

12.03.2018

Counsel for the appellant and AAG alongwith Mr. Attaullah Minakhel, DEO and Mr. Muhammad Kamran, ADO for the respondents present. Arguments of the learned counsel for the appellant heard. The learned AAG requested for adjournment on the ground that their file is incomplete. Adjourned. To come up for arguments tomorrow on 13.03.2018 before the D.B at camp court, D.I.Khan.

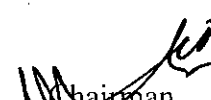

Member


Chairman
Camp Court, D.I.Khan

13.03.2018

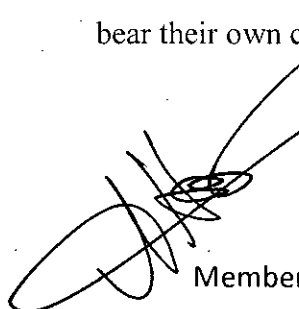
Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Attaullah, DEO and Mr. Muhammad Kamran, ADO for the respondents present. Further arguments heard. To come up for order on 14.03.2018 before this D.B at camp court, D.I.Khan.

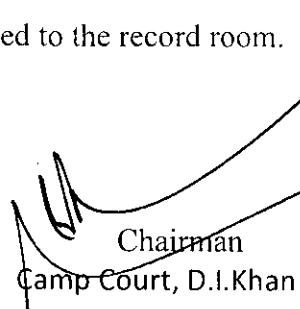

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Chairman
Camp Court, D.I.Khan

14.03.2018


Junior to counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Attaullah, DEO and Mr. Muhammad Kamran, ADO for the respondents present. Arguments already heard. Record perused. Vide our detailed judgment of today in service appeal No. 943/2012 entitled "Mst. Mehnaz Begum Vs. The Government of Khyber Pakhtunkhwa through Secretary, E&SE, 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
Camp Court, D.I.Khan


22.02.2018

Counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Kamran, ADO for respondents No. 1, 2 & 5 and Mr. Naveed Zafar, Assistant Account Officer for respondent No. 4 also present. None present on behalf of respondent No. 3 hence, proceeded ex-parte. Written reply on behalf of respondent No. 4 submitted. Written reply on behalf of respondents No. 1, 2 & 5 already submitted. Adjourned. To come up for rejoinder and arguments on 12.03.2018 before D.B at Camp Court D.I.Khan.


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


30.11.2017

Counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO (litigation) for the respondents also present. Written reply on behalf of respondents not submitted despite last chance. Learned District Attorney requested for further adjournment. Another last chance granted. Adjourned. To come up for written reply/comments on 25.01.2018 before S.B at Camp Court D.I.Khan.


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

25.01.2018

Appellant in person present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO (litigation) and Mr. Naveed Zafar, Assistant Account Officer for the respondents also present. Written reply on behalf of respondents No. 1, 2 and 5 submitted. Representative of respondent No. 4 requested for further adjournment. Another last opportunity granted. Adjourned. To come up for written reply/comments on behalf of respondents No. 3 and 4 on 22.02.2018 before S.B at Camp Court D.I.Khan.



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

23.08.2017

Counsel for the appellant present. It was contended by learned counsel for the appellant that this Tribunal has already admitted service appeals of similar nature appeal for regular hearing, therefore, this appeal may also be admitted for regular hearing.

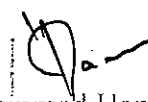
The contention raised by learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing. Appellant is directed to deposit the security and process fee within 10 days thereafter, notices be issued to the respondents for written reply/comments for 26.10.2017 before S.B at Camp Court D.I.Khan.

Appellant Deposited
Security & Process Fee


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

26.10.2017

Counsel for the appellant present. Mr. Kamran ADO (Litigation) alongwith Mr. Farhaj Sikandar District Attorney for the respondents present. Representative of the respondents department requested for further time to file written reply. Request accepted by way of last chance. To come up for written reply on 30.11.2017 at Camp Court D.I.Khan.


Muhammad Hamid Mughal
Member (J)
Camp Court D.I.Khan

26.01.2016

Counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on 23.2.16 at camp court, D.I.Khan.


MEMBER
Camp court, D.I.Khan

23.2.2016

Counsel for the appellant present. Preliminary arguments *family* heard which shows that the appellant has already gone through many forums including the hon'ble High Court for redressal of his grievances. It was also brought into the notice of the Tribunal that there were about 1630 sacked employees and presently more than 200 appeals are pending at different stages on various dates and that the matter involved is one and the same. Hence, it is deemed proper to consolidate all the appeals for hearing in order to avoid conflicting situation and decisions. Hence, case to come up for further proceedings with connected appeals on 26.7.16 at camp court, D.I.Khan.


MEMBER
Camp Court, D.I.Khan

26.07.2016




Since tour is hereby cancelled, therefore, the case is adjourned for the same on 23.08.2017.

Reader

FORM-A
FORM OF ORDER SHEET

Court _____

Case No. 1108/2015

| 1 | Date of order/ proceedings | Order or other proceedings with signature of Judge/ Magistrate |
|----|-------------------------------|--|
| 1. | 8.10.2015 | <p style="text-align: center;">The appeal of Mst. Rukhsana Gul presented to-day by Mr. Muhammad Anwar Awan Advocate, may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p style="text-align: center;">This case be put up before the S.B at camp court, D.I.Khan for preliminary hearing on <u>26-10-15</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: center;">31-5-15.</p> |
| | 26.10.2015 | <p style="text-align: center;">Clerk of counsel for the appellant present. Senior counsel for the appellant is not available, therefore, case to come up for preliminary hearing at camp court, D.I.Khan on <u>28-12-15</u>.</p> <p style="text-align: center;"> MEMBER Camp court, D.I.Khan</p> |

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

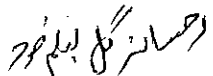
Appeal no. 1109 of 2015.

Rukhsana Gul VERSUS Govt; Of KPK and others

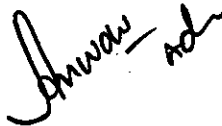
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Your humble Petitioner


Rukhsana Gul

Dated; 07-10-2015.


Mohammad Anwar Awan
Advocate Supreme Court.

1

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR
CAMP COURT AT D.I.KHAN.**

Appeal no. 408 of 2015.

AFGHANISTAN PROVINCE
Service Tribunal
Diary No. 1192
Dated 8-10-15

Rukhsana Gul D/O Mehmood ul Hassan Sindhi R/O Dhakki
(GGPS Nakrani) D.I.Khan.

VERSUS

1. Director Elementary and Secondary Education Deptt: Peshawar.
2. District Education officer (Elementary and Secondary Education Deptt.) D.I.Khan.
3. Deputy Commissioner D.I.Khan.
4. Account Officer Kechary Road Dera Ismail Khan.
5. Government of KPK through secretary Elementary and Secondary Education Deptt: Peshawar.

Filed
8/10/15
to-day

**APPEAL U/S 4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST
ILLEGAL AND MALAFIDE BACK DATED TERMINATION ORDER
08.02.2012 FROM SERVICE ON THE BACK OF APPELLANT.**

Answer

That the brief facts of the case are as under:

1. That the appellant is permanently resident of Tehsil and District D.I.Khan and having qualification of PST along with M.A.
2. That the respondent advertised some post in daily Mashriq Peshawar dated 7th April 2007 of different categories including PST. The appeared applied for the post and appeared in test and interview. The appellant was appointed as PST on 01-10-2007. Copies of advertisement and appointment order are Annexure A & B.
3. That the appellant after getting medical certificate, took the charge and performed his duty to the ut-most satisfaction of his high-ups.
4. That the some so called inquiries were conducted against some appointment and they terminated all the appointment orders during January 2007 to 30th June 2008 including the appellant. The appellant challenged the impugned order through service appeal which was accepted and impugned termination orders in their cases

is set aside and remanded/sent back the cases to the Secretary Education for consideration in the light of above observation for reinstatement of qualified appellants. Copies of Judgment dated 27.10.2011 are Annexure C.

5. That according to the order of learned service tribunal, the secretary education conducted so called inquiry, inviting the appellant in circuit house D.I.Khan to those candidates who filed appeal in Service Tribunal and Clerk of education department provided a Proforma, which were filled by the appellant and submitted the same to the clerk. The Proforma contain inquiry regarding qualification of the appellant in which no show cause was given nor it contained charges of allegation. Copy of List of appellants is Annexure D.
6. That the inquiry committee after submission of Proforma, prepared his report in which recommendations were made against appellant and other for their termination due to the reason that they were appointed without observing codal formalities. Copy of recommendation dated 26.01.2012 is Annexure E.
7. That the inquiry report was produced before the service tribunal who directed the department to ensure the compliance with the recommendation without any wastage of time, so the aggrieved persons can seek remedy available to them. Copy of order Dated 14.03.2012 is Annexure F.
8. That appellant after the inquiry report waiting for the decision and implementation of department and contacted several time for their reinstatement or termination order but they reluctant to issue any such order. Feeling aggrieved from the act of the respondents, the appellant alongwith other filed writ petition before Hon'ble High Court for redressal of their grievances in which directions were issued to the respondents to provide termination Orders to the petitioners. Copies of writ along with judgment dated 14-05-2015 and termination Order are Annexure G & H.
9. That feeling aggrieved from the illegal back dated termination order, the appellant filed department appeal on 27-05-2015 which was not decided by the respondents till now. Copy of departmental appeal alongwith postal receipt is Annexure I.

10. That feeling aggrieved from above said action appellant is constrained to approaches this honorable court on the following amongst other:

GROUNDS;

1. That the appellant is not treated in accordance with law and the actions of the respondents are malafide besides being discriminatory and harsh.
2. That the report of committee is nothing more than a recommendation to Government. The said report could not be made sole ground for termination of large number of civil servants.
3. That the report of committee is not based on the direction of the service tribunal in which it is clearly mentioned that qualification of the teacher should be checked but committee terminated them on the basis of non observance of codal formalities which issued was already decided by the Hon'ble Service Tribunal in his judgment dated 27-10-2011.
4. That appellant is being penalized without giving them any opportunity of hearing, they were neither associated with the proceeding of standing committee nor have given any show cause notice by the department, which is against the principal of natural justice and equity.
5. That the respondent on the direction of Hon'ble court prepared back dated termination order in booklet shape from which it is evident that they had not issued any order to the appellant nor it was communicated to them.

Show cause

In view of the above, It is, therefore, most respectfully prayed that on acceptance this appeal this honorable court may pleased to declare that the back dated termination order dated 08.02.2012 communicated to the petitioner on

14-05-2015, be without lawful authority and has no legal effect and respondents may pleased be directed to reinstate the appellant with all back benefits.

YOUR HUMBLE APPELLANT

رکھسانہ گل ایڈووکیٹ
Rukhsana Gul
Through Counsel

Dated; 02-10-2015.

محمد انوار اعوان
Mohammad Anwar Awan
Advocate Supreme Court

AFFIDAVIT

Rukhsana Gul do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.

رکھسانہ گل ایڈووکیٹ
Deponent.

Oath Commissioner
R.O. & A.C
Attested
No. 21/10/15

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (SCHOOLS & LIT.)
D.I.KHAN

APPOINTMENT ORDER:

Consequent upon the approval of Selection Committee and approved by the District Co-ordination Officer, D.I.Khan, the following Fresh (~~Female~~) Candidate is hereby appointed against vacant post of P.T.C. in the school noted against their name is EPS 7 plus usual allowances being a qualified, fresh candidate as per existing policy in the interest of public service w.e. from the date of taking over charge on the following terms and conditions.

| <u>S.No.</u> | <u>Name of Candidate with Father's Name</u> | <u>School where posted</u> |
|--------------|---|----------------------------|
| 1. | Rukhsana Gul D/o Mahmood Ul Hassan Sindhi R/o Pahar Pur Distt: D.I.Khan. | G.G.P.S W/Narkani |

TERMS & CONDITIONS:

1. Charge reports should be submitted to all concerned.
2. No pensionary benefit will be available.
3. The services of the above named candidate is made purely on temporary basis & liable to terminate at any time with out assigning any notice / reasons.
4. The candidate will produce Health & Age certificate from the M/S concerned.
5. The original documents may be checked/ verified by concerned Board/ University through DDO concerned before handing over charge.
6. No. TA/DA is allowed.

Sd/-
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY DIVISION

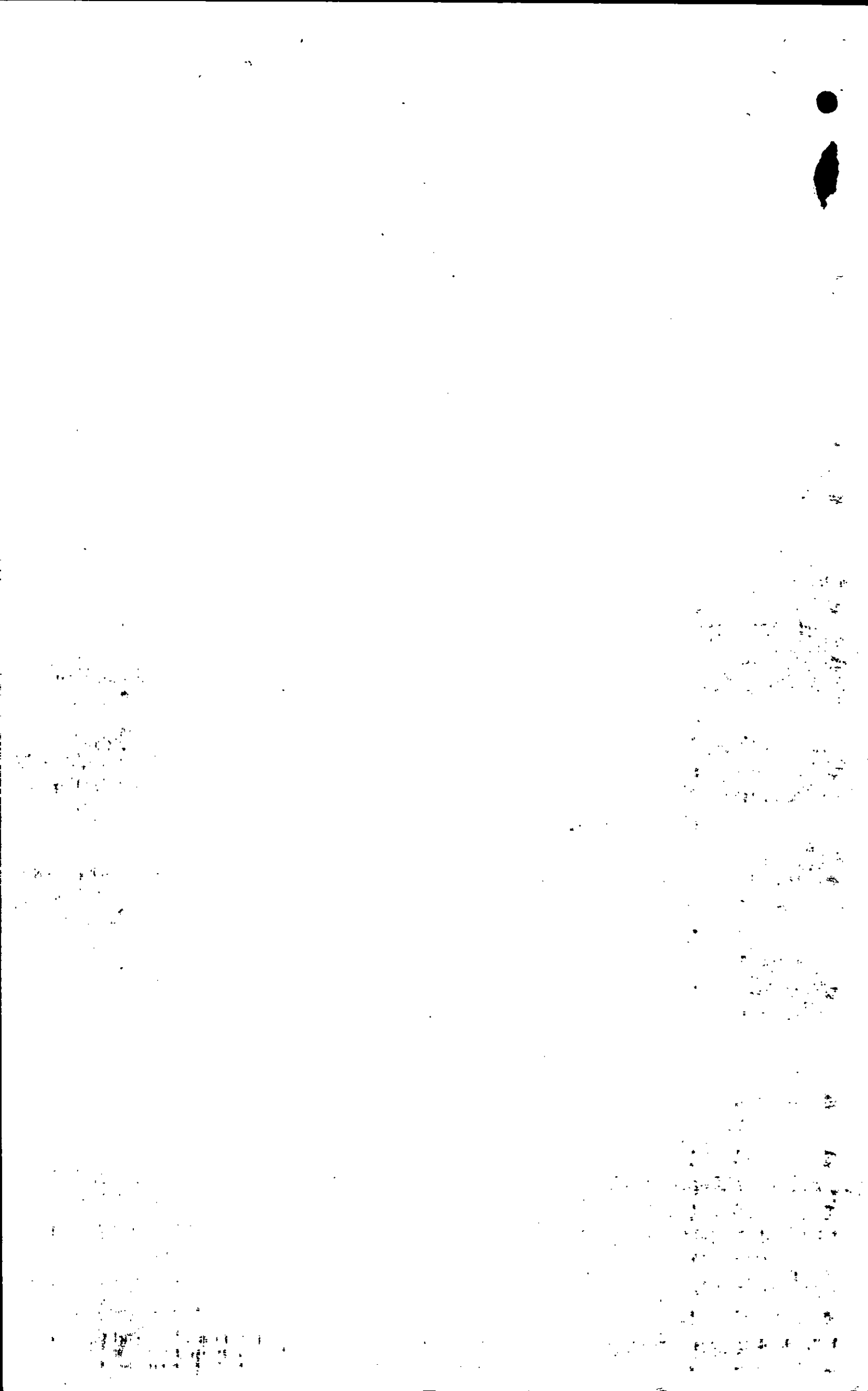
Order No: 20240-44 Dated D.I.Khan the 01/10/2007

Copy to the:-

1. Director schools & Literacy N.W.F.P Peshawar.
2. District Co-ordination Officer, D.I.Khan.
3. District Accounts Officer, D.I.Khan.
4. Headmistress/ Headmaster concerned.
5. Candidate concerned.

VLac
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY DIVISION

Anwar
M.ANWAR AWAN
Advocate



C-7

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.



SERVICE APPEAL NO. 1407/2010

Date of institution ... 21.07.2010

Date of judgment ... 27.10.2011

Abdul Salam S/o Shah Suliman,
D.L.Khan Ex. P.T.C GPS, Kamai Khel

.. (Appellant)

VERSUS

1. Province of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar.
2. Director of Education (E&S) Khyber Pakhtunkhwa, Peshawar.
3. Executive District Officer (E&S) Dera Ismail Khan.
4. District Coordination Officer, Dera Ismail Khan. ... (Respondents)

APPEAL UNDER SECTION 4 OF NWFP (KHYBER PAKHTUNKHWA) SERVICE TRIBUNALS ACT, 1974 AGAINST IMPUGNED ORDER DATED 04.9.2009. WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM SERVICE, BY THE INCOMPETENT AUTHORITY, DISREGARD OF THE RULES, AND WITHOUT OBSERVING THE LEGAL REQUIREMENTS, AND HIS DEPARTMENTAL APPEAL ELICITED NO RESPONSE WITHIN STATUTORY PERIOD.

1. Shahzada Irfan Zia, Advocate for the appellant
 2. Ashraf Ali Khattak
 3. Ghulam Nabi
 4. Saadullah Khan Marwat
 5. Muhammad Arif Baloch
 6. Muhammad Anwar Awan
 7. Shaukat Ali Jan
 8. Matiullah Rand
 9. Abdul Qayyum Qureshi
 10. Muhammad Ismail Alizai
 11. Abdul Hamid Khan
 12. Muhammad Waqar Alam
 13. Muhammad Saeed Bhutta
 14. Muhammad Saeed Khan & M. Asghar Khan
 15. Rustom Khan Kundi
 16. Gul Tiaz Khan
 17. Zahid Muhibullah
 18. Khalil-ur-Rehman Hissam
 19. Fazal-ur-Rehman Baloch
 20. Javed Iqbal
 21. Yasir Zakria Baloch
 22. Allah Nawaz, Advocates
- Advocates from S.No.2 to 22 for the remaining appellants.
Mr. Sher Afgan Khattak, AAG.

M. ANWAR AWAN
Advocate

.. For respondents

ATTORNEYS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Mr. Qalandar Ali Khan
Syed Manzoor Ali Shah

Chairman
Member

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:- This single judgment is also directed to dispose of the appeals mentioned in the list appended herewith, as common questions of law and facts are involved in all the appeals.

2. In the Daily 'Mashriq' Peshawar dated 7th April 2007, a publication/ advertisement appeared from the Executive District Officer (EDO), E&SE, D.I. Khan, inviting applications for unspecified posts, both male and female, of C.A. Drawing Masters (D.M), Physical Education Teachers (PET), Arabic Teacher (A.T), Islamiyat (Theology) Teachers (TI), Qari and Primary School Teachers (PST) by 20.4.2007, and alongwith other conditions for selection of the candidates, the minimum qualification for the posts, dates of test and interview as well as places/venues of interview were also mentioned. The record would show that a large number of applications were received. Test and interview were also conducted for the said posts, resulting in appointments not only against the above mentioned posts but also against other posts like Junior Clerks, Lab Assistants and Assistant Store Keeper (M) in the year 2007. However, in the year 2008, a local Member of the Provincial Assembly, raised question No.31 regarding recruitment/appointments made in the Education Department of District D.I. Khan by the EDO D.I. Khan, which was referred to Standing Committee No.26 for Elementary & Secondary Education, by the Provincial Assembly. The Standing Committee deliberated upon the issue, during which the Committee was informed that inquiries had also been conducted into appointments in Education Department of District D.I. Khan and Inquiry Committee/Inquiry Officers have made recommendations for appropriate legal/departmental action. After deliberations, the Standing Committee recommended

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M. ANWAR AWAN
Advocate

that within one month the department should cancel appointment orders of those persons who were illegally appointed during the period between 1st January 2007 and June 2008 and also take stern disciplinary action against officers/officials found involved in illegal appointments. The record further shows that a Writ Petition was lodged in the High Court Bench D.I.Khan, which was accepted and an Hon'ble Bench of the Peshawar High Court D.I.Khan Bench directed the department to act upon the inquiry report dated 05.01.2009 positively within two months from 11.6.2009, where upon the District Coordination Officer (DCO) D.I.Khan passed office order dated 4.9.2009 thereby implementing the decision of the Standing Committee No.26. order of the Peshawar High Court D.I.Khan Bench dated 11.6.2009 and order of the Chief Minister NWFP (Khyber Pakhtunkhwa) contained in the Elementary & Secondary Education Department letter dated 26/8/2009, and terminated services of all the 'illegally/irregularly' appointed teachers, detail of which was given in Annexure to the office order. This office order of the DCO D.I.Khan was followed by a letter dated 7.5.2010 from the EDO (E&SE) D.I.Khan to all concerned for implementation of termination orders issued by the DCO on 4.9.2009, and also a corrigendum on 20.5.2010 thereby terminating all the personnel appointed from January 2007 to 30th June 2008 except 131 (F)PST, 309 (M) PST + deceased son quota, disabled quota and minority quota in the light of decision of the Peshawar High Court, D.I.Khan Bench. It is against the said order of DCO D.I.Khan that the appellant in the instant appeal as well as appellants in the connected appeals, listed in the enclosed list, first preferred departmental appeals and then lodged these appeals. In the meantime, some of the appellants had also approached Peshawar High Court, D.I.Khan Bench and had filed Writ Petitions which were returned to the petitioners for presentation to the proper forum (KPK Service Tribunal) if they so desire, vide order dated 29.4.2010. The petitioners moved the august Supreme Court of Pakistan wherefrom the petitions were withdrawn and consequently dismissed by a Hon'ble Bench of

APPELLANT
 M. ANWAR AWAN

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 M. ANWAR AWAN

august Supreme Court of Pakistan vide order dated 28.6.2010 with the observation that if the petitioners approached proper forum for redressal of their grievances, the question of limitation be considered sympathetically if so raised. There-after, the appellants started lodging these appeals one by one, inter-alia, on the grounds that the impugned order dated 4.9.2009 was void, illegal and without jurisdiction because DCO D.L.Khan was not competent to terminate the services of officials in BPS-1 to BPS-10; that the DCO did not apply his independent mind and just acted upon the direction of Chief Minister and recommendation of a politically constituted standing Committee; that before passing the impugned order, legal requirements were not fulfilled and the appellants were terminated from service without any charge sheet and/or show cause notice; that no chance of personal hearing was afforded to the appellants before passing the impugned order, hence they were condemned unheard; that even during the course of successive inquiry proceedings, the appellants were not associated to justify their respective position and thus the entire proceedings were conducted ex-parte; and that if there was any fault or lapse on the part of the department in the selection process, the appellants should not have been punished for the same.

3. It may be mentioned here that quite a number of affectees of the impugned termination order had also approached this Tribunal in the year 2009 and vide order dated 10.2.2009, this Tribunal had disposed of around 49 appeals with direction to the Secretary to Government of NWFP (S&L) to constitute a committee of experts of his department and, if need be, of the Establishment Department and Finance Department, to consider the cases of all the appellants named in the order as well as cases of all similarly placed persons, and decision regarding the same be given at the level of the competent authority, so that the parties are saved from unnecessary litigation, in the interest of justice, and in the interest of public work. It was expected that such a committee would be in a position to finalize its findings, and the competent authority may be in a position

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 Establishment
 Services
 NWFP


M. Anwar Awan
M. ANWAR AWAN
 Advocate

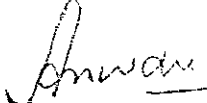
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to grant a decision in these cases. within a period of three months from the date of delivery of the order. The said order was not implemented within the specified time, therefore, implementation petitions were lodged, wherein directions were accordingly issued to the department for implementation of the order, following which, a committee comprising a Chairman and three other Members was constituted, which conducted its proceedings and submitted its report, which has been kept in the office record, while a copy of report/findings/recommendations has been placed on this file. The Scrutiny Committee concluded that appointments of all the appellants, except that of Shahana Niazi D/o Ghulam Sadiq (Service Appeal No.2177/2010), were illegal and irregular. The report/findings/recommendations of the Scrutiny Committee reveals appointments of more than two thousand teachers of various categories against following 1390 sanctioned posts:-

| | |
|--------------|-------------|
| PST | 961 |
| AT | 61 |
| TT | 59 |
| Qari | 50 |
| CT | 171 |
| DM | 43 |
| PET | 45 |
| <u>Total</u> | <u>1390</u> |

4. The respondents defended the impugned termination order and resisted the appeals on several legal and factual grounds including the one that the services of a civil servant can be terminated without notice during the initial or extended period of his probation under section 11(i) of the NWFP (Khyber Pakhtunkhwa) Civil Servants Act, 1973. They alleged, in their written reply/comments, that the appellants were neither eligible/qualified for the posts, nor requisite codal formalities for appointment were observed, hence the appointments were illegal and fake. They contended, that more than one inquiries were conducted and the matter was taken up in the Provincial Assembly and that it was recommended as a result of inquiries as well as by the Standing

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M. ANWAR AWAN
 Advocate

Committee, recommendations of which were unanimously adopted by the Provincial Assembly, to terminate the services of all persons illegally appointed. They maintained that all the appointments were found illegal and in violation of recruitment policy, except 309 (M) and 131 (F) PST. They concluded that the decisions of the Inquiry Committees and recommendations of the Standing Committee, adopted unanimously by the Provincial Assembly, were also confirmed by the Chief Minister as well as by the Peshawar High Court D.I.Khan Bench, which were followed by the DCO by terminating the services of all those persons who were illegally/irregularly appointed and that the order of DCO was also followed by corrigendum issued by the EDO.

5. Arguments of the learned counsel for the appellants and learned AAG heard, and record perused.

6. The main thrust of the arguments of the learned counsel for the appellants was against the impugned order dated 4.9.2009 of the DCO D.I.Khan, which was a general order in all the cases of 'illegal/irregular' appointments. The objections to the impugned order were two-fold. Firstly, the order was general in nature on the direction/recommendation of the Standing Committee of the Provincial Assembly without application of mind to each and every case, and thereby services of around 1613 male and female teachers of various categories were terminated with one stroke of pen; and, secondly, the order was passed by the DCO D.I.Khan who was not appointing authority for employees in BPS-1 to BPS-10, and thus not competent to dispense with their services. The learned counsel further laid stress on the non-observance of codal formalities essentially required for termination of services of civil servants, like service of charge sheet and/or show cause notice and providing them opportunity of defence and hearing. They also alleged non-association of appellants in the inquiry proceedings conducted in the matter. The learned counsel contended that the appellants were appointed after qualifying test and interview for the posts conducted in pursuance of

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[Signature]
 M. ANWAR AWAN
 Advocate

advertisement/publication made in the newspaper by the department authority and after their applications for the posts were found in order by the department. They maintained that the appellants had joined service and performed their duty without any complaint about their performance from the quarter concerned.

7. The learned AAG assisted by the representatives of the department vehemently contested claim of the appellants/counsel for the appellants and argued that the appointments were made without first obtaining proper sanction of the posts, without advertisement, and without observance of the codal formalities including test and interview, preparation of merit list, and its approval by the competent authority. It was argued on behalf of the department that some of the appointments were made even before advertisement, without specifying the posts against which the appointments were being made and without checking whether the educational qualification of the candidates fulfilled the academic requirements for the posts. It was pointed out that all 440 PSTs appointed on merits and after observance of codal formalities were retained, while the rest appointed 'illegally/irregularly' were terminated as a result of more than one inquiries, recommendation of the Standing Committee, and orders of the Chief Minister as well as Peshawar High Court, D.I.Khan Bench. It was alleged on behalf of the department that the competent authority i.e. EDO D.I.Khan not only endorsed the impugned order of DCO D.I.Khan dated 4.9.2009 but also issued a follow up letter dated 7.5.2010 and corrigendum on 20.5.2010. They further pointed out that none of the appellants was in possession of proper documents showing his eligibility for the post, and also proper appointment order against the post. They concluded that the appointments of the appellants have been found by various legal and constitutional forums as illegal/irregular, besides fake in most of the cases.

ATTESTED
[Signature]
Officer
Khyber
Service Tribunal
Peshawar

[Signature]
M. ANWAR
Advocate

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8. From whatever has been narrated above, as well as from perusal of the record, the following points emerge which are critically important for determination of fate of these appeals:-

(a) The services of the appellants, appointed in 2007, were dispensed with vide a general order of the DCO D.I.Khan dated 4.9.2009, against which some of them preferred departmental appeals and then lodged appeals in the Tribunal, which were disposed of vide order dated 10.2.2009, while the rest moved the Peshawar High Court D.I.Khan Bench in writ jurisdiction, but their writ petitions were returned to them for presentation to the proper forum vide judgment/order dated 29.4.2010, against which petitions were moved in the august Supreme Court of Pakistan, which were dismissed as withdrawn with the observation that if the petitioners/appellants approached the appropriate forum for redressal of their grievances, the question of limitation be considered sympathetically if so raised. Not only that the question of limitation has not been raised so vehemently by the department, the appellants have also been vigilantly pursuing their case, albeit in the wrong forum, therefore the appeals lodged in the Tribunal after disposal of their petitions by the august Supreme Court of Pakistan cannot be held as time-barred, especially when the august Supreme Court of Pakistan directed for sympathetic consideration of the question of limitation, together with certain facts of the case warranting interference by the Tribunal. Besides, the impugned order has been issued by the DCO D.I.Khan who was not appointing authority of civil servants in BPS-1 to BPS-10, and, as

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such, the impugned order would be deemed to be an order by an authority not competent to issue the order, and, as such, void; and no limitation would run against such order (2007 SCMR 262 (2) and PLJ 2005 SC 709 (Appellate Jurisdiction)).

(b) The posts of Junior Clerks, Lab. Assistants and Assistant Store Keeper (M) were never advertised, and, as such, no codal formalities were observed for appointment of 14 Junior Clerks, 03 Lab. Assistants and one Assistant Store Keeper. Their appointments were, therefore, aptly termed as illegal/irregular, and, consequently, their services have rightly been terminated, as appointments secured through illegal/irregular orders would be void ab-initio and would not confer any right on the holders of such appointment orders. Their appeals also deserve to be dismissed on this score.

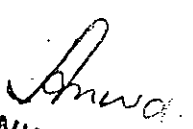
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After painstaking exercise in pursuance of the order dated 20.01.2011 in one of the implementation/execution petitions, for which the then Secretary Education, Mr. Muhammad Arifeen Khan, and his team genuinely deserve commendation, the Scrutiny Committee prepared a detailed report, stretching over hundreds of pages, wherein they held only the appointment of PST Shahana Niazi D/o Ghulam Sadiq (Service Appeal No. 2177/10) according to the prescribed procedure, as her name also appeared in the merit list, and recommended her reinstatement into service. The respondent-department also did not contest her appeal in the manner they contested appeals of other appellants. Therefore, her appeal deserves to be accepted.

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Government of Punjab

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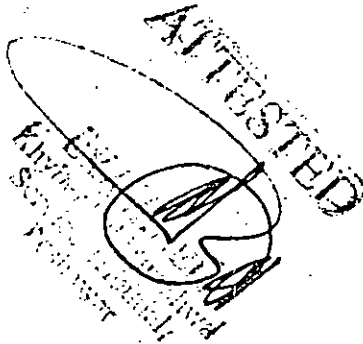
(d) Regarding the remaining cases, the respondents have resisted the appeals on the grounds that neither the posts on which appointments of the appellants were made were sanctioned before advertisement, nor the appellants qualified or were eligible for the posts, and codal formalities like test and interview, preparation of merit list and approval of competent authority were not observed; but these assertions of the respondents are belied by the available record as well as some documents produced by the appellants/ counsel for the appellants alongwith a joint affidavit by Muhammad Ayub Khan, SEF GHS Panyala and Abdullah TF GHS Panyala who performed duty during test and interview of the appellants on 24th, 25th and 26th April 2007, during the course of arguments, showing constitution of committees for conducting test and interview, preparation of merit list after test and interview, besides revealing some cases in which the candidates other than those claimed by the respondents to have been appointed on merit secured more marks than the latter. So far sanction prior to advertisement/publication is concerned, it was duty of the authority to secure the requisite sanction prior to advertising/publicizing the posts for inviting applications, and the appellants can, by no stretch of imagination, be held responsible for any fault/lapse in this respect on the part of the authority i.e. EDO D.I.Khan. Notwithstanding the fact that appellants have placed on file verification of the certificates/testimonials of some of the appellants by the respondent-department, even if some irregularity was found in the appointments, the appellants/appointees should


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not be made to suffer for such lapses on the part of the appointing authority (1996 SCMR 411 (Supreme Court of Pakistan), 2004 SCMR 303 (Supreme Court of Pakistan), 2006 SCMR 678 (Supreme Court of Pakistan), PLJ 2006 SC 81 (Appellate Jurisdiction), PLJ 2011 Lahore 736 (Multan Bench Multan), and last but not the least 2011 SCMR 1581 (Supreme Court of Pakistan).

(e) It is a matter of record that not in a single inquiry out of so many inquiries by the department, the then EDO D.I.Khan has been confronted with his signatures on appointment letters, so conveniently termed by the respondent-department as bogus and fake. When the 'authority' has never and no-where disowned his signatures on such appointment letters, how the same can be held as bogus and fake. No-doubt, the record shows departmental proceedings against the then EDO, and major penalty of compulsory retirement has been imposed upon him, but only after causing colossal loss to the national exchequer, for which he must be made accountable and also made to make good the loss so caused to the public money, and also landing hundreds of jobless persons in deep trouble by forcing them to engage in protracted litigation, during which they have not only been robbed of whatever money was left with them after securing the jobs; while he himself enjoying post retirement life with all perks and privileges. In view of implications/consequences of the acts on the part of the then EDO D.I.Khan, the penalty imposed on him does not appear commensurate with the gravity of his guilt, but since that matter is



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not before us, we would stop short of making any order with respect to the departmental proceedings against him, but would, indeed, direct the respondent-department to recover the pay/salary paid to the illegally/irregularly appointed persons from the pension etc. of the then EDO instead of burdening the public exchequer for illegal/irregular acts on the part of the then EDO D.I.Khan.

- (f) No-doubt, an illegal/irregular and an order void ab-initio would not confer a right on the holder of such order, but an order passed by a competent authority in the discharge of his duty after observance of codal formalities does confer right on the holder of such order to be heard in support of order in his favour and his case decided on merit instead of a general order on the direction of some outside authority. If authorities are needed, one can readily refer to a number of cases including cases reported as 1995 PLC(C.S) 419 (Lahore High Court), 2005 SCMR 1814 (Supreme Court of Pakistan), 2006 PLC (C.S) 1140(Northern Areas Chief Court), 2005 SCMR 85 (Supreme Court of Pakistan), 1987 PLC (C.S) 868 (b), 2007 SCMR 330 (Supreme Court of Pakistan), 2008 PLC (C.S) 582 (Northern Areas Chief Court), and 2007 MLJ 703 (Lahore). Undoubtedly, notices were not issued to the appellants prior to the impugned order by the DCO D.I.Khan, and they were never provided opportunity of hearing either by the 'authority' prior to passing of the impugned order or during inquiry/ scrutiny proceedings by several committees during the pre and post period of impugned order. As such, the principle of audi-alteram partem was violated at all levels and at all stages, rendering the impugned

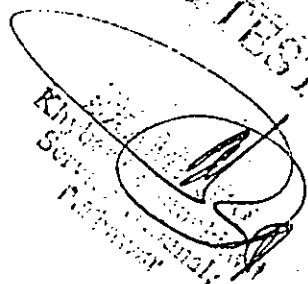
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Advocate

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order void and invalid, in respect of those who were found eligible for the posts after observance of usual formalities.

- (g) There is no dispute that in the case of appointments, in BPS-1 to BPS-10, the appointing authority, in view of notification of the Provincial Government dated 7th October 2005, was EDO and thus also competent authority for disciplinary matters, whereas the District Coordination Officer was appointing authority for officials in BPS-11 to 15; therefore, the impugned order in respect of the appellants issued by the DCO D.I.Khan was an order by an incompetent authority and not sustainable in law as held in cases reported as 1983 PLC (C.S) 354 (Service Tribunal Punjab), 2001 PLC (C.S) 1097, 2008 PLC (C.S) 949 (Lahore High Court) and 1985 PLC (C.S) 1002. The contention of the respondents was that the competent authority i.e. EDO D.I.Khan not only endorsed the impugned order issued by the DCO D.I.Khan and issued a letter for implementation of termination order but also issued corrigendum thereby terminating the services of the appellants. Apart from the fact that endorsement of the order of an incompetent authority by the competent authority and follow up letter by him would not validate a void order issued by an incompetent authority, the corrigendum issued after more than 8 months of the impugned order would also not serve any useful purpose in view of PLD 2000 SC 104, as after issuance of termination order the department had become functus-officio.
- (h) It was urged on behalf of the respondents that recommendations of the Standing Committee of the Provincial Assembly assumed legal

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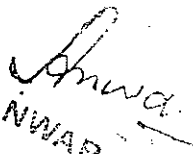
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status following judgment/order dated 11.6.2009 of the Peshawar High Court, D.I.Khan Bench, whereby a clear direction was issued to act upon the inquiry report, but they lost sight of the fact that no direction of any authority could absolve the departmental authority from following the law/rules on the subject and fulfill necessary legal requirements before passing the impugned order.

9. As a sequel to the foregoing-discussion, we would make the following orders:-

- (i) All the appeals of Junior Clerks, Lab. Assistants and Assistant Store Keeper(M) are dismissed with costs, being devoid of merit.
- (ii) The appeal of Ms.Shahana Ijaz (Service Appeal No. 2177/10) is accepted, and by setting aside the impugned order, she is reinstated in service with consequential/back benefits.
- (iii) The appeals of the rest of the appellants including PSTs(M&F), CTs(M&F), PETs(M&F), DMs(M&F), ATs(M&F), TTs(M&F) and Qaris (M&F) are also accepted and impugned termination order in their cases set aside, but instead of their outright reinstatement, their cases are remanded/sent back to the Secretary, Elementary & Secondary Education Department, Peshawar (Respondent No.1) for reconsideration of the cases in the light of above observations for reinstatement of the qualified appellants and a speaking order in respect of those who are not found qualified, by the competent authority, after affording opportunity of hearing to the said appellants through an efficient and fair mechanism to be evolved for the purpose by him so as to ensure compliance with the mandatory legal requirements on the one hand

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and integrity of the proceedings on the other. Since the matter has already been delayed inordinately, it is expected that the proposed exercise should not take more than three months, whereafter a progress report be submitted to the Registrar of the Tribunal.

- (iv) The respondent-department should also look into claim of those appellants who have alleged performance of duty for considerable time after their appointment, and if they are found to have actually performed duty for certain period, and, as such, entitled to pay/salary for the period of the duty, legal procedure should be adopted for recovery of their claims from the then EDO D.I.Khan who has already been held responsible for appointments in question as a consequence of departmental proceedings against him.

ANNOUNCED
27.10.2011 (S)

*6th Dalander Ali Ullah
Chairman
Sd/- Syed Manzoor Ali Shah
Member*

Certified to be true copy

[Signature]
Secretary
Service Tribunal
Peshawar

Date of Presentation of Application 15.1.2014
 Number of Petitions 4000
 Number of Cases 32
 Number of Appeals 2
 Number of Disputes 34
 Date of Presentation of Appeal 15.1.2014
 Date of Filing of Copy 15.1.2014

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Advocate

LIST OF CONNECTED APPEALS

| S# | Appeal No | Appellant Name |
|------|-----------|--------------------------|
| 1 ✓ | 1408/10 | Niaz Din |
| 2 ✓ | 1409/10 | Allah Dita |
| 3 ✓ | 1410/10 | Muhammad Saleem Khan |
| 4 ✓ | 1411/10 | Abdul Rashaid |
| 5 ✓ | 1412/10 | Muhammad Sheraz |
| 6 ✓ | 1413/10 | Ahmad Nawaz |
| 7 ✓ | 1414/10 | Muhammad Suliman |
| 8 ✓ | 1415/10 | Inayat Ullah Khan |
| 9 ✓ | 1416/10 | Saifullah |
| 10 ✓ | 1417/10 | Fazal ur Rehman |
| 11 ✓ | 1418/10 | Nabeela Ambreen |
| 12 ✓ | 1419/10 | Robina Bibi |
| 13 ✓ | 1420/10 | Rabia Bibi |
| 14 ✓ | 1421/10 | Amina Bibi |
| 15 ✓ | 1422/10 | Qari Ahsan Ullah Farooqi |
| 16 ✓ | 1423/10 | Ghias udin |
| 17 ✓ | 1424/10 | Haji Muhammad |
| 18 ✓ | 1425/10 | Muhammad Aslam |
| 19 ✓ | 1426/10 | Muhammad Baksh |
| 20 ✓ | 1427/10 | Shahid Khan |
| 21 ✓ | 1428/10 | Ehasanullah |
| 22 ✓ | 1429/10 | Amir Hussain Shah |
| 23 ✓ | 1430/10 | Naimat Ullah |
| 24 ✓ | 1431/10 | Rozi Khar |
| 25 ✓ | 1432/10 | Tasleem Akhtar |
| 26 ✓ | 1433/10 | Muhammad Salim |
| 27 ✓ | 1434/10 | Mohsan Hassan Khan |
| 28 ✓ | 1435/10 | Muhammad Ayub Khan |
| 29 ✓ | 1436/10 | Saad ud Din Khan |
| 30 ✓ | 1437/10 | Sibghatullah |
| 31 ✓ | 1438/10 | Sultan Saifoor Khan |
| 32 ✓ | 1439/10 | Muhammad Sadiq |
| 33 ✓ | 1440/10 | Zahidullah |
| 34 ✓ | 1441/10 | Hafiz Hizbullah |
| 35 ✓ | 1442/10 | Inamullah Khan |
| 36 ✓ | 1443/10 | Saifullah Khan |
| 37 ✓ | 1444/10 | Himayatullah |
| 38 ✓ | 1445/10 | Hizbullah Khan |
| 39 ✓ | 1446/10 | Rehmat Jan |
| 40 ✓ | 1447/10 | Hidayatullah |
| 41 ✓ | 1448/10 | Malik Amjad |
| 42 ✓ | 1449/10 | Shaukat Ali |
| 43 ✓ | 1450/10 | Manzoor Ahmad |
| 44 ✓ | 1451/10 | Umer Hayat Khan |
| 45 ✓ | 1452/10 | Qayyum Nawaz |
| 46 ✓ | 1453/10 | Ihsan Ullah Khan |



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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

| | | |
|-------|---------|------------------------|
| ✓ 575 | 2346/10 | Mirza Khan |
| ✓ 576 | 2347/10 | Rukhsana Gul |
| ✓ 577 | 2348/10 | Muhammad Iqbal |
| ✓ 578 | 2349/10 | Asmat Ullah |
| ✓ 579 | 2350/10 | Kalsoom Akhtar |
| ✓ 580 | 2351/10 | Allah Nawaz |
| ✓ 581 | 2352/10 | Ch: Muhammad Shahid |
| ✓ 582 | 2353/10 | Muhammad Tahir |
| ✓ 583 | 2354/10 | Arif Hussain |
| ✓ 584 | 2355/10 | Amanullah |
| ✓ 585 | 2356/10 | Muhammad Bilal |
| ✓ 586 | 2357/10 | Abdul Aziz |
| ✓ 587 | 2358/10 | Azmat Abbass |
| ✓ 588 | 2359/10 | Hafeez Ullah |
| ✓ 589 | 2360/10 | Muhammad Arif |
| ✓ 590 | 2361/10 | Rashid Mehmood |
| ✓ 591 | 2362/10 | Zahida Rashid |
| ✓ 592 | 2363/10 | Zulqarnan |
| ✓ 593 | 2364/10 | Touqeer Hussain |
| ✓ 594 | 2365/10 | Sanallah |
| ✓ 595 | 2366/10 | Niaz Hussain |
| ✓ 596 | 2367/10 | Asma ul Husna |
| ✓ 597 | 2368/10 | Samiullah |
| ✓ 598 | 2369/10 | Syed Baqir Hussain |
| ✓ 599 | 2370/10 | Tayba Kusar |
| ✓ 600 | 2371/10 | Muhammad Bilal |
| ✓ 601 | 2372/10 | Muhammad Asif |
| ✓ 602 | 2373/10 | Kazim Ali |
| ✓ 603 | 2374/10 | Muhammad Hasnain |
| 604 | 2375/10 | Muhammad Bilal |
| ✓ 605 | 2376/10 | Muhammad Salim |
| ✓ 606 | 2377/10 | Muhammad Ismail |
| ✓ 607 | 2378/10 | Salma Nawaz |
| ✓ 608 | 2379/10 | Rustam Khan |
| ✓ 609 | 2380/10 | Aslam Khan |
| ✓ 610 | 2381/10 | Mureed Hassan |
| ✓ 611 | 2382/10 | Muhammad Usman |
| ✓ 612 | 2383/10 | Abdullah Jan |
| ✓ 613 | 2384/10 | Muhammad Imran |
| ✓ 614 | 2385/10 | Muhammad Ilyas |
| ✓ 615 | 2386/10 | Syed Qamer Sultan Shah |
| ✓ 616 | 2387/10 | Muhammad Sajid |
| ✓ 617 | 2388/10 | Naseem Akhtar |
| ✓ 618 | 2389/10 | Naseem Akhtar |
| ✓ 619 | 2390/10 | Riaz Hussain |
| ✓ 620 | 2391/10 | Muhammad Safdar |
| ✓ 621 | 2392/10 | Naheed Akhtar |
| ✓ 622 | 2393/10 | Sumaira Atiq |

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Service Tribunal,
Peshawar

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|------|--------|-------------------|---|
| 1007 | 317/11 | Shahabudin | |
| 1008 | 385/11 | Zaffar Abbass | ✓ |
| 1009 | 415/11 | Shafqat Ullah | |
| 1010 | 416/11 | Asia Bibi | |
| 1011 | 432/11 | Shah Jahan | |
| 1012 | 534/11 | Shahzad Khan | |
| 1013 | 535/11 | Shaheen Akhtar | |
| 1014 | 632/11 | Muhammad Aslam | |
| 1015 | 633/11 | Ahmad Hassan | |
| 1016 | 634/11 | Zafar iqbal | |
| 1017 | 635/11 | Rehmat Ullah | |
| 1018 | 790/11 | Irum Noshad | ✓ |
| 1019 | 893/11 | Hamayun Saifullah | ✓ |

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 Peshawar

Date of Presentation of Application 5-11-2011
 Number of Petitions 8800
 Copying of Petitions 46-00
 Urgent 2-00
 Total 48-00
 Number of Copies 4
 Date of Completion of Copy 16-11-2011
 Date of Delivery of Copy 16-11-2011

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MOST IMMEDIATE / COURT CASE.

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

NO.SO (Lit) E&SED/1-5/2011
Dated Peshawar, the 26-01-2012.

To

The Executive District Officer,
Elementary & Secondary Education
D. I. Khan.

Subject: - INQUIRY REPORT REGARDING THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL JUDGMENT DATED 27-
10-2011 ON SERVICE APPEAL NO. 1407/ 2010 AND OTHER
CONNECTED APPEALS ON ILLEGAL/ IRREGULAR
APPOINTMENTS IN DISTRICT D.I.KHAN.

I am directed to refer to the subject noted above and to enclose herewith a copy of the Inquiry report regarding the judgment dated: 27-10-2011 in Service Appeal No. 1407/ 2010 and other connected appeals on illegal/ irregular appointments in District D.I.Khan for necessary action and strict compliance in letter and spirit under intimation to this Department and all other concerned.

Enclosure: (As above)

Endst: of even No. & date.

Copy is forwarded for information to:-

1. Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. D.C.O. D.I.Khan.
4. P.S to Secretary E&SE Department.

SECTION OFFICER (LITIGATION)

SECTION OFFICER (LITIGATION)

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M. ANWAR AWAN
Advocate

ELEMENTARY & SECONDARY EDUCATION DEPARTMENT



REPORT/FINDINGS/RECOMMENDATIONS/ OF THE COMMITTEE WITH REFERENCE TO SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT NOTIFICATION NO SO LITIGATION/E&SE/1-3/2011 /D.I.KHAN DATED 29.11.2011 IN PURSUANCE OF KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ORDER DATED 27.10.2011 ON SERVICE APPEAL NO 1407/2010 AND OTHER CONNECTED APPEALS.

INTRODUCTION:

In pursuance of the judgment of Khyber Pakhtunkhwa Services Tribunal dated 27.10.2011 in Service Appeal No 1407/2010 Abdus Salam versus Province of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education and the others connected Service appeals, (Annexure-A) , and judgment dated 16.12.2011 2011 in Service Appeal No 3052/2010 Lubna Sadia versus Province of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education , Secretary Elementary and Secondary Education Department Khyber Pakhtunkhwa constituted a Committee vide Notification No SO Litigation/E&SE/1-3/2011 /D.I.Khan dated 29.11.2011 comprising of the following for reconsideration of the cases in light of the judgment of the Honourable Services Tribunal vide (Annexure-B)

- 1. Secretary) E&SE Department (Chairman).
2. Director (E&SE) Khyber Pakhtunkhwa, Peshawar (Member).
3. Abdul Wali Khan Dy Director (E&SE) (Member).
4. Ghulam Qasim EDO (E&SE) Tank. (Member).
5. Feroz Hussain Shah EDO (E&SE) DI Khan (Member).
6. Mushraf Ali AD (F&A) E&SE (Member).

TOR:

- To examine the appeals of the rest of the appellants including PST(M&F), CI(M&F), PET(M&F), DM(M&F), AT(M&F), TI(M&F) and Qaris (M&F) in the light of the judgment of Khyber Pakhtunkhwa Services Tribunal dated 27.10.2011 in Service Appeal No 1407/2010 and the others connected Service appeals.
To examine, scrutinize the record of local office D.I.Khan regarding the appointments in the year 2007-08.

M. ANWAR AWAN Advocate

- To frame efficient and fair mechanism and procedure to find out the qualified appellants according to the observations in the aforesaid judgment and implement.
- To ensure compliance with the mandatory legal requirements on the one hand and integrity of the proceedings on the other.
- To consider the claim of those appellants who have alleged performance of duty for considerable time after their appointment as directed by the Honourable Services Tribunal.
- To provide an opportunity of hearing to the appellants.
- To provide an opportunity to all concerned to produce record, documents etc in support of their claims and possible remedy.
- To act in accordance with rules, Law and Policy prevailing in 2007-08 regarding the recruitment of the above said posts.
- To fulfill the given task within the period as expected and proposed by the Honourable Service Tribunal in his judgment dated 27.10.2011.
- To consign the record in the safe custody of the competent authority.
- To pass on evidence, both documentary and verble, record and analysis conclude findings and make recommendations as way forward so as to ensure equity and justice.

BRIEF HISTORY OF THE CASE:

In District DI Khan reportedly illegal and irregular appointments were made in Elementary and Secondary department at a large-scale during the period from 01.01.2007 to 30.06.2008. The matter was highlighted by one Honourable member of Provincial Assembly through Assembly Question No.31. The Provincial Assembly declared the same appointments as illegal and irregular and politically motivated which was debated in the house on 19.08.2008 and was referred to Standing Committee No.26 for scrutiny. The Committee finalized its report/recommendations and presented to the Assembly on 12.01.2009, which was adopted on the same day. In order to implement the decision of the Standing Committee, duly adopted by the Provincial Assembly. The Elementary and Secondary Education Department constituted the following three Committees to check the appointments record of the appointments made by Ex-Executive District Officer (E&SE) DI Khan for the period from 01.01.2007 to 30.06.2008 in pursuance of the Minutes of the meeting held on 13.01.2009 of the Standing Committee No. 26 of Provincial Assembly vide Notification No. SO (AB) E&SED/4-4/Enq/DIK/2009 dated 01-01-2009.

Committee No.1 for scrutiny of Illegal/Irregular appointments of KPOs /PSTs /Lab Assistants /Junior Clerks/ Assistant Store Keepers and Class-IV Male and Female.

Committee No.2 for scrutiny of Illegal/Irregular appointments of CT, DM, PET Male and Female.

Committee No.3 for scrutiny of Illegal/Irregular appointments of Arabic Teacher, Theology Teacher and Qari Male and Female.

The enquiry Reports were submitted to the Standing Committee on 08.01.2009. The Standing Committee recommended to the department to terminate the

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|----|---------|-----------------|----------------------|---|-------------|------------|------------|------------|---------|--|
| 48 | 2204/10 | Sadia Rashid | Abdur Rashid | GGPS Nawab/Sawag | 20376-5261 | 01.10.2007 | 30.04.2010 | 09.01.2006 | Trained | |
| 49 | 2205/10 | Asia Rashid | Abdur Rashid | GGPS Rind/Chowdhan | 20320-24 | 01.10.2007 | 30.04.2010 | 09.01.1995 | Trained | |
| 50 | 2280/10 | Sadia Karim | Abdul Karim | GGPS Kotla Laudhan | 20230-34 | 01.10.2007 | 30.04.2010 | 20.10.1998 | Trained | |
| 51 | 2282/10 | Farzana Iqbal | Muhamad Iqbal | GGPS Thathal/Bakht Wada Muryal | 20330-34 | 01.10.2007 | 30.04.2010 | 14.05.1997 | Trained | |
| 52 | 2283/10 | Ejaz Akhter | Muhammad Bakhsh | GGPS Ejaz Abad | 20540-45 | 01.10.2007 | 30.04.2010 | 14.05.1997 | Trained | |
| 53 | 2285/10 | Shahnaz Bibi | Muhammad Nawaz | GGPS Muqeem Shah | 20325-29 | 01.10.2007 | 30.04.2010 | 21.11.1992 | Trained | |
| 54 | 2329/10 | Naseem Bibi | Ghulam Sarwar | GGPS Rodi Khel | 20620-24 | 01.10.2007 | 30.04.2010 | 19.01.2002 | Trained | |
| 55 | 2338/10 | Shaheen Akhtar | Syed Ashaq Hussain | GGPS No.2 Band Kuri | 20501-05 | 01.10.2007 | 30.04.2010 | 31.07.2002 | Trained | |
| 56 | 2342/10 | Shahida Nasreen | Sheikh Riaz Ahmad | GGPS Chah Diyal | 20491-96 | 01.10.2007 | 30.04.2010 | 31.12.1996 | Trained | |
| 57 | 2347/10 | Rukhsana Gul | Mehmood-ul Hassain | GGPS Wanda Nankani/GGP S Seghra | 20240-44 | 01.10.2007 | 30.04.2010 | 19.01.2003 | Trained | |
| 58 | 2397/10 | Farzana Bibi | Hafiz Shamsur Rehman | GGPS Mali Khel/GGPS Kurai | 20260-64 | 01.10.2007 | 30.04.2010 | 19.01.2002 | Trained | |
| 59 | 2402/10 | Afshen Bibi | Ghulam Farooq | GGPS Awan | 20270-75 | 01.10.2007 | 30.04.2010 | 31.07.2002 | Trained | |
| 60 | 2411/10 | Fahmeeda Akhtar | Muhammad Khan | GGPS Kiri Malang | 12974-13116 | 01.10.2007 | 30.04.2008 | 19.01.2002 | Trained | |
| 61 | 2517/10 | Sumaira Rani | Mulazim Hussain | GGPS Ikhtiar Khel/GGPS Kiri Pawanda | 25280-84 | 01.12.2007 | 30.04.2010 | 30.09.2007 | Trained | |
| 62 | 2522/10 | Farzana Bibi | Abdur Rehman | GGPS Chah Jagu Wala | 20350-54 | 01.10.2007 | 30.04.2010 | 09.01.2006 | Trained | |
| 63 | 2531/10 | Fozia Rehman | Fazal Rehman | GGPS Kachi Paind Khan | 20220-24 | 01.10.2007 | 30.04.2010 | 05.05.2003 | Trained | |
| 64 | 2532/10 | Zulekha Bibi | Muhammad Hakim | GGPS Khudaka | 20360-64 | 01.10.2007 | 30.04.2010 | 20.09.2007 | Trained | |
| 65 | 2535/10 | Rozeena Shaheen | Muhammad Hashim | GGPS Teekan | 20120-24 | 01.10.2007 | 30.04.2010 | 20.09.2007 | Trained | |
| 66 | 2539/10 | Farzana Kanwal | Umar Hayat | GGPS Chah Mapal | 20376-526 | 01.10.2007 | 30.04.2010 | 10.07.2004 | Trained | |
| 67 | 2547/10 | Asmat Naheed | Muhammad Sultan | GGPS Chah Jagu Wala | 20345-49 | 01.10.2007 | 30.04.2010 | 09.01.2006 | Trained | |
| 68 | 2550/10 | Asia Hassan | Muhammad Hassan | GGPS Gandi Ummer Khan | 20247 | 01.10.2007 | 30.04.2010 | 15.07.2004 | Trained | |
| 69 | 2574/10 | Khadija Bibi | Muhammad Rafiq | GGPS Hazara Pakka | 12974-13116 | 01.10.2007 | Not | 09.01.2006 | Trained | |
| 70 | 2588/10 | Sumaira Mushtaq | Mushtaq Ahmad | GGPS Jhock Karlu/GGPS Khidmat Garan | 20201-4 | 01.10.2007 | 30.04.2010 | 20.09.2007 | Trained | |
| 71 | 2598/10 | Misbah Perveen | Muhammad Abdullah | GGPS Gara Ashiq | 20615-19 | 01.10.2007 | 30.04.2010 | 28.03.1991 | Trained | |
| 72 | 2603/10 | Shaugfta Naz | Abdul Quyyun | GGPS Mnagal/Gandi Ashiq | 20276-526 | 01.10.2007 | 30.04.2010 | 31.12.1996 | Trained | |
| 73 | 2609/10 | Baddar Bibi | Muhammad Sadiq | GGPS Shadau | 20270-74 | 01.10.2007 | 30.04.2010 | 06.06.2003 | Trained | |
| 74 | 2614/10 | Kaniz Bano | Ahmed Saeed | GGPS Sari Faqeer | 20197-200 | 01.10.2007 | 30.04.2010 | 20.10.1998 | Trained | |
| 75 | 2621/10 | Sanodia Kiran | Khadim Hussain | GGPS Jhoke Muhammad Wali/Basti Nad Ali Shah | 25275-79 | 01.12.2007 | 28.02.2010 | 20.09.2007 | Trained | |
| 76 | 2624/10 | Saima Ambar | Muhammad Ramzan | GGPS Khanu Khal | 20220-24 | 01.10.2007 | 30.04.2010 | 05.05.2003 | Trained | |
| 77 | 2629/10 | Farzana Bibi | Muhammad Bakhsh | GGPS Shah Ajmal | 20610-1 | 01.10.2007 | nil | 28.04.2000 | Trained | |
| 78 | 2631/10 | Saima Akhtar | Muhammad Nawaz | GGPS Sheikh Yousuf | 20370-74 | 01.10.2007 | 30.04.2010 | 20.05.2000 | Trained | |
| 79 | 2649/10 | Shamsa Bibi | Abdul Rashid | GGPS Mandhran | 21973-76 | 23.10.2007 | 30.04.2010 | 20.10.1998 | Trained | |

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M. ANWAR AWAN
Advocate

departmental Selection Committee after the vacancies have been advertised in the newspapers"

6. In case of appointment of the applicants the vacancies were not advertised and Departmental Selection Committee has not recommended the applicants for the appointment.
7. Appeals being merit less deserve to be dismissed on the analogy of the decision of the Khyber Pakhtunkhwa Services Tribunal decision under Para-9 (i) read with Para-8(b).

RECOMMENDATIONS:

The Committee heard personally and scrutinized the record and appeals of terminated PST (M&F), CT (M&F), DM (M&F), PET (M&F), AT (M&F), TT (M&F), Qari (M&F) teachers/officials lying in the office of the Executive District Officer (E&SE) D. I. Khan on case to case basis in accordance with Khyber Pakhtunkhwa Services Tribunal order dated 27.10.2011, and segregated /check/scrutinize their cases on the basis of different categories of Teachers/officials from 19.12.2011 to 24.12.2011,

All the appointments of the appellants against the posts of PST (M&F), CT (M&F), DM (M&F), PET (M&F), AT (M&F), TT (M&F), Qari (M&F) appended under various categories from S.No 1 to 41 have been made without observing codal formalities/procedure, Government Policy and Merit and in violation of Rule 10(2) of the NWFP (now Khyber Pakhtunkhwa) Civil Servants (Appointment, Promotion and Transfer Rules 1989). The appointments of the appellants are declared illegal and irregular. Cases being merit less deserves to be terminated. The following steps are recommended to be taken.

- a. Executive District Officer Elementary and Secondary Education D I Khan is required to issue proper termination orders of the above appellants and similar cases listed above under various categories PST (M&F), CT (M&F), DM (M&F), PET (M&F), AT (M&F), TT (M&F), Qari (M&F) teachers in the findings from S.No.1-41 excepts those who were working on lower posts and were appointed on higher posts in other categories, they may be reversed to their original posts.
- b. Executive District Officer Elementary and Secondary Education D I Khan is further required to release/activate the pay of those PST Male who were appointed on merit included in the joint appointment order of 309 candidates dated 02.07.2007 and PST Female who were appointed on merit included in the joint appointment order of 131 candidates dated 02.07.2007. (Annexure- E-1),
- c. Executive District Officer Elementary and Secondary Education D I Khan is required to advertise the vacant posts immediately and complete the recruitment process before 15 March, 2012 and the terminated teachers may be provide opportunity to compete if otherwise they have the qualification required for the post and further they may be awarded extra 2 marks per year of span of service rendered if they actually performed duty after appointment.
- d. District Coordination Officer D I Khan is required to recover the claim of appellants who have alleged performance of duty for the considerable

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M. ANWAR AWAN
Advocate

time after their appointment and they have actually performed duty for certain period to be calculated by Executive District Officer Elementary and Secondary Education D I Khan through legal procedure in accordance with Khyber Pakhtunkhwa Services Tribunal order dated 27.10.2011.

Syed Feroz Hussain Shah

1. Syed Feroz Hussain Shah
Executive District Officer
E & S E D I Khan (Member)

2. Ghulam Qasim
Executive District Officer
E & S E Tank (Member)

A-Wali Khan

3. A-Wali Khan
Dy Director E&SE
Khyber Pakhtunkhwa.
(Member)

(Muhammad Rafiq Khattak)

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

Muhammad Mushtaq Jadoon

5. Muhammad Mushtaq Jadoon)
Secretary
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.
(Chairman)

M. Anwar Awan


M. ANWAR AWAN
Advocate

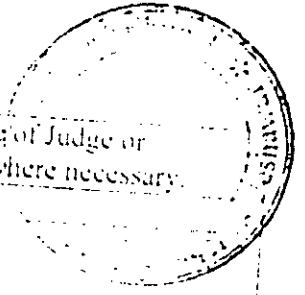
~~1. Syed Feroz Hussain Shah~~
1. Syed Feroz Hussain Shah
Executive District Officer
E & SE D I Khan (Member)

2. Glulam Qasim
Executive District Officer
E & SE Tank (Member)

3. A-Wali Khan
Dy Director E&SE
Khyber Pakhtunkhwa.
(Member)

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


5. Muhammad Mushtaq Jadoon)
Secretary
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.
(Chairman)



| S.No.of Order or proceedings | Date of Order or proceeding | Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary. |
|------------------------------|-----------------------------|--|
| 1 | 2 | 3 |

14.03.2012

Execution Petition No. 34/12
Muhammad Hassan Khan etc. (Petitioners)
Versus
Secretary, E&SE Department, KPK, etc. (Respondents)

Counsel for the petitioners, Mr. Muhammad Rafique-Khattak, Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and Syed Feroz Hussain-Shah, EDO(E&SE) D.I.Khan in person alongwith Mashal Khan, L.O and Muhammad Nawaz, ADO on behalf of the respondents with AAG present. The respondents have already provided implementation report, which has been perused in the light of judgment of the Tribunal. The implementation report would show that after providing opportunity of hearing to the petitioners and appellants in the connected appeals, and scrutinizing record on case to case basis, the Committee made certain recommendations including issuance of termination/ removal orders of those found illegally appointed and reversion to lower posts of those who were appointed on higher posts in other categories, and also releasing activating pay of those PSTs (Male) and (Female) who were found validly appointed on merit. The Director (E&SE) KPK and EDO (E&SE) D.I.Khan stated at the Bar that they have already implemented recommendations of the Committee and issued the orders/letters accordingly, in accordance with the recommendations and letter and spirit of the judgment of the Tribunal dated 27.10.2011 in Service Appeal No. 1-07-2010 titled 'Abdul Salam-vs-Province of KPK through Secretary, Elementary & Secondary Education, Peshawar etc.' Be that as it may, the fact remains that in accordance with the afore-

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 Advocate

mentioned judgment of the Tribunal, the respondent-department not only widely publicized hearing of cases of the petitioners and other appellants through publication in the newspapers but have also prepared list of those who appeared before the Committee in response to the publication and obtained their signatures on the list. The learned counsel for the petitioners also confirmed holding of meeting by the Committee at D.I.Khan and participation of the petitioners and other connected persons in the proceedings of the Committee. The implementation report also shows that each and every case has been examined by the Committee after providing opportunity of hearing to the petitioners/appellants, and in pursuance of such proceedings, recommendations have been made by the Committee which are being implemented by the respondent-department. In short, in accordance with the judgment dated 27.10.2011 of the Tribunal, the Secretary, E&SE, KPK, Peshawar (Respondent No.1) constituted a Committee, headed by him, and comprising five other officers of the Education Department including Director, E&SE, KPK, Peshawar and EDO(E&SE) D.I.Khan, conducted proceedings at D.I.Khan after widely publicizing the same through newspapers and thereby ensuring participation of the petitioners and other appellants and providing opportunity of hearing to them and also scrutinizing cases of the petitioners and other appellants on case to case basis and thereafter making certain recommendations which are being implemented through issuance of appropriate orders. As such, the judgment of the Tribunal stands implemented in its letter and spirit.

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M. ANWAR AWAN
 Advocate

The learned counsel for the petitioners, however, raised

objections regarding the proceedings conducted by the Committee; but he was unable to augment his contentions in this regard with support of law, as fresh orders in pursuance of the proceedings and recommendations of the Committee would accrue a fresh cause of action for appeal or any other remedy prescribed by the law, which is, certainly, beyond the scope of the implementation/execution proceedings. The misgivings, probably, emanate from lack of knowledge about proceedings of the Committee, which have been provided to the Tribunal in the shape of a book, but not available either with the counsel for the petitioners or petitioners and other appellants. Therefore, the respondents are directed to place the report on the website of the department so that the petitioners, appellants and all concerned should get knowledge of the proceedings and recommendations and chalk out future course of action in accordance with law. The respondents are further directed to ensure compliance with the recommendations of the Committee forthwith, without further wastage of time, so that the aggrieved persons can seek remedy available to them under the law.

In view of the above, the implementation/execution petition is disposed of as having served the purpose. File to be consigned to the record.

ANNOUNCED
 14.03.2012
 Date of Presentation
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 Copying
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 Date of
 Date of

MEMBER

CHAIRMAN

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M. ANWAR
 Advocate

Certified true copy
 Peshawar

G-34

BEFORE THE PESHAWAR HIGH COURT BENCH DERA ISMAIL KHAN

Writ petition No. 156^{JP} of 2015.



1. M. Safdar Shah S/O Muhammad Azam GPS Kot Mehsudan D.I.Khan
2. M. Ilyas S/O Ghulam Abbas GPS Zawar Shu mali D.I.Khan.
3. Sami Ullah S/O Ghulam Qadir GPS Hero Khil D.I.Khan.
4. Rehmat S/O Ahmad Hussain GPS Pharpur 2 D.I.Khan.
5. Shah Jehan S/O Muhammad Jan GPS Chah Ladha D.I.Khan.
6. Sana Ullah S/O Ghulam Saddique GPS Pharpur 3 D.I.Khan.
7. Muhammad Ismail S/O Muhammad Hayat GPS Wanda Nadir Shah D.I.Khan.
8. Riaz Hussain S/O Muhammad Ibrahim GPS Isam Pur D.I.Khan.
9. Aman Ullah S/O Nasrullah GPS Chah Langhan Walan D.I.Khan.
10. Arif Hussain S/O Khuda Bakhsh GPS Wanda Lamali D.I.Khan.
11. Rustam Khan S/O Fateh Sher Khan GPS Banc Kurai No. 1 D.I.Khan.
12. Muhammad Tahir S/O Rab Nawaz GPS Basti Malana No. 1 D.I.Khan.
13. Nasrullah S/O Muhammad Khan GPS Wanda Shahbaz D.I.Khan.
14. Muhammad Iqbal S/O Kalu GPS Wanda Shel baz D.I.Khan.
15. Allah Nawaz Khan S/O Haqnawaz GPS Wanda Dau D.I.Khan.
16. Malik Hamid Ullah S/O Malik Mamdu GPS Band Kurai D.I.Khan.
17. Khanzaman S/O Muhammad Akbar GPS Toba D.I.Khan.
18. Kashmir Khan S/O Ghazi Khan GPS Niazi Abul ad D.I.Khan.
19. Ullat Ali S/O Ghulam Shabbir GPS Kachi Katl Garh D.I.Khan.
20. Mureed Hassan S/O Muhammad Hassan GPS Rasool Abad D.I.Khan.
21. Aslam Khan S/O Haji Sardar Khan GPS Mura J Abad D.I.Khan.
22. Abdul Aziz Khan S/O Haji Gul Habib Khan GPS No. 1 Band Kurai D.I.Khan.
23. S. Fouqeer Hussain Shah S/O Nazar Hussain Shah GPS Burz Wali D.I.Khan.
24. S. Iqbal Hassan Shah S/O Niaz Hussain Shah GPS Bilot Sharif D.I.Khan.
25. Muhammad Saleem S/O Malik Khan GPS Qazi Khokhar D.I.Khan.
26. Qazim Ali S/O Ghulam Sarwar GPS Rasool Abad D.I.Khan.
27. Gohar Iqbal S/O Ghulam Iqbal GPS Chah Ladha D.I.Khan.

Filed today 74
Adv. Registrar
11/3/15

ATTES TEE

EXAM NOR
Peshawar High Court
D.I.Khan Bench 16/3/15

M. ANWAR AWAN
Advocate

- 28. Rehmat Ullah S/O Allah Diwaha GPS Kot Mehsudan D.I.Khan.
- 29. M. Husnain S/O Abdul Qadoos GPS Sheru D.I.Khan.
- 30. M. Usman S/O M. Bakhsh GPS Luthrana D.I.Khan.
- 31. M. Farooq S/O M. Ramzan GPS No. 3 D.I.Khan.
- 32. M. Nawaz S/O Ghulam Ali GPS Pharpur No. 1 D.I.Khan.
- 33. Ghulam Abbas S/O Allah Bakhsh GPS Niazi Abad D.I.Khan.
- 34. Muhammad Khalid S/O Rab Nawaz GPS Ganti Umer Khan D.I.Khan.
- 35. Farhat Abbas S/O Ghulam Sadiq GPS Jhok Muhana No. 1 D.I.Khan.
- 36. Muhammad Sajid S/O Imam Bakhsh GPS Kal Gorh No. 1 Pharpur D.I.Khan.
- 37. Ulfet Sumaira S/O Khuda Bakhsh GGPS Anwar Abad D.I.Khan.
- 38. Shaista Bibi D/O Muhammad Hafeez GGPS Wanda Jani D.I.Khan.
- 39. Safeena Bibi D/O Muhammad Akram GGPS Jhok Musa D.I.Khan.
- 40. Safroorna Bibi D/O Ghulam Akber GGPS Bhagwani Shumali D.I.Khan.
- 41. Hafsa Bibi D/O Ghulam Akber GGPS Wanda Bechohra D.I.Khan.
- 42. Aziz Fatma D/O Abdul Qadoos GGPS Qazi Khokhar D.I.Khan.
- 43. Naseem Akhter D/O M. Ramzan GGPS Kachi Kath Garh D.I.Khan.
- 44. Shaheen Akhter D/O Ashiq Hussain Shah GGPS Band Kurai D.I.Khan.
- 45. Hafeez Ullah S/O Muhammad Jan GPS Risal D.I. Abad D.I.Khan.
- 46. Kifayat Ullah S/O Ghulam Hassan GPS Bilot Sharif D.I.Khan.
- 47. Dr. Allah Ditta S/O Muhammad Nawaz GPS Matwala Shah D.I.Khan.
- 48. Rehmat Ullah S/O Muhammad Ashraf GPS Hai Khel D.I.Khan.
- 49. M. Shahid S/O Muhammad Azam GPS New Chura D.I.Khan.
- 50. Tehmina S/O Meharban Khan GGPS No. 1 Takwara D.I.Khan.
- 51. Abdul Haleem S/O Ghulam Fareed GPS Kachi Kath Garh D.I.Khan.
- 52. Mati Ullah S/O Jamal Khan GPS Kotla Lodhian D.I.Khan.
- 53. S. Sibtain ul Hassan S/O S. Nazar Hussain Shah GPS Kahushrana D.I.Khan.
- 54. M. Ibrahim S/O Rehmat Ullah GPS Khokhara D.I.Khan.
- 55. Ruskhsana Gul S/O Mehmood Ul Hassan GGPS Wanda Nankani D.I.Khan.
- 56. Inayat Ullah S/O Habib Ullah GPS Riaz Abad D.I.Khan.
- 57. Syed Sibtain Shah S/O Syed M. Arif Shah GPS Wanda Dost Ali D.I.Khan.
- 58. Iqbal Hassan S/O Ghulam Hassan GPS Mehmood Abad D.I.Khan.

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 35
 11/3/15

M. Anwar Anwar
 Advocate

ATTESTED
 EXAMINER
 M. Khan Dost 10/5/15

59. M. Iqbal S/O Ghulam Muhammad GPS Kotjai No. 2 D.I.Khan.

60. Kifayat Ullah S/O Sarfaraz Khan GPS Jhock Daara D.I.Khan.

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VERSUS

1. Government of Khyber Pukhtunkhwa through Secretary Elementary & Secondary Education Department K.P.K Peshawar.
2. Director of Education (E&S) Khyber Pukhtur khwa Peshawar.
3. District Education Officer (Male) D.I.Khan.
4. District Education Officer (Female) D.I.Khan.
5. District Account Officer D.I.Khan.

WRIT PETITIONER UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.

RESPECTFULLY SHEWETH,

Filed today 7th 11/3/15
At: Registrar
11/3/15

1. That the petitioners above named are peaceful respectable, law abiding and bona fide citizen of District Dera Ismail Khan, Islamic republic of Pakistan. The petitioners have completed their Academic qualification and was appointed against the vacant posts of PST etc. Later on the basis of political victimization the Government in the year 2010 conducted an inquiry against the petitioner, which resultantly, the dismissal of the hundreds of the appointed teachers. Copies of orders are Annexure A.
2. That feeling aggrieved from the termination orders, petitioners preferred an appeal before the service tribunal, which was decided vide its order dated 2nd-01-

M. ANWAR AWAN
Advocate

ATTESTED
16/3/15

→ 2011 directing the respondents to conduct an inquiry in the light of direction given by Hon'ble Service Tribunal. The copy of judgment is Annexure B.

3. That on the basis of the judgment dated 27-10-2011, the so-called inquiry was conducted by Government of Khyber Pukhtunkhwa vide later No. SO (Ljt) E & SED/1-3/2011 Dated Peshawar, the 26-01-2012 communicated recommendations of the committee which is annexed as Annexure C.

4. That it is to be noted that the committee vide its report dated 26-01-2012 also framed certain recommendation which beside the others also include a proper termination orders of all the affectees by the then decision of service tribunal report 26-01-2012 and inquiry report dated 27-01-2011.

Filed today: 7th 11/3/15
Advt. Registrar: 11/3/15

5. That service of the effectives opted to execute the judgment dated 27-10-2011 before the Honorable service tribunal Khyber Pukhtunkhwa, which was decided vide its judgment dated 14-03-2012. Copy of the order is Annexure D.

6. That the petitioners time and again approached to the respondents for the implementation of all the orders along with recommendation but no proper order of termination has yet been issued/ communicated to the petitioners. The some of the affectees challenged the illegal act of the respondent through writ petition No 48-D/2014 which were decided on 03-02-2015 with the direction that termination orders were handed over to the affectees and also the copy of the same is placed on the record of above mentioned petition. Copy of writ petition along with order dated 03-02-2015 is Annexure E.

7. That petitioners on coming to the knowledge of above mentioned order dated 03-02-2015, moved an application for issuance of copy of termination order but respondent clearly refused to do so. Copy of Application is Annexure F.

M. ANWAR AWAN
Advocate

16/3/15

That the respondents all together ignored the rights so accrued, having no other alternate remedy, the petitioner is constrain to challenge the same inter alia the following grounds.

GROUNDS:

- i. That the act of the respondents is against the law, facts and circumstances of the case and the same amounting to high handedness on the part of the respondents.
- ii. That the non-issuance of the termination letters is based on malafide and deliberate act of the respondents whereby, the petitioner have become made disable to challenge the same before service tribundial today 7/11/11
Adm. Registrar 11/3/11
- iii. That very purposely the termination letter were withheld by the respondents up till now, as the non-availability of the termination letters has created a legal disability for challenging the act/recommendation of the committee before the Honorable Service Tribunal, hence, the acts of the respondents is against the law, good governess and fundamental rights of a citizen who has the right to have an access to all the legal forums as per law.
- iv. That it is settled law that if any point related to the terms of service was decided by a court then the benefit of such judgments be extended to

M. Awan
AWAN
Advocate

10/5/11

others who may not be parties to the litigation instead of compelling them to approach the court.

v. That counsel of the petitions may kindly be allowed to raise further grounds during the course of arguments.

It is , therefore, Humbly prayed that by accepting the present Writ Petition, respondents may graciously by directed to issue the termination orders of the petitioners with all back benefits up till now Or any other appropriate relief, which this Honorable Court may deems best in the interest of justice, may also be granted to petitioners.

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11/3/15

Yours Humble Petitioners

Safdar Shah
Safdar Shah and Others

Dated: 09-03-2015

Anwar Awan
Muhammad Anwar Awan
Advocate Supreme Court

CERTIFICATE

Certified that petitioner in this honorable court has earlier filled no other write petition on the subject.

Safdar Shah
Petitioners

BOOKS REFER

Constitution of Pakistan 1973

Anwar Awan
M. ANWAR AWAN
Advocate

THE REGISTRAR
SUPREME COURT

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FORM OF ORDER SHEET.

| Date of order or proceedings (1) | Order or other proceedings with signature of Judge(s). (2) |
|-------------------------------------|--|
| 14.5.2015. | <p><u>W.P.No. 156-D/2015.</u></p> <p><u>Present:</u> Mohammad Anwar Awan, Advocate for petitioners.</p> <p>*****</p> <p><u>MUSARRAT HILALI, J.-</u> At the very outset learned counsel for the petitioners requests that if direction be given to respondents to provide termination orders passed by them in favour of the petitioners in that case he would not like to press the instant petition.</p> <p>2. Hence, the instant writ petition is disposed of accordingly. However, the respondents are directed to provide termination orders to the petitioners.</p> <p><u>Announced.</u> 14.5.2015.</p> <p style="text-align: right;"><u>JUDGE</u> <i>[Signature]</i></p> <p style="text-align: right;"><u>JUDGE</u> <i>[Signature]</i></p> |



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Aftab/

[Signature]
M.ANWAN
Advocate

OFFICE THE EXECUTIVE DISTRICT OFFICER (E&SE) D.I.Khan

H-41

ORDER:

In pursuance of order dated 27-10-2011 of the KPK Service Tribunal in service appeal No. 1407/2010 and other connected appeals, committee headed by the Secretary to Govt. Khyber Pakhtunkhwa (E&SE) Department considered the cases of the appellants and similar faced persons and came to the conclusion that the appointment of the following PSTs (Female) as illegal, irregular and void ab-initio in terms of rule 10(2) of the NWFP Civil Servants Appointment, Promotion and Transfer) Rules 1989 and prescribed method of recruitment. On the recommendation of the committee contained at page 103-104 of the enquiry report, their so called services are hereby terminated.

| Appeal No./year | Name of appellant | Father's Name | School |
|-----------------|-------------------|------------------|---|
| 2801/10 | Shaheen Rabbi | Muhammad Yaseen | GGPS Gomal Khurd/GGPS Mondhra Saidan |
| 2063/10 | Nafes Eibi | Ghulam Qadar | GGPS Adal Sipra/Khadmat Gara |
| Nil | Samina | Insha Ullah | GGPS Potah Dasal Zai |
| 2049/10 | Aqila Andleeb | Muhammad Iltai | GGPS Kiri Khaisoor/Dh Allah |
| | Rabia Tabbsum | Ziamudin | GGPS Sakindar Junabi |
| 2605/10 | Kalsoon Bibi | Muhammad Baksh | GGPS Jhoke Ikhtiar Khel/GGPS Kachi Paind Khan |
| Nil | Rifat Shaheen | Muhammad Sadiq | GGPS New Shanki |
| Nil | Asia Gul | Khuda Baksh | GGPS Dhandla |
| 90/11 | Nusrat Jabeen | Muhammad Ramazan | GGPS Wanda Baloch |
| Nil | Sobia Dar | Rab Nawaz Dar | GGPS No.2 Dewala |
| 2590/10 | Aneela Parveen | Muhammad Iqbal | GGPS Haji Abad |
| 2104/10 | Deeba Rani | Ahmad Jan | GGPS Kiri Pawanda |
| Nil | Sabeen Idrees | Muhammad Idrees | GGPS Kari Malang |
| 2805/10 | Shabana Eibi | Muhammad Ismail | GGPS Civil Rakh Band Kurai |
| 2050/10 | Zahida Iqbal | Iqbal Khan | GGPS Adda Khira |

[Signature]
 Joint Director Edu. Officer
 D.I. Khan

[Signature]
 M. ANWAR
 Advocate

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| | | | | |
|-----|---------|-----------------|----------------------|-------------------------------------|
| 285 | 2105/10 | Kalsoom Bibi | Allah Bakhsh | Charjana |
| 286 | 2122/10 | Sumaira Bibi | Muhammad Bilal | GGPS Jhoke Massu |
| 287 | 2172/10 | Rehana Bibi | Malik Haq Nawaz | GGPS Diyal/Band Kurai |
| 288 | 2184/10 | Parveen Akhtar | Amanullah | GGPS Adal Sipra |
| 289 | 2204/10 | Sadia Rashid | Abdur Rashid | GGPS Jhoke Basharat/GGPS Kokar |
| 290 | 2205/10 | Asia Rashid | Abdur Rashid | GGPS Nawab/Sawag |
| 291 | 2280/10 | Sadia Karim | Abdul Karim | GGPS Rind/Chowdhan |
| 292 | 2282/10 | Farzana Iqbal | Muhamad Iqbal | GGPS Kotla Laudhan |
| 293 | 2283/10 | Ejaz Akhter | Muhammad Bakhsh | GGPS Thathal/Bakht Wada Muryali |
| 294 | 2285/10 | Shahnaz Bibi | Muhammad Nawaz | GGPS Ejaz Abad |
| 295 | 2329/10 | Naseem Bibi | Ghulam Sarwar | GGPS Muqeen Shah |
| 296 | 2338/10 | Shaheen Akhtar | Syed Ashaq Hussain | GGPS Rodi Khel |
| 297 | 2342/10 | Shahida Nasreen | Sheikh Riaz Ahmad | GGPS No. 2 Band Kuri |
| 298 | 2347/10 | Rukhsana Gul | Mehmood-ul Hassain | GGPS Chah Diyal |
| 299 | 2397/10 | Farzana Bibi | Hafiz Shamsur Rehman | GGPS Wanda Nankani/GGPS S Seghra |
| 300 | 2402/10 | Afsheen Bibi | Ghulam Farooq | GGPS Mali Khel/GGPS Kurai |
| 301 | 2411/10 | Fahneeda Akhtar | Muhammad Khan | GGPS Awan |
| 302 | 2517/10 | Sumaira Rani | Mulazim Hussain | GGPS Kiri Malang |
| 303 | 2522/10 | Farzana Bibi | Abdur Rehman | GGPS Ikhtiar Khel/GGPS Kiri Pawanda |
| 304 | 2531/10 | Fozia Rehman | Fazal Rehman | GGPS Chah Jagu Wala |
| 305 | 2532/10 | Zulekha Bibi | Muhammad Hakim | GGPS Kachi Paid Khan |
| 306 | 2535/10 | Rozeena | Muhammad | GGPS Khudaka |
| | | | | GGPS Teekar |

[Signature]
Divisional Education Officer
121 Paroa, U.P. Khan

[Signature]
MANWARAWAN
Advocate

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| | | | | |
|-----|---------|-------------------|----------------------------|--|
| 467 | Nil | Rehana Bibi | Abdul Hanan | Kulachi No:2 GGPS Gara Muhammad Akber |
| 468 | Nil | Paras Rasheed | Rasheed Ahmed | GGPS Musa Khar |
| 469 | Nil | Nosheen Bibi | Haji Muhammad Ramzan | GGPS Jhoke Khallar |
| 470 | Nil | Nosheen Kanwal | Muhammad Khan | GGPS Jhoke Mossu |
| 471 | 2616/10 | Irum Gul | Shamsud Din | GGPS Gara Bakhtai |

EXECUTIVE DISTRICT OFFICER
(E&SE) D.I.Khan

Ends No. 1045-15191

Dated D.I.Khan the 08/12/2012

Copy for information to:

1. P.S to Secretary (E&SE) KPK.
2. P.A to Director (E&SE) Peshawar.
3. District Coordination Officer D.I.Khan.
4. District Officer (E&SE) (M/F) D.I.Khan
5. All concerned.

[Signature]
Secy. District Edu. Officer
D.I. Khan, D.I.Khan

EXECUTIVE DISTRICT OFFICER
(E&SE) D.I.Khan

[Signature]
MAJWAR AWAN
Advocate

The Director,
Elementary & Secondary Education
Khyber Pakhtun Khaw
Peshawar.

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1-44

Through: Proper Channel.

Subject: DEPAETMENTAL APPEAL AGAINST ILLEGAL VERBAL
TERMINATION FROM SERVICE

Respected Sir,

The appellatant humbly submits as under:

1. That the appellatant being eligible and having required qualification was appointed by the Executive District Officer, Elementary & Secondary Education D.I.Khan after due course/ process of recruitment.
2. That, after furnishing Medical Fitness Certificate and taking over the charge of said post, the appellatant started performing her official duties regularly with due diligence, care devotion and to the satisfaction of superiors and leave no stone unturned in performance of his/her official duties.
3. That during the period the services rendered by the appellatant remained up-to the mark and no deficiency, inefficiency, negligence or irregularity of the appellatant was reported.
4. That, due to the political influence, some inquiries were conducted and during course of such inquiries appellatant was no served with any notice, whatsoever, not appellatant was given any opportunity of hearing. Thus, the appellatant condemned un-heard and thereafter, the DCO D.I.Khan terminated the teachers being appointed in the year 2007 and the E.D.O D.I.Khan Elementary & Secondary Education D.I.Khan.
5. That feeling aggrieved from the illegal termination orders of E.D.O D.I.Khan, the appellatant filed an appeal along with others before learned Service Tribunal, who after hearing the counsel for the parties, accepted the appeal of some appellatants on 27-10-2011 with the direction that qualification of the appellatants have been checked.
6. That secretary education conducted so called inquiry, inviting the appellatant in circuit house D.I.Khan and Clerk of education department provided a Proforma, which were filled by the appellatant and submitted it to the same clerk. The Proforma contain inquiry regarding qualification of the appellatant in which no show cause was given nor it contained charges of allegation on the appellatant.
7. That secretary education after inquiry, recommended termination of all teachers which were appointed in 2007 and on such recommendation E.D.O D.I.Khan verbally informed the court during the proceeding of implementation of the judgment that he terminated the all the teacher who were present in the inquiry but did not issue any termination order nor same was received to the appellatant. Feeling aggrieved from the

M. Anwar Kawan
M. ANWAR KAWAN
Advocate

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situation, the appellant filed writ petition regarding issuance of termination order, in which direction was issued by the Hon.ble court on 14.05.2015 that termination orders passed by the department be provided to the petitioners. It is also evident from the combined termination orders of the 1691 teachers that it was not signed by the EDO but stamped signatures were shown on the termination orders. The combined termination order has no sanctity in eyes of law. It is also evident from the department record that termination orders were not issued to the appellant.

8. That feeling aggrieved from the illegal termination order, appellant filed this departmental appeal.
9. That education official did not issue any charge sheet, nor issue any show cause notice but provided a Performa which did not contained any allegation regarding inquiry. The inquiry was conducted only for checking of qualification of all civil servants which were terminated.

In wake of above submissions, it is respectfully prayed that on acceptance of instant appeal, the termination orders may please be set aside and appellant may graciously be re-instated with all back/ future benefits.

8/6/15

رحمانہ گل بیلیم خود
Your Honorable Appellant

رحمانہ گل بیلیم خود محمد الحق
سکنہ پیار پور ڈیڑھ ایٹنہ پیار پور

Anwar
MANWAR AWAN
Advocate

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No. 1203 For Insurance Notices see reverse. Rs. 3 Ps. 3
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgment is due.

Received a registered* addressed to _____ Date-Stamp

*Write here "letter", "postcard", "packet" or "parcel"
Initials of Receiving Officer with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

If insured. } Insurance fee Rs. _____ Ps. _____ (in words) } Weight _____ Kilo _____ Grams _____

Name and address of sender _____

No. 1207 For Insurance Notices see reverse. Rs. Ps.
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgment is due.

Received a registered* addressed to _____ Date-Stamp

*Write here "letter", "postcard", "packet" or "parcel"
Initials of Receiving Officer with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

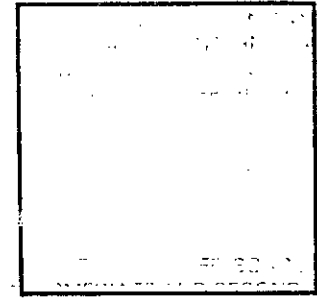
If insured. } Insurance fee Rs. _____ Ps. _____ (in words) } Weight _____ Kilo _____ Grams _____

Name and address of sender _____

S.NO. 1722

Roll No 69231

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ



Board of Intermediate and Secondary Education

BANNU N-W.F.P. (PAKISTAN)
INTERMEDIATE EXAMINATION
~~Pre-Medical/Pre-Engineering~~/Humanities Group
Session Annual 2001

THIS IS TO CERTIFY THAT RUKHSANA GUL

Daughter of

MAHMOOD UL HASSAN

and a student of GOVT. GIRLS HIGHER SECONDARY SCHOOL PAHARPUR, D.I.KHAN


Registration No. 04-BB/GPRHD-99 **has passed the Intermediate Examination**

of the Board of Intermediate and Secondary Education, Bannu as a Regular Candidate.

She obtained 548 **Marks out of 1100.**

and has been placed in Grade **Representing** FAIR

Prepared on, Thursday, September 06, 2007


Asstt. Secretary

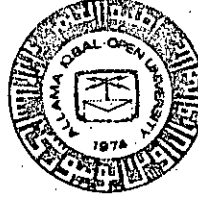
This certificate is issued without alteration or erasure


SECRETARY

M. ANWAR AWAN
Advocate

Serial No. A - 148535

Allama Iqbal Open University, Islamabad



Mr/Ms. RUKHSANA GUL son / daughter of MAHMOOD UL HASSAN

Registration No. 00-INDN-0311 Roll No. J-6178364 has completed all the requirements of

Primary Teaching Certificate

in Spring/Autumn 2001 semester on 19TH JAN, 2002

| <u>Code/Course</u> | <u>Marks obtained</u> | <u>Code/Course</u> | <u>Marks obtained</u> |
|--|-----------------------|--|-----------------------|
| 611-Workshop & Teaching Practice | <u>57</u> /100 | 617-Teaching of Urdu | <u>54</u> /100 |
| 613-Principles of Education | <u>54</u> /100 | 618-Teaching of Mathematics | <u>62</u> /100 |
| 614-Educational Psychology | <u>57</u> /100 | 619-Teaching of Science & Physical Education | <u>57</u> /100 |
| 615-School Organisation | <u>67</u> /100 | 620-Teaching of Islamiat & Social Studies | <u>51</u> /100 |
| 616-School, Community & practical Arts | <u>59</u> /100 | | |

He/She has secured 59 % marks and cumulative grade B.

Prepared by: MS

Checked by: [Signature]

[Signature]

Controller of Examinations

[Signature]
M.A. ANWAR
ADVOCATE

48



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DETAILED MARKS CERTIFICATE

M.A ISLAMIYAT FINAL

Held in April-May 2009

Session 2008/Annual

Roll No: 1886

Name: Rukhsana Gul

The Candidate secured the following marks & has been placed in 2nd Division.

| SUBJECT | Total No of Marks Allotted | MARKS OBTAINED | |
|------------------------|----------------------------|----------------|------------------------------------|
| | | In Figure | In Words |
| Al-Fiqah | 100 | 55 | Fifty Five |
| Usool-e-Fiqah | 100 | 72 | Seventy Two |
| Taqabli Adyan | 100 | 52 | Fifty Two |
| Islam and Other System | 100 | 42 | Forty Two |
| Essay | 100 | 40 | Forty |
| Viva Voce | 100 | 60 | Sixty |
| Aggregate Previous | 300 | 260 | Two Hundred and Sixty |
| Total Marks | 1100 | 581 | Five Hundred and Eighty One |

The Examination was taken as a Whole

Result Declaration Date 06/10/2009

Anwar
ANWAR
ADVOCATE

Additional Controller of Examinations
City Campus, Gomal University,
Dera Ismail Khan.