habibzai	Halimzai	Against Vacant Post
10	Muhammad Sadiq S/O Muhammad Yar	CS Mateena Malik	GPS Zoor Killi Aflatoon	Baizai	Against newly created post
11	Ali Akbar S/O Hazrat Muhammad	CS Naik Muhammad	GPS Ashraf Abad	Khwezai	Against Vacant Post
12	Muhammad Raz Khan S/O Zarghun Shah	CS Toora Khwa	GPS Din Muhammad	Halimzai	Against Vacant Post
13	Muhammad Idrees S/O Taj Muhammad	CS Mateena Malik	GPS Chamarkand No.1	Safi	Against Vacant Post

10

	Muhammad Ishaq S/O Gul Said	CS Shawal	GPS Chamarkand No.2	Halimzai	Against Vacant Post
15	Akbar Khan S/O Sher Jan	CS Kankar Killi	GPS Shewa	Halimzai	Against Vacant Post
16	Ilyas Khan S/O Muhammad Shakil	CS Gulzar Baidumana	GPS Sangar	Ambar	Against Vacant Post
17	Lal Zada S/O Sautar Khan	CS Karkana	GPS Ambar Karkana	Ambar	Against newly created post
18	Miaz Muhammad S/O Noor Muhammad	CS Masti Kore Gulab	GPS Manzari Cheena	Baizai	Against newly created post
19	Hayat Muhammad S/O Foot Muhammad	CS Lakhkar Killi	GPS Lakhkar Killi Atmar Khel	Baizai	Against newly created post
20	Sultan Muhammad S/O Muhammad Shah	CS Kung	GPS Masti Kore Gulab	Khwezai	Against newly created post
21	Daltar Khan S/O Muhammad Akbar	CS Kung	GPS Abdul Kore	Khwezai	Against Vacant Post
22	Zahir S/O Bashir	CS Khanjar Killi	GPS Chamarkand	Halimzai	Against Vacant Post
23	Jamil Shah S/O Hakim Khan	CS Khang Baig Fazle Manan	GPS Masti Kore Gulab	Khwezai	Against newly created post
24	Hazrat Shah S/O Sahib Jamal	CS Ijazat	GPS Shamsheer	Khwezai	Against Vacant Post
25	Sajjad S/O Khanzad Gul	CS Nazar Kore	GPS Gai Warsak	Khwezai	Against Vacant Post
26	Gul Nabi S/O Lal Said	CS Soor Dagi	GPS Zanawar Cheena Gul Said	Khwezai	Against newly created post
27	Bakht Zada S/O Shahzada	CS Bahlola	GPS Yousaf Baba	Prang Ghar	Against newly created post
28	Bacha Hassan S/O Ibrahim Shah	CS Faiz Ali	GPS Kharai Dara	Halimzai	Against Vacant Post
29	Sajid Ali S/O Tawas Khan	CS Faiz Ali	GPS Bacha Kandao	Halimzai	Against Vacant Post
30	Hikhar Khan S/O Bahadar Khan	CS Shawal	GPS Gul Rahman	Baizai	Against Vacant Post
31	Anwar Khan S/O Habib Khan	CS Gul Rahman	GPS Yaqoob Khanzadgan	Khwezai	Against Vacant Post
32	Murad Ali S/O Akhtar Jan	CS Samghakhi	GPS Ghanam Shah	Khwezai	Against Vacant Post
33	Arif Shah S/O Rahil Shah	CS Samghakhi	GPS Amrai Kore	Ekka Ghund	Against Vacant Post
34	Abdullah Shah S/O Hussain Shah	CS Masti Kore Nusaib Khan	GPS Pai Khan	Ekka Ghund	Against Vacant Post
35	Ajmal Khan S/O Pir Ghulam	CS Ghairdand	GPS Ulehko Suran	Baizai	Against Vacant Post
36	Abidullah S/O Ghulam Muhammad	CS Rahman Gul	GPS Suran	Khwezai	Against Vacant Post
37	Taj Muhammad S/O Sheikh Muhammad	CS Karkana	GPS Karkana	Prang Ghar	Against newly created post
38	Amin Khan S/O Ravesh Khan	CS Sikandar	GPS Selai Dawa Jan	Khwezai	Against Vacant Post
39	Murad Ali S/O Muhammad Ali	CS Shamir Khan Abad	GPS Faraki Tangi	Halimzai	Against Vacant Post

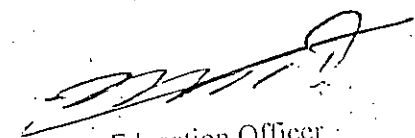
10

11	Gulzar S/O Khan Said	CS Soor Dagi	GPS Bahi Dag	Khwezai	Against newly created post
12	Janat Gul S/O Zulfan Khan	CS Ghair Dand	GPS Bakhmal Shah	Halimzai	Against Vacant Post
13	Anwar Shamim S/O Ahmad Gul	CS Kuzo Kas	GPS Lakhkar Killi Faiz Ali	Khwezai	Against Vacant Post
14	Faridullah S/O Zazil Khan	CS Kankar Killi	GPS Olai Ambar	Baizai	Against Vacant Post
15	Muhammad Shafiq S/O Karim Khan	CS Manzari Cheena Malang	GPS Shati Miana	Baizai	Against Vacant Post
16	Azmat Gul S/O Rahat Gul	CS Nazar Kore Aslam	GPS Shamsier Sra Khwa	Halimzai	Against Vacant Post
17	Niqab Khan S/O Khan Sharif	CS Kung Sabzali	GPS Had Kore Ambar	Khwezai	Against Vacant Post
18	Shahid Nasim S/O Muhammad Halim	CS Zoor Killi Alatoon	GPS Yaqoob Khanzadgan	Halimzai	Against Vacant Post
19	Amir Khan S/O Hamid Khan	CS Dag Qilla	GPS Gumbati Ambar	Halimzai	Against Vacant Post
20	Nasira D/O Akhtar Gul	FCS Ucha Joura Rawesh	GGPS Kung Farmanullah	Baizai	Against newly created post
21	Nighat Bano D/O Jehan Zeb	FCS Samghakhi	GGPS Baghi Shah	Safi	Against newly created post
22	Falooda D/I Gul Zada	FCS Kuzo Kas	GGPS Kuzo Kas	Baizai	Against newly created post
23	Aisha Bibi D/O Ahmad Jan	FCS Umar Khel Sufiman	GGPS Baghi Shah	Safi	Against newly created post

(SAID MUHAMMAD)
 Agency Education Officer
 Mohmand Agency at Ghallanai.
 Dated 30/8/2013

Encl No. 7-39/Project/ Appointment
 Copy of the above is forwarded to the:-

1. PA to Secretary to Governor KPK, Peshawar.
2. Director of Education FATA, K.P.K, Peshawar.
3. Political Agent Mohmand Agency.
4. Agency Accounts Officer Mohmand Agency at Ghallanai.
5. AAEOs concerned.
6. Accountant local office.
7. Teachers concerned.


 Agency Education Officer
 Mohmand Agency at Ghallanai

To:

The Director of Education (FATA)
FATA Secretariat,
Warsak Road, Peshawar.

E
12

Subject: DEPARTMENTAL APPEAL FOR THE
REGULARIZATION OF THE APPELLANT
FROM DATE OF HIS APPOINTMENT

Respectfully Submitted:

1. That the Education Department Mohmand Agency advertised some posts including the post of PST Teachers in the year 2003.
2. That the appellant being eligible/qualified for the staid post duly applied and submitted his documents to the concerned authority.
3. That after going through all the process and procedure the appellant was brought into the merit list and finally he was appointed at the post of PTC (BPS-7) on Project Basis with effect from ~~20-02-2003~~
06-03-2003.
4. That the appellant served on the above said post for so many years and it was 11.5.2012 when a Circular with regard to the regularization of the vacant posts of PST (BPS-7) in Primary/Middle Schools in FATA was issued for the Community Schools Teachers by the Social Sector Department FATA Secretariat Peshawar.
5. That after the issuance of the said letter/Notification the process of regularization of all the PSTs was started in Mohmand Agency as well as in all other Schools belonging to FATA.
6. That finally a letter with regard to the regularization of the appellant alongwith other PSTs was issued on 30.8.2013, thereby 52 Teachers serving in the Project were regularized with effect from 1.9.2013.

7. That it will be pertinent to bring into the kind notice of your good office that similarly regularized employees from the different Sectors have been given effect of their regularization from the date of appointment and not with immediate effect.

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8. That it will also be pertinent to bring into the kind notice of your office that even PST Teachers whom were appointed alongwith the appellant and were serving on the same terms and conditions of the Project Employment have been given effect to the regularization of their services from the date of appointment.

9. That the appellant submits his appeal for the regularization of his service from the date of his appointment i.e. 30-08-2013 instead of 1.9.2013 on the following grounds:-

GROUND:

- a. That the regularization of the appellant instead of his date of appointment has been made on 1.9.2013, which order is illegal, unlawful, without authority/jurisdiction and being based on the malafide intentions.
- b. That in the settled area where the regularization Act has been passed the Civil Servants have been given regularization with retrospective effect and not with immediate effect.
- c. That even in the FATA area the appellant has been treated discriminately, as so many other Civil Servants serving in the FATA area as well as so many other employees serving in the Teaching Cadre and also the PST Teachers have been given effect of regularization of their service since the date of their appointment and not from 1.9.2013.
- d. That the appellant has been treated discriminately which is a clear violation of Article 25 of the Constitution of Islamic Republic of Pakistan, 1973.

- 14
- e. That the department was obliged to treat all the Civil Servants being on the same footing equally and not in a discriminate manner.
- f. That when the other employees as well as the PST Teachers have been regularized from the date of appointment it is the right of the appellant that he should also be given the same benefit as has been given to others.
- g. That it will be pertinent to mention in the grounds that on the Pay Slip of the appellant his service mentioned therein has been calculated from the date of appointment and not from the date of regularization which shows that the Department itself has admitted the right of the appellant of regularization of his service from the date of his appointment rather than from the date of regularization.

It is, therefore, humbly prayed that on acceptance of this Departmental Appeal the concerned authority may please be directed to convert the order of regularization of the appellant from the date of his regularization i.e. 1.9.2013 to the date of his initial appointment on the above said post i.e. 66-03-2003

Appellant

Dated: 27.02.2015

Gulzar S/o Khan Said.
GPS Zanwar Cheema
Mehmand Agency.

FATA SECRETARIAT
Admin Infrastructure & Coord Department
Warsak Road Peshawar

15

No FS/59 1/956 76
Dated 27/3/2013

F

to

1. All Secretaries, FATA Secretariat
2. Director General Projects, FATA Secretariat
3. Director General, FATA Disaster Management Authority
4. Secretary, FATA Investment Facilitation Authority
5. All Heads of Line Directorates, FATA Secretariat
6. Project Director TARUCCI.

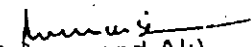
Subject:- REGULARIZATION OF SERVICES.

Dear Sir,

I am directed to request you to provide attested copies of Matriculation/Secondary School Certificate and Certificate/Degree of the Higher Qualification of those employees whose names have been provided to this office for onward submission to Ministry of SAIRON for regularization of their services

Needful may please be done on priority, within a fortnight, please.

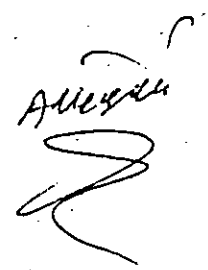
Yours faithfully,


(Muhammad Ali)
Public Relations Officer

C.C

PS to Additional Chief Secretary (FATA).







F-1

FATA SECRETARIAT
DIRECTORATE OF EDUCATION
WARSAK ROAD PESHAWAR, PAKISTAN
PHONE: 091 9110166 FAX 011-7210216

No. /

Date Post: the 28/3/2013

To

All the Agency Education Officers
In FATA..

16

Subject:- Regularization of Service.

Memo:

I am directed to refer the Public Relations officer FATA Secretariat Admn, Infrastructure & Coord: Department letter No.FS/59-1/956-76, dated 27.3.2013 on the above cited subject.

You are requested to submit/produce attested photo copies of all the credentials/documents of contract project employees working in the offices & educational institutions in your respective Agencies/FRs, to this office immediately for onward submission to the quarter concerned please.

Deputy Director (P&D)

Endst: No. 5830-37

Copy to the:-

1. Public Relation Officer, FATA Secretariat w/r to his letter No.quoted above.
2. All the Projects Directors working in Education Department FATA.
3. P.A to Director Education FATA

-PA to D E
for information
CR
ED

Deputy Director (P&D)

13/3
[Signature]

[Signature]

(H/M) (17)

Governor's Secretariat N.W.F.C.

Subject: REGULARIZATION OF EMPLOYEES WORKING IN FATA

Numerous applications of low paid employees, and delegations arguing on their behalf, have come to me during my last three months as Governor Khyber Pakhtunkhwa requesting for regularization of their services after having worked on project posts for quite number of years and, importantly, being duly appointed through a valid process and contributing to the satisfaction of their superiors.

2. I had to take the following facts into consideration also:

- [i]. Presidential Order No.13 of 1972 enunciates that employees working for the affairs of FATA would be employees of the Provincial Government of Khyber Pakhtunkhwa. However, over a period of time such cadre have come forward which are not available in Khyber Pakhtunkhwa such as after formulation of district cadre from BS-1 to BS-15, correspondent Agency cadre with appointing authorities within Agency officers. Similarly the employees of Finance & Planning Cells in Agencies in FATA have been regularized under the Judgment of Peshawar High Court dated 17.6.2010 when they were appointed solely by the FATA Secretariat albeit in accordance with proper procedure and laws.
- [ii]. Similarly employees working in Community Schools, Model Schools have also been decided as regularized by the then Governor in exercise of powers conferred under Presidential SRO dated 16.9.2007 which states that Governor as Agent to the President shall exercise immediate executive authority for FATA.
- [iii]. I am also cognizant of the fact that employees working in Population Welfare against a PSDP Project have also been given the status of separate regular cadre of FATA on the basis of their lengths of service as well as the grant of same status to their counterparts in the province.
- [iv]. Furthermore there are various sub offices/cells for which there is no parallel set up in the Province such is SAP employees in P&D FATA, the Directorate General of Projects, EMIS Cell in Education

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F-2
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GOVERNMENT OF PAKISTAN
CABINET SECRETARIAT
ESTABLISHMENT DIVISION

Subject: - MINUTES OF THE MEETING OF THE CABINET SUB-COMMITTEE ON REGULARIZATION OF CONTRACT/DAILY WAGES EMPLOYEES IN THE MINISTRIES / DIVISIONS / ATTACHED DEPARTMENTS / AUTONOMOUS BODIES / ORGANIZATIONS ETC. HELD ON 13TH MARCH 2013 AT 2.00 P.M. IN THE ESTABLISHMENT DIVISION.

A meeting of the Cabinet Sub-Committee on regularization of daily wages/contract employees in the Ministries/Divisions/ Attached Departments/ Autonomous Bodies/ Organizations etc. was held on 13th March, 2013 in the Committee Room of Establishment Division under the Chairmanship of Syed Khursheed Ahmad Shah, Federal Minister for Religious Affairs. Mir Hazar Khan Bejarani, Federal Minister for Inter Provincial Coordination, Dr. Arbab Alamgir Khan Federal Minister for Communications, Mir Changez Khan Jamali, Federal Minister for Science & Technology, Ch. Manzoor Ahmad, Chairman, People Labour Bureau, also attended the meeting. The list of participants is enclosed.

2. It was deliberated in the start of the meeting that the contract/daily wages employees who have completed one year of contractual service or 3-spells of 89 days as daily wages respectively up-till 15-03-2013 will be considered for regularization during this meeting. Later, the cases of the following Ministries / Divisions were discussed in detail. The Ministries/ Division-wise detail of proceedings is produced below:-

SECTION OFFICER
ESTABLISHMENT DIVISION

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MINISTRY OF STATES AND FRONTIER REGIONS (SAFRON)

247. The representative of the Ministry of SAFRON presented the case of regularization of 1282 contract / daily wages employees of FATA Secretariat who have served for more than one year and whose services are required to be regularized.

248. It was also informed to the Cabinet Sub-Committee by the representative of the Ministry of SAFRON that there are 809 contract employees in the Ministry of SAFRON under UNHCR Project funded in the Afghan Refugees Organization who have served for more than one year and they have approached the Honourable Islamabad High Court under Writ Petition No.13/2012 where the Honourable High Court has directed that the petitioners' case be considered by the Cabinet Sub-Committee for regularizaion in light of the Regularization Policy.

249. The Cabinet Sub-Committee discussed and observed that the employees under the development project can be considered after transfer of the projects on non-development budget but in the present case there is no chance for the contract employees who are serving for many years rather more than 2 decades for regularization of their services while the funding from the donar agency (UNHCR) seems a regular feature and is is not expected that it would be discontinued after a certain period. It was further informed to the Cabinet Sub-Committee that all these employees are experienced and qualified with the expertise in management/handling of emergencies. And besides the management of Afghan Refugees, their services have been and are being utilized

SAFRON

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by Government in the emergencies like earthquake, floods and the IDPs etc as majority of the contract employees are professional doctors, paramedical staff, engineers and admin staff including camp management etc. They have invested the prime period of their lives in the management of Afghan Refugees and other emergencies and now have become over age and would not be able to have government jobs in other departments being overage besides the loss of professional staff.

~~AGS~~

DECISION

250. The Cabinet Sub Committee discussed and observed that the employees of FATA Secretariat belong to the Project and the employees getting salaries through development budget can not be considered for regularization until and unless their projects are transferred to non development budget or equal number of posts are available with the Ministry on non development budget for regularization of their services. If posts are available on non-development budget or the employees are getting salaries through non development then all those contract / daily wages employees who have served for more than one year can be regularized.

251. The Cabinet Sub-Committee keeping in view all above position, directed that the Ministry of SAFRON should own all these contract employees of the Commissioner for Afghan Refugees and proceed for their regularization by taking up the matter with the Ministry of Finance for creation

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of posts and provision of budget with a clear mechanism of recoupment of salaries of the relevant employees by UNHCR in to the Federal Government budget.

~~SECTION CHIEF
ADMINISTRATIVE DIVISION
UNHCR~~

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GOVERNOR'S SECRETARIAT,
Khyber Pakhtunkhwa, Peshawar

No. SO-1/1-1/GS/2012/10935-52
May 28, 2013

To

1. All the Secretaries (FATA).
2. All the Directors (FATA).

Subject: REGULARIZATION OF EMPLOYEES WORKING IN FATA.

Dear Sir,

I am directed to refer to the subject cited above and to enclose herewith a copy of note containing approval of Governor in Para 3/N for regularization of project employees working in FATA for necessary action as desired by the competent authority.

Process of
SE.
29/5/13

Yours faithfully,

Encl: As above.

(Aasma Arif)
Section Officer-I

Copy to:-

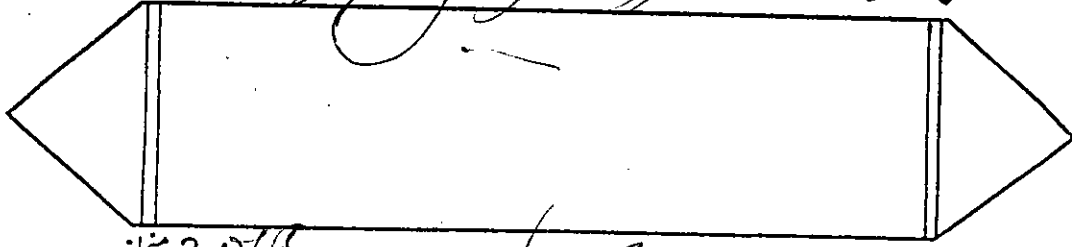
- PS to Principal Secretary to Governor Khyber Pakhtunkhwa.

Section Officer-I

DDC (PAP)
30/5/13

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بعدالت سرور کے لئے



موزخہ
مقدمہ
دعویٰ
جرم

کلیں 2، منجانب
بنام
صنوبر

15

باعث تحریر آنکے

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

المرقوم 15
ماہ 20

العبد _____ واہ العبد _____

کے لئے منظور ہے۔

بمقام
Ashraf
Sultan

**IN THE COURT OF KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No.658/2015

Gulzar.....Appellant

V E R S U S

Govt. of KPK through Secretary Education & others
.....Respondents


**Application for bringing on record
additional documents in the above
titled Service Appeal.**

Respectfully Sheweth:

1. That the above titled appeal is pending adjudication before this Honourable Court and is fixed for 25.08.2015.
2. That the following documents are necessary to be included:
 - i. Copy of the judgment of the Peshawar High Court dated 06.08.2013

It is, therefore, most humbly prayed that on acceptance of this application, the above mentioned document may kindly be brought on record.

Through Applicant/appellant


Ghulam Nabi Khan
Advocate

Supreme Court of Pakistan

Date: 18/08/2015

IN THE PESHAWAR HIGH COURT, PESHAWARW.P. No. 2255/P 2012

1. Arshid Khan S/O Nooran Shah
2. Abdul Manan S/O Khamin Khan
3. Asmat Ullah S/O Hassan Shah
4. Rahid Khan S/o Khial Wazir
5. Muhammad Hakim S/O Gulzar Khan
6. Shakir Ullah S/o Sabil Muhammad
7. Muhammad Israr S/o Hassan Badshah
8. Amin Jan S/o Masta Jan
9. Sherzada S/O Wakeel Khan
10. Muhammad Saeed S/o Jalat Khan
11. Sami ul Haq S/o Talib Jan
12. Fazal Haq S/O Talib Jan
13. Muhammad Farooq S/o Qalandar Khan
14. Shakirullah S/o Sharif Jan
15. Zondi Gul S/O Haji Gul Manan
16. Khafiz Malak Zai S/O Niaz Bahadar
17. Samandar Khan S/O Qalandar Shah
18. Khaista Mir S/o Gul Ajab Khan
19. Rahim Gul S/o Muhammad Gul
20. Munawar Shah S/o Lalmar Shah
21. Muhammad Ibrahim S/O Sanubar Khan

ATTESTED

EXAMINER
Peshawar High Court

17 AUG 2015

11/13/13
 31 JUL 2012

22. Ahmad Faisal S/o Sumand Khan
23. Muhammad Younas S/O Adman Khan
24. Mohammad Ismail S/o Mohammad Taib
25. Muhammad Saleem S/o Muhammad Raheem
26. Mohammad Aman S/o Adam Khan
27. Taimur Gul S/o Muhammad Sher
28. Muhammad Idrees S/o Gul Azam Khan
29. Muhammad Sajid S/o Muhammad Salam
30. Shams ur Rehman S/o Mohammad Suliman
31. Zia ul Haq S/o Gul Anwar
32. Muhammad Taib S/O Noor Akbar
33. Razi Ullah S/o Gula Noor
34. Abdul Akbar S/O Rahim Gul
35. Muhammad Idrees S/o Fazal Hameed
36. Liaqat Ali Khan S/o Shah Wali Khan
37. Javid Rehman S/O Lal Wazir
38. Israfeel S/o Fazal Manshah

All resident of Upper Aurakzai Agency, Aurakzai

VERSUS

1. Director Education FATA,
Warsak Road, Peshawar
2. Agency education Officer,
Aurakzai Agency
3. Secretary, Social Sectors Department, FATA
Secretariat Peshawar
4. Additional Chief Secretary FATA,
FATA Secretariat, Warsak Road, Peshawar

ATTESTED

EXAMINER
Peshawar High Court

17 AUG 2015

FILED TODAY

31 JUL 2012

(10)

5. Secretary P&D, FATA
Secretariat Peshawar
6. Deputy Director Education
FATA, Peshawar Respondents

PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN FOR A DECLARATION /ORDER TO
THE EFFECT THAT THE IMPUGNED
NOTIFICATION DATED 11.05.2012 AND
28.06.2012, BE DECLARED AS ILLEGAL
UNLAWFUL, BASED ON DISCRIMINATION
AND, THEREFORE, INEFFECTIVE UPON THE
RIGHTS OF THE PETITIONER AND
CONSEQUENTLY RESPONDENT, MAY BE
DIRECTED TO CONSIDER THE PETITIONER,
FOR THE APPOINTMENT AS AGAINST THE
POSTS OF PRIMARY SCHOOL TEACHER
(PST) IN ACCORDANCE WITH THE
PREVAILING POLICY OF THE
RESPONDENTS.

Respectfully Sheweth:

1. That all the petitioners are permanent resident of
Upper Aurakzai, Aurakzai Agency.

ATTACHED

EXAMINER
Peshawar High Court

17 AUG 2015

en

11.05.2012

2. That all the petitioners have acquired their respective qualification and training in the year shown against their names. (Copy of the table showing their names, parentage qualification, date of acquiring the qualification is attached as annexure "A") whereas as their academic testimonials are attached as annexure "B" to "B/34").
3. That it transpires from a letter dated 18.06.2010 addressed to all agency education officers by the Deputy Director Education, FATA Khyber Pakhtunkhwa, Peshawar that a writ petition was filed by the teachers of community school, where it was held that while preparing merit, 5 additional mark may be given to the these school teachers for rendering their services in these school. (Copy of the letter is attached as annexure "B").
4. That petitioners after acquiring the minimum basic qualification were waiting and expecting their appointments as against the posts of PST but were shocked and surprised to know that respondent No.3 has issued a notification No. SO(E)/SSD/CSTR/99-108/ dated 11.05.2012 where it was directed that :-

ATTEST

EXAMINER
Peshawar High Court

17 AUG 2015

FILED TODAY

31.08.2012

- 15
- i. Available regular posts will have to be filled from amongst the community school teacher and no fresh candidate shall be considered till all the eligible community school teacher are absorbed in their respective agency /FR.
 - ii. The non-local eligible community school teacher shall be considered for re-appointment after adjustment of local eligible community school teacher. (Copy of the notification is attached as annexure "C").
- 5.
- That again Additional Director (ESH) vide his letter dated 28.06.2012 directed all the Agency Education Officers to initiate process of re-appointment as per the requirement policy and guide lines conveyed to them vide aforesaid notification dated 11.05.2012. (Copy of the letter dated 28.06.2012 is attached as annexure "D").
- 6.
- That petitioners have acquired the pre-requisite qualification for appointment as PST teacher, and thus they have every rights to be appointed as such but the impugned notification have dashed all their hopes to the drain as they have been kicked out of the run, therefore, they felt themselves aggrieved for the following amongst others grounds:-

Deputy Registrar

31 JUL 2012

ATTESTED

EXAMINER
HONOURABLE HIGH COURT

17 AUG 2015

GROUNDS

- A. That the impugned notification and letter respectively dated 11.05.2012 and 28.06.2012 are illegal, void and unlawful as the same has defeated the fundamental right of the petitioner to be considered for the appointment of PST through a fair and transparent competition.
- B. That the impugned notification has been passed in utter disregard of the judgment of this Honourable Court announced on 13.05.2010 where it was held that only 5 marks be given to the teacher of community School for rendering their services in these school but respondents have given a sweeping edge to them by giving preference them over the petitioners. In this view of the matter the impugned notification being affront of the judgment of this Honorable Court in liable to be se aside.
- C. That the impugned notification is illegal, void and unlawful as through the same petitioners have been deprived of their fundamental right to be posted as PST.
- That petitioners have been subjected to unequal treatment and discrimination therefore the impugned notification need to be struck down, and also to bring

FILED TODAY
 Deputy Registrar
 31 JUL 2012

[Handwritten signature]

17

it in conformity with the decision of this Honourable court

It is, therefore, prayed that by accepting this petition impugned notification dated 11.05.2012 and the subsequent order dated 28.06.2012 be declared as illegal, unlawful, void ab-initio therefore, ineffective upon the rights of the petitioners and consequently respondents may be directed to subject the petitioner to a fair and transparent processes of appointment as per prevailing policy.

INTERIM RELIEF

By the way of interim relief respondents may pleased be restrained from filling the posts of PST through community School teacher only and they may also be directed to maintain status quo till the final decision of their case.

CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1984

17 AUG 2015

Petitioners
Through

Muhammad Ijaz Khan Sabi
Advocate, Peshawar

Dated 30.07.2012

a3
30-7-12

CERTIFICATE

As per instructions of my client, it is certified that no such like writ petition has earlier been filed by the petitioner before this Honorable Court.

LIST OF BOOKS:

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Case Law According to Need.

EXAMINER
Peshawar High Court

17 AUG 2015

Advocate

a3

copy
30 JUL 2012

Judgment Sheet

IN THE PESHAWAR HIGH COURT,
PESHAWAR

JUDICIAL DEPARTMENT

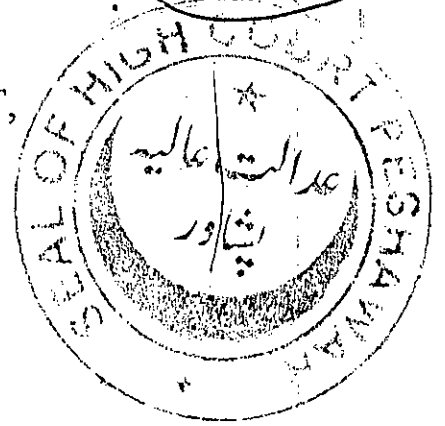
...W.P....No...2265....Of.....2012.

JUDGMENT

Date of hearing.....06.08.2013.....

Appellant (Arshid Khan etc) By Muhammad Ijaz Khan Sabi Advocate.

Respondent (Director Education FATA etc) By Ijaz Anwar Advocate and Malik Mustafa AAG.



MALIK MANZOOR HUSSAIN, J:- Through this single judgment, we intend to dispose of titled writ petition as well as connected W.P.No.1968/2012 with COC No.314/2012, W.P.No.2086/2012, W.P.No.2662/2012 and W.P.No.3444/12, as common questions of fact and law are involved in all the petitions.

2. Briefly, the facts of the case are that the petitioners are residents of FATA and FRs, having acquired respective training and qualification to be posted as Primary School Teachers. The grievance of the petitioners starts with issuance of notification dated 11.5.2012, issued on the approval of Governor Khyber Pakhtunkhwa, in his capacity as the Competent Authority, whereby as per Clause-1 of said notification the available regular PST Post in Primary/Middle school in FATA had to

ATTEST

EXAMINER
Peshawar High Court

17 AUG 2015

EXAMINER
Peshawar High Court

17 AUG 2015

(200)

be filled from amongst the Community School Teachers and no fresh candidate was to be considered for recruitment till all the eligible Community School Teachers are absorbed against the relevant post in their respective Agencies/FR. This notification was followed by another notification dated 28.6.2012 issued by Directorate of FATA Secretariat whereby direction was issued to all the Agency Education Officers in FATA for re-appointment of Community School Teachers against the vacant PST post. Being aggrieved, the petitioners of all the above mentioned petitions have impugned the legality and propriety of above mentioned notification through Constitutional petitions.

3. The learned counsel for the petitioners contended that the impugned notifications are not only illegal and void, but the same defeated the fundamental right of the petitioners to be considered for appointment of PST through a fair and transparent competition. He further argued that the impugned notification has been passed in utter disregard of judgment of this Court dated 13.5.2010 passed in W.P.No.2087/2009, wherein it was held that only

Qu

ATTES

EXAMINER
Peshawar High Court

17 AUG 2015

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5 marks be given to the teacher of Community School Teachers for rendering their services in these schools. He further argued that present is the case of discrimination and violation of fundamental rights, thus prayed for issuance of appropriate writ against respondents. The learned counsel for the petitioners in connected petitions adopted the arguments of instant petitioners' counsel except the petitioners of W.P.No.2662/2012, who requested for withdrawal of petition.

4. Conversely, the learned Standing counsel appearing on behalf of the respondents argued that the impugned notifications have been issued in order to replace the grievance of Community School Teachers as they had long service at their credit and after a long struggle for their regularization, the matter was put through a summary to worthy Government of Khyber Pakhtunkhwa for their regularization and the existing 293 regular vacant post created in newly constructed Primary/Middle Schools in FATA was to be filled on merit basis from amongst the Community School Teachers and no fresh candidate was to be considered for recruitment

ATTESTED

EXAMINER
Peshawar High Court.

17 AUG 2015

till all the existing Community School Teachers were absorbed against the newly created regular posts in FATA. This summary was approved through impugned notification dated 11.5.2012 and in compliance of that, all the Community School Teachers, who rendered more than 10 years service on contract basis in the respective schools were made eligible to be posted. He further argued that the petition is not maintainable in its present form, firstly, on the ground that the appointment made in the year 2012 has not been challenged through the instant writ petition and secondly nor the new appointees have been arrayed as respondents. The rights created in favour of Community School Teachers whose services have been regularized through notification dated 11.5.2012 were to be adversely effected, if the instant petitions are allowed.

5. Arguments heard and record perused. We have gone through judgment passed in W.P.No.324/2008 dated 28.5.2009 disposed of by a Division Bench of this Court. That writ petition was filed by Community School Teachers against advertisement whereby all the

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PTC posts were advertised to be filled through open merits without any preference being given to the already contract employees, wherein a concessional statement was made by Standing counsel for political authorities that the writ petitioners could be given 5 additional marks for their service rendered at PTC and they shall be given preference but subject to merits. So, with these observations, the writ petition alongwith connected 3 writ petitions were disposed of, on the basis of order passed in W.P.No.2087/2009 alongwith connected writ petitions and COCs on 28.5.2009, by this Court.

6. Directorate of Education FATA Secretariat, Peshawar issued direction through letter dated 18.6.2010 to all the Agencies Education Officers in FATA that in the light of decision of this Court dated 13.5.2010, the Community School Teachers are to be given 5 marks for their service rendered in Education Department of FATA.

7. Thereafter grievances were shown by the Community School Teachers which could not get regularization of their service despite the fact they rendered more than 10 years service on

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contact basis in the Community Schools. The National Assembly/Senate Standing Committees for State and Frontier Regions also recommended the regularization of services of Community School Teachers in their meeting held on 21.12.2011 and 9.3.2012 in Parliament House, Islamabad. Thus keeping in view the genuine grievance of the Community School Teachers and the recommendation of Standing Committees, a summary was put for Governor Khyber Pakhtunkhwa by FATA Secretariat, Directorate of Education through Secretary Social Sector FATA Secretariat and the same was approved by the Worthy Governor through impugned notification dated 11.5.2012 followed by letter dated 28.6.2012. It will be useful to reproduce hereunder notification dated 11.5.2012:-

"Notification

No.SO(E)/SSD/CSTR/99-108/. The Governor Khyber Pakhtunkhwa in his capacity as the Competent Authority has been pleased to approve the re-appointment of Community School Teachers who qualify to be posted against the regular posts of PST (BS-7) in phased manner at the respective Agencies & FRs. Purely on merit basis in accordance with the existing recruitment criteria but in

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relaxation of upper age limit with immediate effect as specified below.

1. The available regular vacant PST (BS-7) posts in the Primary Middle School in FATA will be filled up from amongst the Community School Teachers and no fresh candidate considered for recruitment till all the eligible Community School Teachers are absorbed against regular posts in their respective Agencies/FRs.
2. The non-local eligible Community School Teachers shall be considered for re-appointment against the regular vacant posts of PST (BP-7) after adjustment of local qualified teachers.
3. The services of the un-qualified teachers shall be disposed with.
4. The Community School whose teachers are appointed and shifted to other schools against regular posts, would be closed down.
5. The respective Community School students would be shifted to nearby regular schools and no further recruitment of Community School Teachers will be made."
8. The contention of the learned counsel for the petitioners that these notifications were passed in violation of earlier judgment of this Court dated 28.5.2009 and dated 13.5.2010 have got no substance. As both the judgments were honoured through office order dated 18.6.2010 and fruit of the same was given to

EXAMINE
Washawar High Coll.

17 AUG 2015

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Community School Teachers and not to fresh candidates. It is pertinent to note that instant and the connected petitions are not filed by Community School Teachers but by the fresh candidates, so they are on different footing. The notification issued by the Governor dated 11.5.2012 is much later than the judgment dated 28.5.2009 and as observed earlier that earlier judgment was passed on different footing and with different context.

9. We have noticed that in pursuance of notification dated 11.5.2012, all the appointments were made in the year 2012 in different Agencies and copies of appointment order dated 17.8.2012 issued for Mohmand Agency is made available on file.

10. Neither these appointment orders have been challenged nor the appointees have been arrayed as party. The impugned notification is issued in the best interest of already working Community School Teachers. This Court has already taken notice of agonies of the existing Teachers and issued directions to regularize the service of existing Teachers. The fresh candidates can be adjusted after available

ATTESTED

EXAMINER
Peshawar High Court

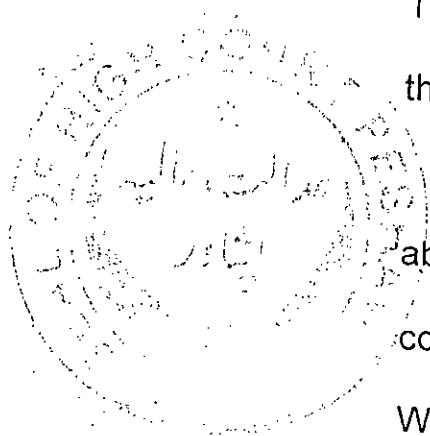
17/AUG 2015

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regular vacant posts are filled from amongst the existing Community School Teachers.

11. We have noticed that the impugned notification has not closed the door of recruitment for the new candidates in future. No discrimination or vested right to the post could be pointed out by the petitioners. In a similar situation, this Court has already issued a writ bearing No.263/2010 dated 14.6.2011 wherein the Education Department, FAT had been advised to adjust the Community School Teachers having more than 3 years service at their credit against the regular post.

In view of what has been discussed above, we are of the view that instant as well as connected petitions bearing numbers W.P.No.1968/2012, W.P.No.2086/2012 and W.P.No.3444/12 being devoid of any merits are dismissed alongwith COCs and CMs. Writ petition No.2662/2012 is dismissed as withdrawn alongwith the CMs.



Sd/ Malik Manzoor Hussain

JUDGE

Sd/ Kamullah Khan

JUDGE

Announced.
Dt. 6/8/2013.

23/9/13 26/9/13

CERTIFIED TO BE TRUE COPY
Peshawar High Court
Authorised Under Article 87 of
The Government of Punjab Order 1984

[17 AUG 2015

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No: 658/2015

Gulzar PST

GPS Bhai DAG VERSUS

Appellant.

1. Govt. of Khyber Pakhtunkhwa through Secretary Education Peshawar.
2. Additional Chief Secretary FATA Warsak Road Peshawar.
3. Director Education FATA, FATA Secretariat Warsak Road Peshawar.
4. Agency Education Officer Mohmand Agency at Ghallanai.
5. Secretary Social Sector Department FATA Secretariat Respondents.

Para-wise comments on behalf of respondent No:3, 4 & 5.

Respectively Sheweth:

Preliminary Objection

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct to bring the present appeal.
5. That the appeal is bad due to mis-joinder and non-joinder of necessary parties.
6. That the appeal is barred by law and no departmental appeal is made to the competent authority against the impugned order. Hence not maintainable under Section-4 of Service Tribunal Act.
7. The appeal is badly time barred.
8. That this Honorable Tribunal has got no jurisdiction to adjudicate the instant appeal.

On Facts:

1. No comments. Pertains to record.
2. No comments. Pertains to record.
3. No comments. Pertains to record.
4. Incorrect. The appellant has been regularized in light of Notification issued by Respondent No. 5 (copy of Notification is attached as Annexure-A), which is in accordance with law and rules so called Departmental Appeal is badly time barred.
5. The appellant has got no cause of action. However detail reply on grounds is as under.


Grounds:

- A. Incorrect. There is no provision in the rules on the basis of which appellant can be regularized from initial appointment and from the date which relates to project period. No action has been taken by the respondents which would be against rules/law.
- B. Incorrect. As per Para-A.
- C. Incorrect. According to rules/policy the appellant is not entitle from 06/02/2003 as he was not a regular employee. The appellant was regularized on vacant post as per policy.
- D. Incorrect. According to Honorable Supreme Court Decision "each & every case has its own merit and circumstances. The appellant has been dealt by the Competent Authority in accordance with law/rules.
- E. Incorrect. As per Para-D.

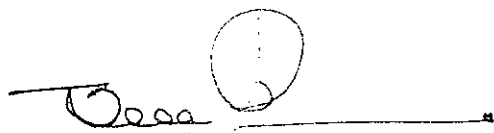
F. Incorrect. A letter has been issued by the Competent Authority i.e Secretary Social Sectors Department FATA secretariat which is very clear wherein it has been mentioned that non-local eligible community school teachers shall be considered for re-appointment against the regular vacant posts of PST (BS-7) after adjustment of local qualified teachers (copy attached as Annexure-B) Respondents acted as per law and rules.

In light of the above facts it is humbly prayed that the appeal may very kindly be dismissed having no legal force with cost.

Respondent NO.3


Director Education FATA

Respondent NO.4


Agency Education Officer
Mohmand Agency

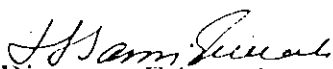
Respondent NO.5


Secretary Social Sector
Department FATA


AFFIDAVIT

We the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our Knowledge and belief that nothing has been concealed from this Honorable Tribunal.

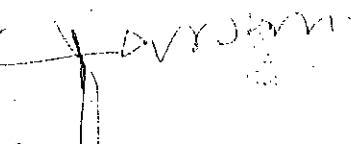
Respondent NO.3



Director Education FATA

Respondent NO.4


Agency Education Officer
Mohmand Agency

Respondent NO.5


Secretary Social Sector
Department FATA

(A)  D

OFFICE OF THE AGENCY EDUCATION OFFICER MOHMAND AGENCY AT GHALLANAI
REGULARIZATION OF COMMUNITY TEACHERS.

Consequent upon the notification No.SO(E)/SSD/CSCR 99-108, dated 11.5.2012, Adjustment order of 19 community teachers of functional Community Schools is hereby ordered against regular PST posts in BPS-07 in the schools mentioned against their names in the interest of public service w.e.f 1.9.2013, on the basis of Court decision dated 6.8.2013.

Note:- The candidates/teachers who have not acquired the required qualification for PST posts and PTC are directed to acquire the requisite qualification within 24 months after the issuing date of this order. In case of adjustment of such like candidates will be considered as cancelled and they will be terminated.

S. No	Name with Father's Name	Grade	Name of Community School	Station of Posting Regular PST	Tehsil	Remarks
1	Jan Nisar Sarzamin Khan	S/O	BCS Bahlola	GPS Kamangara	Ambar	Vacant Post
2	Shad Ali Hasham Khan	S/O	BCS Baidmanai Yad Muhammad	GPS Toor Kore	Baizai	Vacant post
3	Abdul Malik Feroz Khan	S/O	BCS Zabri Jour	GPS Zabri Jour	Baizai	Newly created post
4	Zauta Khan Khan Said	S/O	BCS Zabri Jour	GPS Zabri Jour	Baizai	Newly created post
5	Issa Dad Guldad	S/O	BCS BCS Koda Khel Kahir Bandi	GPS Spinki Tangi	Halimzai	Newly created post
6	Naseer Khan Abdur Rahman	S/O	BCS Koda Khel Kahirbandi	GPS Shamsah Guno	Halimzai	Newly created post
7	Irfanullah Alqash Khan	S/O	BCS Khanjar Killi	GPS Toor Khel	Halimzai	Newly created post
8	M.Nasir Khan Ghani Khan	S/O	BCS Spinki Tangi Nadar	GPS Shumsha Guno	Halimzai	Newly created post
9	Sartaj Mahboob Khan	S/O	BCS Khan Baig Fazle Manan	GPS Qamardin	Halimzai	Vacant post
10	Amir Khan Said Muhammad	S/O	BCS Koda Khel Haji Gulab	GPS Akram Baig	Halimzai	Vacant post
11	Ghulam Said Noor Said	S/O	BCS Zoor Killi Aflatoon	GPS Spinki Tangi	Halimzai	Newly created post
12	Raz Muhammad S/O Shah Rasool	S/O	BCS Bakhshi Kore Hunar	GPS Sana Khel	Khwezai	Newly created post
13	Ikramullah Muhammad Sharif	S/O	BCS Kung Sabzali Jalal Kore	GPS Atam Killi	Khwezai	Newly created post
14	Saz Muhammad S/O Shah Rasool	S/O	BCS Bakhshi Kore Hunar	GPS Sana Khel	Khwezai	Newly created post

15	Shah Nazar Arsala Khan	S/O	BCS Spinki Tangi Sikandar	GPS Kharai Dara No.2	Khwezai	Vacant post
16	Saddi Khan Maweez Khan	S/O	BCS Koda Khel Eag Qalla	GPS Bahadar Kili	Khwezai	Vacant post
17	Fhiali Jan Noor Jan	S/O	ECS Spinki Tangi Nadar	GPS Toor Khel	Khwezai	Newly created post
18	Mustafa Khan Wasil Khan	S/O	BCS Toora Khwa Sherin	GPS Amno Khel	Pandiali	Vacant post
19	Ahmad Khan Niazuddin	S/O	BCS Koda Khel Haji Gulab	GPS Serai	Prang Ghar	Vacant post

TERMS AND CONDITIONS.

1. All terms & conditions will remain the same, meant fro new appointment, other than the age

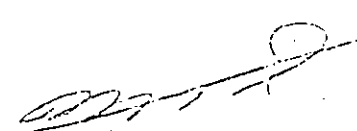
(SAID MUHAMMAD)
Agency Education Officer
Mohmand Agency at Ghallanai.

Dated 30/8 /2013

Endst No. 14053-88 Project/ Appointment

Copy of the above is forwarded to the:-

1. PA to Secretary to Governor KPK, Peshawar.
2. Director of Education FATA, K.P.K, Peshawar.
3. Political Agent Mohmand Agency.
4. Agency Accounts Officer Mohmand Agency at Ghallanai.
5. AAEOs concerned.
6. Accountant local office.
7. Teachers concerned.


Agency Education Officer
Mohmand Agency at Ghallanai

Printed Name
Said Muhammad



FATA SECRETARIAT
Social Sectors Department
Warsak Road Peshawar

C/B
B/B
B/B

Notification

No. SO/ED/SSD/CS/FR/99-109/ The Governor Khyber Pakhtunkhwa in his capacity as the Competent Authority has been pleased to approve the re-appointment of Community School Teachers who qualify to be posted against the regular posts of PST (BS-7) in phased manner at the respective Agencies & FRs, purely on merit basis in accordance with the existing recruitment criteria but in relaxation of upper age limit with immediate effect as specified below.

- ✓ 1. The available regular vacant PST (BS-7) posts in the Primary/Middle Schools in FATA will be filled up from amongst the Community School Teachers and no fresh candidate considered for recruitment till all the eligible Community School Teachers are absorbed against regular posts in their respective Agencies/FRs.
2. The non-local eligible Community School Teachers shall be considered for re-appointment against the regular vacant posts of PST (BS-7) after adjustment of local qualified teachers.
- ✓ 3. The services of the un-qualified teachers shall be dispensed with.
4. The Community Schools whose teachers are appointed and shifted to other schools against regular posts, would be closed down.
5. The respective Community Schools students would be shifted to nearby regular schools and no further recruitment of Community School teachers will be made.

Secretary
Social Sectors Department,
FATA Secretariat, Peshawar

Endst. No. Even Dated Peshawar the 11/05/2012

Copy forwarded to the:-

1. Secretary to Governor, Khyber Pakhtunkhwa Peshawar.
2. Addl: Accountant General (PR) Sub Office Peshawar.
3. Director Education FATA, Peshawar.
4. All Political Agents in FATA.
5. DCO Peshawar, Kohat, Bannu, Lakki, D.I.Khan & Tank.
6. Agency/ District Accounts Officers concerned
7. All the Agency Education Officer in FATA
8. PS to Additional Chief Secretary FATA Peshawar.
9. PS to Secretary Social Sectors Department, FATA Secretariat, Peshawar.
10. PS to Secretary P&D, FATA Secretariat, Peshawar.

serb

Section Officer (Edu) SSD
FATA Secretariat, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

IN RE:
Service Appeal No. 658 / of 2015

Gulzar PST, Government Primary School
Bahi Dag, Mohmand Agency... .. Appellant

VERSUS


Government of Khyber Pakhtunkhwa,
Through Secretary Education and 4 others... .. Respondents

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2.	Affidavit		0 - 4
3.	Copies of pay slips of the appellant	'R to R-5'	5 -10
4.	Vakalat Nama (On Original File)		

Appellant

Through:


(Ghulam Nabi Khan)
Advocate,
Supreme Court of Pakistan
B-17, Haroon Mansion
Khyber bazar , Peshawar.
Cell # 0300-5845943.

And


(Mian Tajammal Shah)
Barrister, Peshawar.

Dated: 09/05/2017.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

IN RE:

Service Appeal No. 658 / of 2015

Gulzar PST, Government Primary School
Bahi Dag , Mohmand Agency...

... .. Appellant

VERSUS

Government of Khyber Pakhtunkhwa,
Through Secretary Education and 4 others...

... Respondents

REJOINDER ON BEHALF OF THE APPELLANT.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

All the Preliminary Objection as raised are wrong, hence denied. The Appellant has got every cause of action, with clean hands and no concealment, no objection with regard to the estoppel, mis-joinder, limitation and jurisdiction could be raised against the appellant.

ON FACTS:

1. That para No.1 needs no comments as no reply has been submitted.
2. Needs no comments.
3. Needs no comments.
4. Wrong and denied. The appellant has been regularized with immediate effect, whereas the appellant has been serving the department since so many years, hence Notification attached is not according to law. The appellant has got every right to be reinstated in

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his service from the date of his appointment i.e. in the year 2003/2004, whereas he has been reinstated with immediate effect i.e. 01.09.2013 which is a malafide on the part of the respondents' side. It is pertinent to mention before this Honourable Tribunal that in the Pay Slips itself the services of the appellant have been considered since 2003 and his service tenure has been counted since his First Appointment in the year 2003/04. (Copies of the some of the Pay Slips of the appellant are attached as annexures R to R/5).

5. Wrong and denied. The appellant has got every cause of action and nothing material has been given in the grounds against the plea of the appellant.

ON GROUNDS:

- a. Wrong and denied. The appellant has got every right to be appointed from the date of his initial appointment instead of reinstating him with immediate effect i.e. 01.09.2013.
- b. Needs no comments.
- c. Wrong and denied. There is no rule/policy, whereby it has been mentioned therein that the appellant should be reinstated back to his service with immediate effect i.e. 01.09.2013, however, the appellant has got every right to be reinstated back on his service from the date of his initial appointment in the year 2003/04. This position is very much clear in the Pay Slips of the

Appellant, whereas it has been very clearly mentioned in the tenure of the appellant that he is serving since 2003/04.

- d. Wrong and denied. The appellant has not been dealt with in accordance with law, as he has been reinstated back to his service with immediate effect i.e 01.09.2013 instead of the date of his initial appointment in the year 2003/04.
- e. Needs No Comment
- f. Wrong no denied

in the light of the above submissions it is respectfully prayed that the respondents may please be directed to make the regularization of the appellant from the date of his initial appointment i.e 06.02.2003 instead of 01.09.2013.

Appellant

Through


(Ghulam Nabi Khan)

Advocate,

Supreme Court of Pakistan

Off:- B-17, Haroon Mansion

Khyber Bazar, Peshawar

Cell#0300-5845943

And


(Mian Tajammul Shah)

Barrister, Peshawar

21.08.2017

