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BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 291/2009



Date of Institution. ... 29.08.2008
Date of Decision ... 08.10.2009

Mr. Jehangir Khan, Subject Specialist Pak Studies,
G.H.S.S Panian, Haripur. ... (Appellant)

VERSUS

1. The Chief Secretary, NWFP Peshawar.
2. The Secretary Education (E&S), NWFP Peshawar.
3. The Director Education (E&S), NWFP Peshawar. (Respondents)

APPEAL U/S 4 OF THE SERVICE TRIBUNALS ACT 1974 AGAINST THE ORDER DATED 09.6.2008 RECEIVED BY THE APPELLANT ON 30.7.2008 WHEREBY HIS DEPARTMENTAL APPEAL FOR PROMOTION TO BPS-17 W.E.F. 31.8.2000 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

MR. MUHAMMAD ASIF YOUSAFZAI,
Advocate. ... For appellant.

MR. ZAHID KARIM KHALIL,
Addl. Government Pleader, ... For respondents.

MR. QALANDAR ALI KHAN, ... CHAIRMAN
MR. ABDUL JALIL KHAN, ... MEMBER.

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN.- Mr. Jehangir Khan, appellant, having the qualification of Master in Pak-Studies, was working as SET in the Education Department. In the year 1999, the department considered cases of SETs for promotion to Subject Specialists posts (BPS-17) and on 31.8.2000 adjusted other SETs as Subject Specialists on acting charge basis in their own pay and scale while ignoring the appellant from such adjustment. The rules for promotion of Subject Specialists were initially notified on 09.5.1994 whereby 80% quota was reserved for initial recruitment while remaining 20% by promotion which was later on amended on 15.1.1999 by distributing 50% by promotion and 50% by initial recruitment. The SETs earlier adjusted as Subject Specialists were regularly promoted vide notification dated 27.5.2003. The appellant claimed his eligibility for promotion on the ground of being more qualified than those who were promoted as Subject Specialists and that vacancies existed at that time but his case was not

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considered for promotion against the existing vacancy. He, therefore, filed Writ Petition before the Hon'ble Peshawar High Court which was decided on 11.10.2006 with direction to the department to consider the appellant for promotion as Subject Specialist in Pak-Studies (BPS-17). In the meantime, the other SETs, promoted as Subject Specialists, also filed appeals before the N.W.F.P Service Tribunal which were decided in their favour and they were held entitled to promotion with effect from 31.8.2000 instead of 27.5.2003. Appeal was also filed in the August Supreme Court of Pakistan which held the appellant in the appeal entitled to regular promotion w.e.f. 31.8.2000 with all seniority and service benefits. In his instant appeal, the appellant has alleged that he was promoted as Subject Specialist (BPS-17) on 01.1.2008 with immediate effect, against which he filed departmental appeal claiming therein promotion w.e.f. 31.8.2000, but the same was rejected on 09.6.2008, copy whereof was received by him on 30.7.2008, hence this appeal, on the grounds, inter-alia, that the appellant was ignored from the promotion in default on his part when he was eligible for promotion and vacancies were available against which he could be promoted.

2. The respondents No. 1 to 3 appeared in response to notices issued for their appearance and furnished written reply/comments, wherein, they resisted the appeal on the ground that the department promoted SETs on the basis of seniority-cum-fitness against 50% existing vacancies. The respondents further contended that the appellant lodged Writ Petition in the Peshawar High Court challenging the promotion of the Subject Specialists (Pak-Studies) on the ground of their eligibility and after court decision on 11.10.2006 he was accordingly promoted. The respondents alleged that the appellant was not considered for promotion as Subject Specialist (Pak-Studies) due to non-availability of vacancies.

3. We have heard arguments of the learned counsel for the appellant and learned A.G.P and have gone through the record with their assistance.

4. It is now well settled, as laid down in cases reported as 1985 SCMR 1158 and 1997 SCMR 515 (Supreme Court of Pakistan), that a right to promotion is accrued to an eligible civil servant when a vacancy for promotion becomes available. In this case, though the respondents have denied existence of vacancies after promotion of other SETs, the appellant has produced a statement showing availability of 39 vacancies of Subject Specialists in Pak-Studies in May, 2003, which has not been seriously disputed by the respondents.

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5. Admittedly, the appellant was promoted as Subject Specialist (BPS-17) on regular basis, but with immediate effect, vide notification dated 01.1.2008 in pursuance of the decision of the Hon'ble Peshawar High Court in the Writ Petition of the appellant and in accordance with the recommendation of the Departmental Promotion Committee. As such, there was no dispute regarding the eligibility of the appellant to promotion as Subject Specialist. On the other hand, it was the appellant who challenged the eligibility of the other SETs for promotion before the High Court and then in the august Supreme Court of Pakistan, but could not succeed in securing a favourable order from the Hon'ble High Court, and his Petition for leave to appeal was also dismissed by the august Supreme Court of Pakistan on 04.5.2009.

6. In any case, if vacancies were available and the appellant was eligible for promotion, then he had a right to be considered for promotion against the available vacancy, the denial whereof certainly accrued cause of action in favour of the appellant against the department which was rather to blame for causing delay in the promotion case of the appellant.

7. Consequently, the appeal is accepted with direction to the respondents to antedate the promotion of the appellant to the date on which the vacancy was available for him on the basis of his eligibility for promotion, leaving the parties to bear their own costs.

ANNOUNCED
08.10.2009

Ed/- Babar Ali Khan
Chairman
Ed/- Abdul Jalil Khan
Member

Certified
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 3-4-2014
 Number of Applicants 1200
 Copies 8
 Urgent 2
 Total 10
 Name [Signature]
 Date of Copy 3-4-2014
 Date of Presentation 3-4-2014

SENIORITY LIST OF SETS FOR PROMOTION TO SENIOR SPECIALIST(S) (A.P.)

Sr. No	Name/Designation and address	Date of Birth	Date of Entry into Service	Date of App. Appr. against SET Post	Subject in	Remarks
1	Mr. Iqbal Qadir GNS Hari Narsahra	11/34 Nars		30/9/83	Pak Studies	
2	Mr. Abdullah Shah GHS, Manara Peshawar	13/2/60 Pesh		12/7/85	Pak Studies	
3	Mr. Abbas Gul GHS Taseer Bazar Mardan	12/1/50 Mard		26/10/86	Pak Studies	
4	Mr. Mahmood Zameer Khan GHS, Pardan Haripur	12/4/59 Harip		11/11/86	Pak Studies	
5	Mr. Suhrah Khan GHS, Pariza Mardan	12/30 Mardan		20/9/87	Pak Studies	
6	Mr. Muhammad Nawab GHS, No.1 Kohat	15/3/52 Karak		15/10/87	Pak Studies	
7	Mr. Akhtar Hussain GHS, Pir Saiee Jan Kot NWA	2/11/61 Fardhu		12/10/88	Pak Studies	
8	Mr. Abdul Qayum Khan GHS No. 2, Lakki	23/8/62 Lakki		19/10/88	Pak Studies	
9	Mr. Inyat Ullah GHS Perove D.I. Khan	17/8/66 D.I. Khan		1/12/88	Pak Studies	
10	Mr. Muhammad Sadiq SET, GHS, Nudera Peshawar	6/4/61 Peshawar		8/12/88	Pak Studies	
11	Mr. Muhammad Raftiq GHS, Dhodialchial	22/10/59 Mianar		19/9/89	Pak Studies	
12	Mr. Muhammad Aslam GHS Darwesh Haripur	3/9/50 Haripur		20/9/89	Pak Studies	
13	Mr. Zahid Hussain AEO Orakzai	9/2/65 Orakzai		26/11/89	Pak Studies	
14	Mr. Gul Aslam GHS, Domal Bannu	15/7/64 Bannu		19/2/90	Pak Studies	
15	Mr. Iqbal Ahmad SET, GHS, Kotli Balan Mins	14/61 Mins		27/11/90	Pak Studies	
16	Mr. Saeed Ahmad GHS Trangri Bala Mins	15/4/65 Mins		27/11/90	Pak Studies	
17	Mr. Sabir Hussain Shah GNS Chari Habbulullah	5/11/50 Mins		11/1/91	Pak Studies	
18	Mr. Khadim Hussain Shah GNS Tori Abd	28/1/43 A. Abd		2/2/91	Pak Studies	
19	Mr. Aman Zeb Khan GHS, Sari Bala Dir	17/2/66 Dir		10/11/94	Pak Studies	
20	Mr. S. Muhammad Tariq Shah GHS, No. 1 Pesh. Ctr.	15/4/69 Chars		10/11/94	Pak Studies	
21	Mr. Muhammad Daraz Khan GHS, No. 1, Kohat	12/2/68 Karak		10/11/94	Pak Studies	
22	Mr. Chen Zeb GHS, Bagh A. Abd	11/64 A. Abd		10/11/94	Pak Studies	
23	Mr. Jamil Ahmad CCNHS D.I. Khan	1/6/69 D.I. Khan		10/11/94	Pak Studies	
24	Mr. Muhammad Sadiq GHS, Jalaka Mala ORK	11/3/68 F. Bannu		10/11/94	Pak Studies	
25	Mr. Amir Hussain GNS, Chari, Habbulullah, Mins	20/3/63 Mins		10/11/94	Pak Studies	
26	Mr. Iqbal Ali Shah GHS, Bannu	21/10/69 Bannu		10/11/94	Pak Studies	
27	Mr. Akhtar Wahed GHS, No. 3, Kohat	10/10/48 Kohat		10/11/94	Pak Studies	
28	Mr. Tayyib Shahzad GHS, No. 2, Haripur	13/2/68 M. Agency		10/11/94	Pak Studies	
29	Mr. Jehanzeb GNS, Manakassai Haripur	31/3/63 Haripur		10/11/94	Pak Studies	
30	Mr. Wali Ullah GNS, Shakar Kail Karak	4/3/60 Karak		23/5/95	Pak Studies	
31	Mr. Muhammad Aizul GHS, Gunba Kohat	28/8/53 Kohat		23/5/95	Pak Studies	
32	Mr. Muhammad Rizq GCS, Kohat	7/9/51 Kohat		23/5/95	Pak Studies	

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Director
Director of Schools
Director of Technical Education
Kohat

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Remarks
Papers
Aux M

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37	4632	Mr. Muhammad Yunus GHS, Nami Bala A-Abad	10.11.84	25.11.79	25.8.05	Pak Studies
38	4700	Mr. Muhammad Mushtaq GHS Lab Manshera	3.5.82	27.4.72	25.8.95	Pak Studies
39	4741	Mr. Iqbal Muhammad GHS, Peshawar Charadda	30.6.84	12.9.87	25.8.95	Pak Studies
40	4826	Mr. Gulam Iqbal GHS, Kohat	25.4.69	20.11.86	25.8.95	Pak Studies
41	4891	Mrs. Zahida Khan GHS, Peshawar	25.8.95	24.10.81	25.8.95	Pak Studies
42	4923	Mr. Amir-ul-Haq GHS, Pargai Malakand	5.5.85	1.10.89	25.8.95	Pak Studies
43	5011	Mr. Muhammad Akbar ADO Haripur	4.1.86	14.12.74	25.8.95	Pak Studies
44	5114	Mr. Hamid Hussain GHS, Ibrahaim Zai Hanju	11.3.82	4.10.87	25.8.95	Pak Studies
45	5139	Mr. Abdul Hamid GHS, Ghura Banda Dir	19.8.87	31.3.90	25.8.95	Pak Studies
46	5167	Mr. Ahmad Saeed GHS, No. 1 Kohat	6.1.83	28.5.93	25.8.95	Pak Studies
47	5201	Mr. Alanzab Khan GHS, Sherpao Charadda	16.11.80	10.9.89	25.8.95	Pak Studies
48	5207	Mr. Muhammad Tahir GHS, Matabat, Abad Mardan	15.4.86	1.12.90	25.8.95	Pak Studies
49	5316	Mr. Salar Ismail Tariq GHS, Chokara Karak	15.11.83	24.5.95	25.8.95	Pak Studies
50	5339	Mr. Shaikat Rehman GHS, Bultang Kohat	10.3.69	24.5.95	25.8.95	Pak Studies
51	5353	Mr. Periz Khan GHS, Amnawar Bunir	20.6.85	24.5.95	25.8.95	Pak Studies
52	5354	Mr. Muhammad Nabi GHS, No. 2 Peshawar K. Agri	13.3.85	27.10.94	25.8.95	Pak Studies
53	5371	Mr. Farhan Khan ADO, Haripur	25.4.84	21.10.86	25.8.95	Pak Studies
54	5372	Mr. Hayat Ullah GHS, Toor Kaki Bannu	5.6.84	23.4.85	25.8.95	Pak Studies
55	5416	Mr. Muhammad Amir Khan GHS, Sangar Mianst	25.1.85	1.12.82	25.8.95	Pak Studies
56	5481	Mr. Manzoor Ahmad GHS, Mughjan Abad	10.1.84	10.10.84	25.8.95	Pak Studies
57	5486	Mr. Muhammad Yaqoob GHS, Bari Bala A-Abad	25.7.84	22.10.77	25.8.95	Pak Studies
58	5491	Mr. Muhammad Zubair GHS, NAMI, Pol. Mankhera	11.4.89	13.9.80	25.8.95	Pak Studies
59	5492	Mr. Parvez Ali GHS, Dheri Saqar Chan Haripur	11.1.88	3.10.82	25.8.95	Pak Studies
60	5626	Mr. Iftinad GHS, Kohat	15.2.87	16.11.82	25.8.95	Pak Studies
61	5670	Mr. Muhammad Iqbal GHS, Kalag Haripur	15.6.85	18.5.82	25.8.95	Pak Studies
62	5703	Mr. Nabi Ullah GHS, Zorai Shakh-Abad Kohat	19.7.69	16.10.85	25.8.95	Pak Studies
63	5731	Mr. Dost Muhammad ADO Peshawar	15.2.85	11.2.87	25.8.95	Pak Studies
64	5741	Mr. Muhammad Tariq GHS, Chankani Peshawar	11.2.85	11.2.87	25.8.95	Pak Studies

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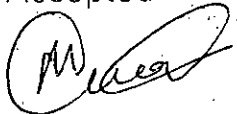
وکالت نامہ

بعدالت خیر بخش خان سرورس ٹرینسول پشاور مینگورہ سول
 پتہ حیف منڈل ٹریڈنگ کمپنی خیر بخش خان مینگورہ سول
 منجانب دعویٰ

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام کے لیے مینگورہ سول
 مشتاق احمد خان ایڈووکیٹ پشاور کو بذیل شرط و کیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو
 حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ و کیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر
 پیشی پر من مظهر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی
 طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا
 پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز
 تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظهر کو کوئی نقصان پہنچے تو اس کی ذمہ داری اس کے واسطے کسی
 معاوضہ کے ادا کرنے یا بخٹانہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختمہ صاحب
 موصوف مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب موصوف کو عرضی دعوے و جواب دعویٰ اور درخواست اجراء ڈگری و انظر
 ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجرا کرانے اور ہر قسم کارروائی
 وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد ثالثی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ
 دینے کا بھی اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری، یکطرفہ درخواست حکم انتہائی یا ترقی یا گرفتاری قبل
 از اجراء ڈگری بھی موصوف کو بشرط ادا ایگی علیحدہ وثائق پیروی کا اختیار ہوگا، اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا
 یا مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے
 یا اپنے ہمراہ مقرر کریں، اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہوں گے، جیسے کہ صاحب موصوف کو
 حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا وہ صاحب موصوف کو اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور
 ایسی صورت میں میرا کوئی مطالبہ بھی۔ اسلاف کے برخلاف نہیں ہوگا۔ لہذا دیانتا کہ سدر ہے۔
 مورخہ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Attested & Accepted



Mushtaq Ahmed Khan Advocate

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الع

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

No. 1697 /ST, Dated 13-10 /2016

To,

Mr. Safeer Khan,
Moharrir Bench-I
Service Tribunal, Peshawar.

Subject: WARNING

This Tribunal was pleased to order for notices against the appellant and his counsel in Service Appeal No. 800/2011 titled Pervez Khan-Vs-Secretary Education fixed for hearing on 06.10.2016. You were bound to comply with the said order by sending notices to the appellant and his counsel. But you failed to do so resultantly, the Hon'ble Chairman took a serious view regarding non-compliance of the above orders and directed for issuance of warning.

You are, therefore, strictly warned to be carful in the performance of your official duties failing which severe action will be taken against you under the law.


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

عدالت صابہ فیروز خان خواجہ سروس ٹریبونل لٹیاؤں کمیٹی کورٹ سوات

سروس اپیل نمبر 800/2016

۲۲ اکتوبر تا ۲۳ ستمبر

پروٹیکشن خان بنام حکومت وغیرہ

عدلیہ مندرجہ 4 تا 209 کی تفصیل معمولی اور عام طریقے

سے ہونی مشکل ہے لہذا عدلیہ کو بذریعہ اشتہار عدالت کو مطلع کیا جاتا ہے کہ وہ فوراً 2/12/2017 کو اصلتا وکالتا حاضر عدالت عدالت سروس ٹریبونل کمیٹی کورٹ سوات ہو کر مقدمہ ہذا کی پیروی میں غیر حاضر کی صورت میں ان کے خلاف یکطرفہ کارروائی عمل میں آئی جائے گی۔ ثبت و دستخط عدالت آج 19/12/2016 کو جاری

(عدلیہ مندرجہ 4 تا 209 کی فہرست لف ہے)

19/12/16

سروس ٹریبونل لٹیاؤں

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

NO 2106 /ST

DATED 19/12/2016


To,

The Editor,
Daily Aaj.

Subject;- COURT NOTICE

I am directed to forward herewith a court notice in appeal No. 800/2016 Pervez Khan VS Secretary , Education to Govt of Khyber Pakhtunkhwa and others in your newspaper.

I am further directed to request that the publication charges should be recovered from the appellant or his counsel and receipt of amounts and cutting of newspaper may also be sent to this Tribunal on or before 10/02/2017


REGISTRAR
KPK SERVICE TRIBUNAL
PESHAWAR

BEFORE THE CHAIRMAN SERVICE TRIBUNAL KHYBAR
PAKHTUN KHWA PESHWAR AT MINGORA .

Parvaiz Khan

Versus

GOVT:OF KPK THROU
CHIEF SECRETARY & OTHERS.

APPEAL NO 800/2016

APPLICATION FOR CONDONATION OF SERVICES FEE IN CASE OF
RESPONDENT NO 4 TO 209 & SUBMISSION OF PUBLICATION FEE.

Respectfully she weth,

1-That the title appeal is pending before this worthy Tribunal and Direction have been given to the appellant to submit security Fee within ten days on 08/12/2016.

2-That there are 205 private respondents in the aforesaid appeal and appellant is ready to provide Fee for publication in the Newspaper for information to the respondents hereinabove mentioned.

It is therefore kindly requested that on acceptance of this application, Direction may be given to the appellant for submission of Fee for publication in the National Newspaper And Security for the respondents may kindly be condoned.

Petitioner
Through

Dated 08/12/2016.



Mushtaq Ahmad Khan
Advocate High Court

*Notice through publication
in Daily Newspaper "Aj" at the expenses of appellant
be issued for private respondents
for the date fixed of 15.12.16*

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Service Appeal No: 800/2016

Parvaiz Khan SS(Pak Studies)BPS-17, GHS Dewana Baba, Bunir: ..Appellant

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa & others.

.....Respondents

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No: 1-3.

Respectfully Sheweth :-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action/locus standi .
- 2 That the instant Service Appeal is badly time barred.
- 3 That the Appellant has concealed material facts from this Honorable Tribunal.
- 4 That the instant Service Appeal is based on mala fide intentions.
- 5 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 6 That the instant Service Appeal is against the prevailing law & rules.
- 7 That the Appellant has been treated as per law, rules & policy.
- 8 That the appeal is not maintainable in its present form.
- 9 That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 10 That the instant Service Appeal is barred by law.
- 11 That the Appellant is not competent to file the instant appeal against the Respondents.
- 12 That the Notification dated 04/7/2016, is legally competent & is liable to be maintained. (Annexure-A).
- 13 That the promotion of the Appellant has been antedated as per his own prayer wef 17/2/2003, in view of the judgment dated 22/12/2008, rendered in Service Appeal No: 738/ 2008, Passed by this Honorable Tribunal.

ON FACTS

- 1 That Para-1, needs no comments, being pertain to the service record of the appellant.
- 2 That Para-2 is correct to the extent that the appellant has been rejected for promotion against the SS(Pak: Studies) BPS-17 Post due to his ineligibility for promotion. Hence he filed a Service Appeal No: 444/2005 under the title, Parveez Khan VS Secretary Education & others which was decided vide judgment dated 25/11/2006, with the direction to consider the case of the appellant for promotion. (Copy of the judgment dated 25/11/2006 is Annexure-A).

- 3 That Para-3 is correct to extent that in pursuance of the mentioned judgment dated 25/11/2006, the Respondent Department has promoted the appellant against the SS(BPS-17) Post vide Notification dated 01/01/2008 with immediate in view of the Appointments, Promotion & Transfer Rules, 1989. Hence aggrieved from the said Notification dated 01/01/2008, the appellant has challenged the said Notification vide Service Appeal No: 738/2008 under the titled Parveez Khan VS Govt., before this Honorable Tribunal which was decided vide judgment dated 22/12/2008 with the directions to grant promotion to the appellant from the date of availability of vacancies of the Respondent Department SS(Pak /Study) BPS-17. Therefore, in compliance of the said judgment dated 22/12/2008, the Respondent Department has antedated the promotion of the appellant wef 17/2/2003, vide Notification dated 12/11/2012. (Copies of the Notification dated 01/01/2008, judgment dated 22/12/2008 are attached as Annexures B, C & D).
- 4 That Para-4 is incorrect & denied on the grounds that the appellant has correctly been Placed in the seniority list of the SS(Pak/Studies) by the Respondent Department. Hence, this Para is liable to be rejected in favour of the Respondents in the interest of justice.
- 5 That Para-5 is correct to the extent that the appellant has filed a Service Appeal No: 1460/2013, under the titled Parveez Khan VS Secretary before this Honorable Tribunal which was decided vide judgment dated 09/2/2016, with the directions to the Respondent Department decide the pending Departmental Appeal of the appellant as per Law, rules & policy. (Copy of the judgment dated 09/2/2016 is Annexure-E).
- 6 That Para-6 is incorrect & denied. The Departmental Appeal of the appellant has been decided vide the impugned Notification dated 04/7/2016 by the Respondent as per directions of this Honorable Service Tribunal. Hence, the instant Appeal of the appellant is liable to be dismissed on the following grounds inter alia :-

ON GROUNDS

- A Incorrect & not admitted. The impugned Notification dated 04/7/2016 is within legal sphere & is liable to be maintained in favour of the Respondent Department.
- B Incorrect & not admitted. The act of the Respondent Department with regard to the grant of antedation wef 17/3/2003 is within legal sphere as well as in view of the clear cut directions rendered vide judgment dated 21/12/2008 of this Tribunal. Therefore, the plea of the appellant regarding the grant of promotion wef 31/8/2000 is without any legal justification having no aspect of discrimination towards to the appellant by the Respondents.
- C Incorrect & not admitted. The appellant has been treated as per law, rules & criteria in view of his correct & actual seniority position against the SS(Pak/Studies) BPS-17 Post by the Respondent Department, which is not only legal but is also liable to be maintained in favour of the Respondent Department.
- D Incorrect & Denied. The seniority list of the Respondent Department is within law, rules & set criteria. Hence, liable to be maintained in favour of the Respondents.
- E Incorrect & not admitted. The stand of the appellant at such a belated stage is making no justification despite the fact that the Respondent Department has acted as per law, rules & prescribed criteria for seniority in the instant case.
- F Incorrect & denied. The plea of the appellant is illegal & without justification. Hence deserves to be rejected in favour of the Respondents No: 1-3.

G Legal. However the Respondents further seek leave of this Honorable Tribunal to submit additional grounds, record & case Law at the time of arguments on the date fixed.

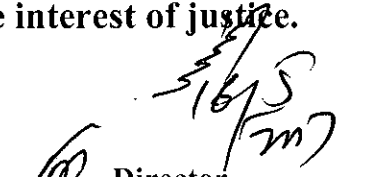
In view of the above made submissions, it is most humbly prayed that on the acceptance of this reply, the appeal of the appellant may kindly be dismissed in favour of the Respondents No: 1-3 in the interest of justice.

Dated / /2017



Secretary

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



Director
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 3)

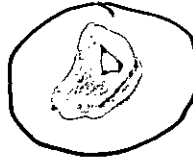
AFFIDAVIT

I, Hamedur Rehman Asstt: Director (Litigation-II) E&SE Department do hereby solemnly affirm and declare on oath that the contents of the instant Parawise Comments are true & correct to the best of my knowledge & belief.



Deponent

Annex-A



1



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

No.SO(S/M)E&SED/4-26/2013/Pervez Khan.
Dated Peshawar the July 04, 2016

Annex "A"

To

Mr. Pervez Khan,
Principal (BS-18), Govt. Higher Secondary School Dewana Baba,
District Buner.

4/7/16

Subject: - APPEAL AGAINST THE FINAL SENIORITY LIST OF S.S/HM MALE (BS-17) OF ELEMENTARY & SECONDARY EDUCATION DEPARTMENT STOOD ON 13-02-2013.

WHEREAS you were appointed as SET (Sc.) on 24-05-1995 in the Education Department. You were promoted to the post of Subject Specialist Pak Study (BS-17) GHSS Batara District Buner on regular basis on the recommendations of the Departmental Promotion Committee vide notification dated 01-01-2008.

2. AND WHEREAS you preferred appeal No. 738/2008 in the Khyber Pakhtunkhwa Service Tribunal. The service Tribunal announced its judgement on 22-12-2008 and your promotion was antedated w.e.f 17-02-2003 instead of 01-01-2008 as per your prayer before the Court vide notification dated 12-11-2012.

3. AND WHEREAS Mr. Jehangir Khan, Subject Specialist Pak Study (BS-17) GHSS Pania District Haripur preferred appeal No. 291/2009 in the Khyber Pakhtunkhwa Service Tribunal. The Service Tribunal announced its judgement on 08-10-2009 and his promotion was antedated w.e.f. 31-08-2009 instead of 01-01-2008 vide corrigendum dated 20-10-2011.

4. AND WHEREAS your previous departmental representation has already been disposed of vide this Department letter dated 19-12-2013.

5. AND WHEREAS the Service Tribunal Khyber Pakhtunkhwa, vide its judgement dated 02-02-2016 in appeal No.1460/2013 remanded your case to the Department with the direction to re-decide the matter in light of facts mentioned therein strictly on merit within a period of three months after receipt of the judgment.

6. NOW THEREFORE, Your Departmental representation was again considered at appropriate forum as per relevant law/ rules/ policy and the same is rejected/ regretted on the following grounds:-

- Your promotion to Subject Specialist Pak Study (BS-17) has already been antedated as per your own prayer w.e.f 17-02-2003 instead of 01-01-2008 in the light of Court decision dated 22-12-2008.
- Your re-antedation of promotion again to SS (BS-17) is against Law, policy and rules.
- You were placed in the seniority list of SS/ HM (BS-17) as stood on 13-02-2013 on proper place.
- Along with you, promotion of other three Subject Specialists was antedated w.e.f 17-02-2003 via same notification dated 12-11-2012 but none of them have challenged it in the court.
- As per present position of seniority list, 206 persons are lying between you and Mr. Jehangir Khan who are senior to you. In these circumstances, re-antedation of your promotion will infringe the legal right of 206 persons.
- You have no vested right of antedation of promotion for the second time.

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to:-

- The Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar w/r to his letter No.293/ dated 22-02-2016 in appeal No 1460/2013.
- The Director, E & S E Department Khyber Pakhtunkhwa, Peshawar w/r to his letter No.3027/AD(Lit-II) dated 18-04-2016.
- District Education Officer (Male), Buner.
- Section Officer (Lit-II), E&SE Department w/r to his letter dated 28-03-2016.
- PS to Secretary, E & S E Department Khyber Pakhtunkhwa, Peshawar.

attested & accepted

SECTION OFFICER (SCHOOLS MALE)

Annex-B

(2)

(3)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

EDO Schools & Literacy
Diary No. 213
Date 20/11/12
District Buner

ADDO (E) Secy
Sent to P...
for...
17/11/12

NOTIFICATION

Dated Peshawar the November 12, 2012

NO.SO(S/M) E&SE/1-5/Incharge SS/HM/2012: In pursuance of Court Judgement, the Competent Authority is pleased to promote the following Subject Specialist Headmasters (Male) on regular basis from the date of their incharge posting noted against them.

S.#	Name & Designation of Officers	Transferred/Adjusted as	Date of Regularization as incharge SS/HM
1.	MSPervaz Khan SET GHS Shabandi Buner.	Subject Specialist GHSS Battar Buner.	17.02.2003
2.	Mr Shamsoat Rehman SET GHSS Baramulla Kohat.	Subject Specialist GHSS Chowrlaki Kohat.	17.02.2003
3.	Mr. Muhammad Nabi SET GHS No. 1 Parachinar FATA.	Services placed at the disposal of FATA.	17.02.2003
4.	Ihsanullah SET GHSS Gulistan Mankand.	I/C SS GHSS Takar Mardan.	17.02.2003

2. No TA/DA is allowed.

SECRETARY

Endst: Endst NO & Date

Copy - Forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Directors, E&SE Khyber Pakhtunkhwa, Peshawar/FATA.
3. Chairman Khyber Pakhtunkhwa Service Tribunal Peshawar.
4. All District Accounts Officers Khyber Pakhtunkhwa/FATA.
5. Executive District Officer E&SE Khyber Pakhtunkhwa. Buner
6. PS to Chief Secretary, Khyber Pakhtunkhwa.
7. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
8. PS to Additional Secretary, E&SE Department.
9. Incharge E&SE E&SE Department.
10. Official concerned.
11. Official order file.

12/11/2012

Accepted and accepted

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

BETTER COPY

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GOVERNMENT OF KHYBER PAKHTUN KHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

NOTIFICATION

Dated Peshawar the November 12-2012

NO,SO (S/ME &D/1-5/Incharge SS/HM/2012 In pursuance of court Judgment competent Authority is pleased to promote the following Subject Specialist Head Masters (Male) on regular basis from the date of their in charge posting noted against them

S.#	Name & Designation of Officers	Transferred/Adjusted as	Date of Regularization as Incharge SS/HM
1	Mr Pervez Khan SET GHS Shalbandi Buner	Subject Specialist GHSS Battar Buner	17-02-2003
2	Mr Shaukat Rehman SET GHSS Kohat	Subject Specialist GHSS Chowrlaki Kohat	17-02-2003
3	Mr Muhammad Nabi SET GHS No 2 Parachinar FATA	Services placed at the disposal of FATA	17-02-2003
4	Mr Ihsan Ullah SET GHSS GUL Malakand	I/C SS GHSS Takar Mardan	17-02-2003

2. No TA/DA is allowed.

SECRETARY

Endst; No & Date

Copy forwarded to the;

1. Account General Khyber Pakhtunkhwa Peshawar.
2. Directors E&SE Khyber Pakhtunkhwa Peshawar/FATA
3. Chairman Khyber Pakhtunkhwa Service Tribunal Peshawar.
4. All District Accounts Officers Khyber Pakhtunkhwa Peshawar/FATA.
5. Exactive District Officer E&SE Khyber Pakhtunkhwa Buner.
6. Ps to chief Secretary, Khyber Pakhtunkhwa
7. Ps to Secretary E&SE Department Khyber Pakhtunkhwa
8. Ps to Additional Secretary, E&SE Department
9. Incharge EMISE E&SE Department
10. Officer concerned.
11. Office order file.

attested & accepted by (MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOL/MALE)

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 737/2008

Date of Institution. ... 23.05.2008

Date of Decision ... 22.12.2008



Mr. Shaukat Rahman, Subject Specialist (Pak. Studies)
Government Higher Secondary School, Kohat. ... (Appellant)

22/12/2008

VERSUS

1. The Chief Secretary, NWFP Peshawar.
2. The Secretary Education (S&L) NWFP Peshawar.
3. The Director Education (S&L), NWFP Peshawar. ... (Respondents)

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974 FOR ANTEDATED PROMOTION AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN NINETY DAYS.

MR. MUHAMMAD ASIF YOUSAFZAI,
Advocate. ... For appellant

MR. ARSHAD ALAM,
A.G.P ... For respondents.

MR. JUSTICE (R) SALIM KHAN,
MR. FAZLI RAHMANI, ... CHAIRMAN
... MEMBER.

JUDGMENT.

JUSTICE (R) SALIM KHAN, CHAIRMAN.-This judgment will dispose of appeals No. 737 of 2008, 738 of 2008 and 762 of 2008 by Shaukat Rahman, Pervez Khan and Muhammad Nabi appellants.

2. Shaukat Rehman contended that, with the qualification of M.A/M.Sc in relevant subject with B.Ed or Med, 50% posts of Subject Specialists were to be filled in by initial recruitment and 50% were to be filled

ATTESTED
EXAMINER
NWFP Service Tribunal
Peshawar

in by promotion from amongst SETs, ADOs and ASDOs, that in the working paper for the case of Pervez Khan, it was recorded that 21 posts were available. But the appellant was promoted as Subject Specialist on 1.1.2008 with immediate effect. He submitted departmental appeal which was not decided during the prescribed period. Hence the present appeal. Cases of Pervez Khan and Muhammad Nabi were also on the same lines.

3. The respondents contested all the three appeals. They contended that it was mentioned in the case of Pervez Khan that 21 posts were available but it did not mean that those posts were available from a very long time.

4. We heard the arguments and perused the record.

5. All the three appellants have been promoted with immediate effect. It has come on record that posts of Subject Specialists were available from certain time. The official respondents No. 1 to 3 did not clearly mention the dates from which the posts were lying vacant. The appellants contended that ratio of initial recruitment and promotion was 50% each. The copy of the rules dated 9.5.1994 produced by them, however, shows different ratio. This fact has also not been clarified by the respondents through their reply. The Working Paper in the case of Pervez Khan S.E.T shows that the ratio was 50% for initial recruitment and 50% for promotion. The number of promotees (66) and the number of balance share for promotion (21) were shown. It shows that the vacancies were not distributed one and one for each cycle of two vacancies, rather posts (174) were distributed as 87 for promotion and 87 for initial recruited. It has been clarified time and again that, without taking into consideration the number of persons already recruited or promoted, the incoming vacancies have to be distributed one by one, and seniority of the initially recruited and promoted persons is to be fixed in the same ratio. Reply to para (d) of the Grounds of Appeal shows that posts were available, at least, on 18.4.2007. But it is not clarified that when each of those 21 posts became vacant, and from which date each of the appellant was eligible for promotion.

EXAMINER
NWFP Service Tribunal

The record shows that the promotion of the appellants had to be antedated to the dates on which vacancies were available to them. The appellants prayed

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for antedating of their promotion, at least, to 17.2.2003, when their colleagues were promoted.

7. In above circumstances, we accept the present three appeals, with costs, and direct the official respondents to antedate the promotions of the appellants to the dates on which the vacancies were available for them when they were eligible for promotion. The respondents are also guided to act on the Cycles and Roster system of recruitment and promotion, by dividing each set of two vacancies, by reserving one vacancy for initial recruitment and the other vacancy for promotion.

ANNOUNCED
22.12.2008

J. J. Justice (C) Salim Usman
Chairman
Sd/- Fazli Kalamani
Member

~~CONFIDENTIAL~~
CONFIDENTIAL

Date of presentation of application	1-12-09
Number of marks	1200
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Total	1000
Date of copy	1-12-09
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Date of delivery of copy	1-12-09

Annex-D

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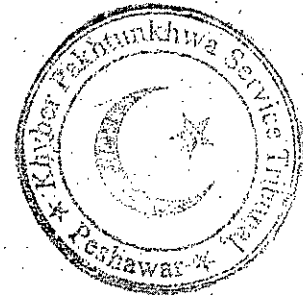
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Annex-D

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 291/2009



Date of Institution. ... 29.08.2008
Date of Decision ... 08.10.2009

Mr. Jehangir Khan, Subject Specialist Pak Studies,
G.H.S.S Panian, Haripur. ...

(Appellant)

8/10/2009

VERSUS

1. The Chief Secretary, NWFP Peshawar.
2. The Secretary Education (E&S), NWFP Peshawar.
3. The Director Education (E&S), NWFP Peshawar.

(Respondents)

APPEAL U/S 4 OF THE SERVICE TRIBUNALS ACT 1974 AGAINST THE ORDER DATED 09.6.2008 RECEIVED BY THE APPELLANT ON 30.7.2008 WHEREBY HIS DEPARTMENTAL APPEAL FOR PROMOTION TO BPS-17 W.E.F. 31.8.2000 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

MR. MUHAMMAD ASIF YOUSAFZAI,
Advocate.

For appellant.

MR. ZAHID KARIM KHALIL,
Addl. Government Pleader,

For respondents.

MR. QALANDAR ALI KHAN,
MR. ABDUL JALIL KHAN,

CHAIRMAN
MEMBER.

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN.- Mr. Jehangir Khan, appellant, having the qualification of Master in Pak-Studies, was working as SET in the Education Department. In the year 1999, the department considered cases of SETs for promotion to Subject Specialists posts (BPS-17) and on 31.8.2000 adjusted other SETs as Subject Specialists on acting charge basis in their own pay and scale while ignoring the appellant from such adjustment. The rules for promotion of Subject Specialists were initially notified on 09.5.1994 whereby 80% quota was reserved for initial recruitment while remaining 20% by promotion which was later on amended on 15.1.1999 by distributing 50% by promotion and 50% by initial recruitment. The SETs earlier adjusted as Subject Specialists were regularly promoted vide notification dated 27.5.2003. The appellant claimed his eligibility for promotion on the ground of being more qualified than those who were promoted as Subject S. s and that vacancies existed at that time but his case was not

Handwritten signature and stamp of the Chairman, Mr. Qalandar Ali Khan. The stamp is circular and contains the text 'Khwaja Pakhtunkhwa Service Tribunal, Peshawar'.

(8)

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considered for promotion against the existing vacancy. He, therefore, filed Writ Petition before the Hon'ble Peshawar High Court which was decided on 11.10.2006 with direction to the department to consider the appellant for promotion as Subject Specialist in Pak-Studies (BPS-17). In the meantime, the other SETs, promoted as Subject Specialists, also filed appeals before the N.W.F.P Service Tribunal which were decided in their favour and they were held entitled to promotion with effect from 31.8.2000 instead of 27.5.2003. Appeal was also filed in the August Supreme Court of Pakistan which held the appellant in the appeal entitled to regular promotion w.e.f. 31.8.2000 with all seniority and service benefits. In his instant appeal, the appellant has alleged that he was promoted as Subject Specialist (BPS-17) on 01.1.2008 with immediate effect, against which he filed departmental appeal claiming therein promotion w.e.f. 31.8.2000, but the same was rejected on 09.6.2008, copy whereof was received by him on 30.7.2008, hence this appeal, on the grounds, inter-alia, that the appellant was ignored from the promotion for a fault on his part when he was eligible for promotion and vacancies were available against which he could be promoted.

2. The respondents No. 1 to 3 appeared in response to notices issued for their appearance and furnished written reply/comments, wherein, they resisted the appeal on the ground that the department promoted SETs on the basis of seniority-cum-fitness against 50% existing vacancies. The respondents further contended that the appellant lodged Writ Petition in the Peshawar High Court challenging the promotion of the Subject Specialists (Pak-Studies) on the ground of their eligibility and after court decision on 11.10.2006 he was accordingly promoted. The respondents alleged that the appellant was not considered for promotion as Subject Specialist (Pak-Studies) due to non-availability of vacancies.

3. We have heard arguments of the learned counsel for the appellant and learned A.G.P and have gone through the record with their assistance.

4. It is now well settled, as laid down in cases reported as 1985 SCMR 1158 and 1997 SCMR 515 (Supreme Court of Pakistan), that a right to promotion is accrued to an eligible civil servant when a vacancy for promotion becomes available. In this case, though the respondents have denied existence of vacancies after promotion of other SETs, the appellant has produced a statement showing availability of 39 vacancies of Subject Specialists in Pak-Studies in May, 2003, which has not been seriously disputed by the respondents.

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5. Admittedly, the appellant was promoted as Subject Specialist (BPS-17) on regular basis, but with immediate effect, vide notification dated 01.1.2008 in pursuance of the decision of the Hon'ble Peshawar High Court in the Writ Petition of the appellant and in accordance with the recommendation of the Departmental Promotion Committee. As such, there was no dispute regarding the eligibility of the appellant to promotion as Subject Specialist. On the other hand, it was the appellant who challenged the eligibility of the other SETs for promotion before the High Court and then in the august Supreme Court of Pakistan, but could not succeed in securing a favourable order from the Hon'ble High Court, and his Petition for leave to appeal was also dismissed by the august Supreme Court of Pakistan on 04.5.2009.

6. In any case, if vacancies were available and the appellant was eligible for promotion, then he had a right to be considered for promotion against the available vacancy, the denial whereof certainly accrued cause of action in favour of the appellant against the department which was rather to blame for causing delay in the promotion case of the appellant.

7. Consequently, the appeal is accepted with direction to the respondents to antedate the promotion of the appellant to the date on which the vacancy was available for him on the basis of his eligibility for promotion, leaving the parties to bear their own costs.

ANNOUNCED

08.10.2009

Sd/- Balasdas Ali
Sd/- Abdul Jaleel
Members

Certified to be true copy
EMANUEL
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

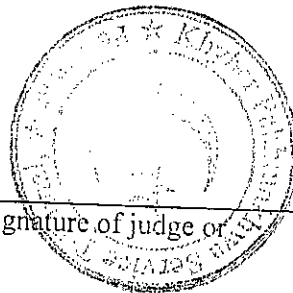
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 Date of Completion of Copy 3-4-2014
 Date of Delivery of Copy 3-4-2014

Annex-E

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Aux

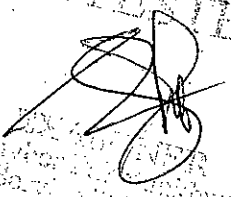
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S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	09.02.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">Service Appeal No. 1460/2013</p> <p>Pervaiz Khan Versus Government of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar and others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER:</u> - Counsel for the appellant (Mr. Sajid Amin, Advocate) and Government Pleader (Mr. Muhammad Jan) for respondents present.</p> <p>2. Seniority post of the appellant and private respondent No. 4 and 5 were respectively cited at Serial No. 51, 52 and 53 from the copy of the seniority list for SET (BPS-16), copy of which is available on record. Vide notification dated 01.01.2008, they were promoted as Subject Specialists BPS-17 with immediate effect. Feeling aggrieved they filed separate service appeals which were separately decided according to which their promotion was anti-dated from the date of availability of vacancies-cum-eligibility. Consequently vide notification dated 12.11.2012 they were notified as promoted on 17.02.2003 but when the impugned final seniority list of the Subject Specialists dated 13.02.2013 was published, the appellant has been placed at Serial No. 651 as Junior to Private Respondent No. 4 at Serial No. 650 and also to private respondent No. 5 at Serial No. 377. The departmental appeal of the appellant was stated by learned G.P as rejected on the ground that the seniority given to the appellant and private respondents was due to their dates of promotion as Subject</p>

9/2/16

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

Specialists BPS-17, hence this appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

3. Arguments of the learned counsel for the appellant and learned Government Pleader have been heard and record perused.

4. The above factual position of the case revealed that prior to promotion of the appellant and private respondents, the appellant was senior to the respondents per seniority list of PETs (BPS-16). They were promoted on one and the same date by way of a single notification. Hence prima-facie they should have retained the old seniority position even after their promotion. When their promotion was ante-dated, no reason whatsoever is available on record as to why the appellant was relegated to a junior position? This may also be observed that between the seniority position of the appellant and that of private respondent No. 5, a number of civil servants have been placed, and none of whom has been made party in this appeal. During the course of arguments the learned Government Pleader submitted that the appeal of the appellant has been rejected vide order dated 19.12.2013 but its copy is not available on record. It was inferred that though the departmental appellate authority has not taken the above aspects of the case in view but this Tribunal is reluctant to interfere directly as a number of civil servants have been shown in the seniority list between the appellant and respondent No. 5 who are not parties before us. Since, prima-facie, the appellant is at the receiving end as per impugned seniority list, therefore, the case is remitted to the departmental authority with the directions to look into the matter in the light

ATTACHED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

12

Strickly on merits

of above facts and observations and to decide the matter within a period of three months after receipt of this judgment. Needless to mention that as the appellate authority will re-decide departmental appeal of the appellant, therefore, his impugned order dated 19.12.2013 is set aside in these circumstances. The appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
09.02.2016

Sd/- Pir Bakht Shah,
Member

Sd/- Abdul Latif,
Member

Certified to be true copy

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 09-03-2016
Number of Words 1600
Copying Fee 10-00
Urgent 2-00
Total 12-00
Name of Copyist [Signature]
Date of Completion 09-03-2016
Date of Delivery of Copy 09-03-2016

SENIORITY LIST OF SETs FOR PROMOTION TO SUBJECT SPECIALIST IN N.W.F.P.

Amir

Sr. No.	SET No.	Name/Designation and address	Date of Birth with Domical	Date of App. Against SET Post	Date of App. Against SET Post	Subject in M.A/M.Sc	Remarks
1	1522	Mr. Iftikhar Qadir GMS Hari Mera Manshera	11/54 Man	12/7/85	30/9/83	Pak Studies	
2	1555	Mr. Abdullah Shah GHS. Mathra Peshwar	13/2/60 Pesh	12/7/85	12/7/85	Pak Studies	
3	1557	Mr. Abbas Gul GHSS Takra Bahi Mandisa	12/1/59 Mand	26/10/86	26/10/86	Pak Studies	
4	1550	Mr. Muhammad Zareen Khan GHS. Panjan Haripur	12/4/59 Harip	11/11/86	11/11/86	Pak Studies	
5	1557	Mr. Subrah Khan GHSS. Parina Manshera	12/5/59 Manshera	20/9/87	20/9/87	Pak Studies	
6	1518	Mr. Muhammad Nawab GHS. No.1. Kohat	15/3/52 Karak	15/10/87	15/10/87	Pak Studies	
7	1555	Mr. Akhtar Hussain GHS. Pir Shah Jan Kot NWA	2/11/61 FRBnu	12/10/88	12/10/88	Pak Studies	
8	1558	Mr. Abdul Qayum Khan GHS No. 2. Lakki	23/8/62 Lakki	19/10/88	19/10/88	Pak Studies	
9	1525	Mr. Inyat Ullah GHSS Perove D.I.Khan	17/8/66 D.I.Khan	1/12/88	1/12/88	Pak Studies	
10	1544	Mr. Muhammad Sadiq SET. GHS. Mathra Peshwar	6/4/61 Peshwar	8/12/88	8/12/88	Pak Studies	
11	1558	Mr. Muhammad Rafiq GHSS. Dhodialchial	22/10/59 Manar	19/9/89	19/9/89	Pak Studies	
12	1571	Mr. Muhammad Aslam GHSS Darvesh Haripur	3/9/50 Haripur	20/9/89	20/9/89	Pak Studies	
13	1552	Mr. Abdul Wahid SET. GHS. Palazar Charsada	15/5/64 Charsada	17/10/89	17/10/89	Pak Studies	M.A. Result Declared on 12/2001
14	1547	Mr. Zahid Hussain AEO Orakzai	9/2/65 Orakzai	26/11/89	26/11/89	Pak Studies	
15	1540	Mr. Gul Aslam GHSS. Domal Bannu	15/7/64 Bannu	19/2/90	19/2/90	Pak Studies	
16	1583	Mr. Muhammad Shariq SET. GHS. Kohat	22/9/64 Kohat	20/11/90	20/11/90	Pak Studies	M.A. Result Declared on 12/2001
17	1539 A	Mr. Iftikhar Ahmad SET. GHS. Kotli Balan Mas	14/61 Manshera	27/11/90	27/11/90	Pak Studies	
18	1591	Mr. Saeed Ahmad GHS Trangri Bala Manshera	15/4/65 Mans	27/11/90	27/11/90	Pak Studies	
19	1502	Mr. Sabir Hussain Shah GMS. Ghari Habibullah	3/11/50 Mans	11/1/91	11/1/91	Pak Studies	
20	1547A	Mr. Khadim Hussain Shah GMS Tori Abad	28/1/43 A-Abad	2/2/91	2/2/91	Pak Studies	
21	1582	Mr. Muhammad Aslam SET. GHSS. Dharki God	11/4/66 Dh	10/11/91	10/11/91	Pak Studies	M.A. Result Declared on 12/2001
22	1589	Mr. Alam Zeb Khan GHS. Sari Bala Dir	17/2/66 Dir	10/11/91	10/11/91	Pak Studies	
23	1597	Mr. S. Muhammad Tariq Shah GHS No. 4 Pesh City	15/4/69 Char's	10/11/91	10/11/91	Pak Studies	
24	1530	Mr. Muhammad Daraz Khan GHS. No.4. Kohat	4/2/68 Karak	10/11/91	10/11/91	Pak Studies	
25	1544	Mr. Chen Zeb GHS. Bagh A-Abad	1/1/64 A-Abad	10/11/91	10/11/91	Pak Studies	
26	1534	Mr. Jamil Ahmad GCMHS D.I.Khan	1/6/69 D.I.Khan	10/11/91	10/11/91	Pak Studies	
27	1543	Mr. Muhammad Sadiq GHS. Jalaka Mala ORK	1/3/65 Fr Bannu	10/11/91	10/11/91	Pak Studies	
28	1532	Mr. Manir Hussain GHS. Ghari Habibullah Mansh	20/5/63 Mansh	10/11/91	10/11/91	Pak Studies	
29	1539	Mr. Iqbal Ali Shah GHSS. Bannu	21/10/69 Bannu	10/11/91	10/11/91	Pak Studies	
30	1525	Mr. Akhtar Waheed GHS. No.3. Kohat	10/10/64 Kohat	10/11/91	10/11/91	Pak Studies	
31	1547	Mr. Tayyib Shahzad GHS. No.2. Haripur	10/1/67 Haripur	10/11/91	10/11/91	Pak Studies	
32	1568	Mr. Israj Ali GHS Dabkor M Agency	13/2/68 M. Agency	10/11/91	10/11/91	Pak Studies	
33	1560	Mr. Jehanzeb GMS Manakasai Haripur	31/3/63 Haripur	10/11/91	10/11/91	Pak Studies	
34	1454	Mr. Wali Ullah GMS. Shakar Kail Karak	4/3/60 Karak	23/5/95	23/5/95	Pak Studies	
35	1483	Mr. Muhammad Arzal GHSS Gumbat Kohat	28/8/53 Kohat	23/5/95	23/5/95	Pak Studies	
36	1469	Mr. Muhammad Riaz GCS. Kohat	7/9/51 Kohat	23/5/95	23/5/95	Pak Studies	

Seniority list

3273

Amir

Assistant Director (Ad. Secy.)
Directorate of Selections
Literacy. N.W.F.P.

auth'd and accept

[Signature]

13

3

11

14

37	4852	Mr. Mohammad Younas GHS. Nagri Bala A-Abad	10 11 57 A-Abad	25 11 79	23 5 05	Pak Studies
38	4700	Mr. Muhammad Mushfaq GHS. Jab Manshera	3 5 53 Manshera	22 4 72	23 5 05	Pak Studies
39	4741	Mr. Hayat Muhammad GHS. Amerzai Charsadda	20 5 54 Charsadda	12 9 87	23 5 05	Pak Studies
40	4826	Mr. Guliam Iqbal GHS Kohat	25 4 69 Kohat	20 11 86	23 5 05	Pak Studies
41	4891	Mr. Zardar Khan S.B.G.H.S. Zardari Pesh	25 4 69 Kohat	24 10 81	23 5 05	Pak Studies
42	4951	Mr. Amin-ul-Haq GHS. Paragai Malakand	5 5 67 MND	1 10 80	24 5 05	Pak Studies
43	5011	Mr. Muhammad Aksar ADO Haripur	4 1 55 Haripur	14 12 74	24 5 05	Pak Studies
44	5114	Mr. Hamid Hussain GHS. Ibrahim Zai Hangu	13 10 67 Hangu	4 10 87	23 5 05	Pak Studies
45	5159	Mr. Abdul Hamid GMS. Ghura Banda Dir	19 8 57 Dir	31 3 90	24 5 05	Pak Studies
46	5167	Mr. Ahmad Saeed GHS. No. 1 Kohat	16 1 63 Kohat	28 5 95	24 5 05	Pak Studies
47	5201	Mr. Alamzeb Khan GHSS. Sherpao Charsadda	16 11 87 Charsadda	10 9 88	24 5 05	Pak Studies
48	5207	Mr. Muhammad Tahir GHS. Mahabat Abad Mardan	15 4 65 Mardan	1 12 90	24 5 05	Pak Studies
49	5216	Mr. Safar Isam Tariq CMHS Chokara Karak	15 11 63 Karak	24 5 95	24 5 05	Pak Studies
50	5259	Mr. Shaikat Rehman GHSS. Bulfiang Kohat	10 3 69 Karak	24 5 95	24 5 05	Pak Studies
51	5253	Mr. Periz Khan GHS. Amnawar Bunir	20 6 65 Bunir	24 5 95	24 5 05	Pak Studies
52	5254	Mr. Muhammad Nabi GHSS No. 2 Parachinar K. Agn.	12 3 55 Parachinar	27 10 94	24 5 05	Pak Studies
53	5271	Mr. Muhammad Khan ADO Haripur	25 4 64 Haripur	21 10 85	24 5 05	Pak Studies
54	5312	Mr. Hayat Ullah Jan GMS Toor Kaki Bannu	5 6 82 Bannu	23 11 85	24 5 05	Pak Studies
55	5476	Mr. Muhammad Anwar Khan GHS. Sangar Manshera	25 1 65 Manshera	14 2 82	25 3 96	Pak Studies
56	5484	Mr. Manzoor Ahmad GMS. Mughlan Abad	10 1 56 A-Abad	10 10 74	25 3 96	Pak Studies
57	5486	Mr. Muhammad Yaqub GMS. Beri Bala A-Abad	25 7 55 A-Abad	22 10 77	25 3 96	Pak Studies
58	5491	Mr. Muhammad Zuhoor GMS. M.M. Pol. Manshera	11 4 60 Manshera	13 9 70	25 3 96	Pak Studies
59	5492	Mr. Parvez Ali GHS. Dheri Nagar Chan Haripur	11 1 58 Haripur	3 10 82	25 3 96	Pak Studies
60	5626	Mr. Irshad GHS Kohat	15 2 67 Kohat	3 12 88	25 3 96	Pak Studies
61	5670	Mr. Muhammad Iqbal GHS Kaleq Haripur	5 6 55 Haripur	16 11 82	25 3 96	Pak Studies
62	5705	Mr. Nabi Ullah GHS. Zorat Shaikh Abad Kohat	11 5 69 Karak	18 5 92	25 3 96	Pak Studies
63	5731	Mr. Dosi Mullah GHS. Zorat Shaikh Abad Kohat	11 5 69 Karak	16 10 88	25 3 96	Pak Studies
64	5741	Mr. Muhammad Tariq GHSS Chankani Peshawar	11 4 67 Peshawar	11 2 87	25 3 96	Pak Studies

MA Result Declared
10/05/2001

Assistant Director (M)
Directorate of Schools
Peshawar

Principal
Govt High School
Manshera

Principal
Govt High School
Manshera

Principal
Govt High School
Manshera

Subject Specialist
Govt Higher Secondary
School No. 1 Peshawar City

S. MUSHTAQ HUSSAIN SHAH
PRINCIPAL
Govt Centennial Model
School Peshawar City

Principal
Govt High School
Manshera

وکالت نامہ

بعد التخصیص مستحق خسر خان
 لکھنؤ پشاور شہر
 نام حنفیہ مسکن بری صاحبہ مستحقہ و عمر
 مکان دہلی

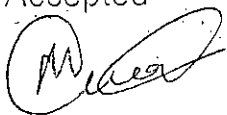
باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی وجوابدہی بمقام کے لیے منگوانہ کو

مشاق احمد خان ایڈووکیٹ پشاور کو بڈس شرط وکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص رد بر
 حاضرت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر
 پیشی پر من مظهر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر بیڑے برخلاف ہو گیا تو صاحب موصوف اس کے کسی
 طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا
 بیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز
 تعطیل یا پکھری کے اوقات کے آگے بیچھے پیش ہونے پر من مظهر کو کوئی نقصان پہنچے تو اس کی ذمہ داری اس کے واسطے کسی
 معاوضہ کے ادا کرنے یا بختانہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختہ صاحب
 موصوف مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر
 ثانی اپیل و گمرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کاروبار
 وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد ناسی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ
 دینے کا بھی اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخ ڈگری، یکطرفہ درخواست حکم انتہائی یا ترقی یا گرفتاری قبل
 از اجراء ڈگری بھی موصوف کو بشرط ادا ہوگی علیحدہ فنانس پیروی کا اختیار ہوگا، اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا
 یا مقدمہ مذکورہ یا اس کے کسی جزوی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا پیر سٹر کو بجائے اپنے
 یا اپنے ہمراہ مقرر کریں، اور ایسے مشیر قانون کو ہر امر میں وہی اور دیکھیں ہی اختیارات حاصل ہوں گے، جیسے کہ صاحب موصوف کو
 حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جائز انوار پڑے گا وہ صاحب موصوف کو اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور
 ایسی صورت میں میرا کوئی مطالبہ بھی بے عمل و بربط نہیں ہوگا۔ لہذا یہ دیا تاکہ سند ہے۔

مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Attested & Accepted



Mushlaq Ahmed Khan Advocate

الع

الع

دولت خان مسکن بری صاحبہ مستحقہ و عمر 5-7-2019

(21)

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5 (4)

BEFORE THE KHYBER PUKHTOON KHWA
SERVICE TRIBUNAL PESHAWAR.

Perviz Khan s/o Abdur Rahman.....(Appellant)

VERSUS

Govt; Of K.P.K Through Chief Secretary K.P.K Peshawar and Others.

Rejoinder to the comments of Respondent No. 1 and 3 in
Service Appeal No 800/2016.

Respectfully Sheweth,

The Appellant submit following Rejoinder application to the comments of the Respondents.

1. Preliminary objection No.1 to 13 are totally baseless, without any legal back and result of misconception regards the Service Laws. The Appellant is an aggrieved a civil servant as per prevailing service laws and has rightly knocked the door of this Worthy Tribunal for Ventilation of his grievances.

ON FACTS:

1. Para No.1 of the appeal has been admitted by the Respondents hence needs no reply.
2. Para No. 2 of the appeal has also been admitted by the official respondents.
3. Para No.3 of the appeal is correct and in reply the official respondent has admitted that the Honourable Court had directed the Official respondent to anti date the promotion of the appellant to the date on which the vacancies were available and he was eligible for promotion.
4. Para No.4 of the appeal is correct and reply thereto is misconceived.

5. Para No.5 of the appeal has been admitted by the Official respondents hence need no reply.
6. Para No.6 of the Appeal is correct and reply thereto is without any legal back.


Grounds:

- A. Ground No. "A" of the appeal is correct and reply thereto is mis-concerned.
- B. Para No. "B" of the Appeal is correct and reply thereto is based on misconception.
- C. That ground No. "C" of the appeal is correct and reply thereto is without any Documents and legal back.
- D. Ground No. "D" of the appeal is correct and reply thereto is misconceived.
- E. The Ground "E" of the Appeal is correct and reply thereto is False. The appellant when received the Seniority list he initiated the legal remedy within time.
- F. Ground "F" of the appeal is correct and reply thereto is misconceived and wrong.

**In view of the above Appeal of the appellant
may kindly be accepted with all attached benefits.**

Through


APPELLANT.


Mushtaq Ahmad Khan
Advocate

Date: 02/12/2017

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1993-94 /ST

Dated 2/10/2018


To

1. The Secretary E&SE,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. Director E&SE,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - JUDGMENT IN APPEAL NO. 800/2016, MR. PARVAIZ KHAN.

I am directed to forward herewith a certified copy of Judgement dated 04.09.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1098-99ST

Dated 18-6-2019

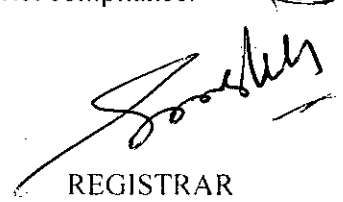
To

1. The Secretary E&SE Department,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. Mr. Jehangir Khan Subject Specialist BPS-17 (Pak Studies), serving as S.S
(PS GC MHSS No. 1) Haripur.

SUBJECT: - ORDER IN APPEAL NO. 800/2016, MR. PERVAIZ KHAN.

I am directed to forward herewith a certified copy of order dated 10.06.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above



REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

وکالت نامہ

از دفتر ساجد الرحمن خان ایڈووکیٹ ہائی کورٹ
آفس نمبر 9، شیرپاؤ پلازہ ڈسٹرکٹ کورٹس ہری پور

KHYBER PAKHTUNKHWA
BAR COUNCIL

Sajid-ur-Rehman Khan
Advocate
No-10-1093
Date of Issue: 27-12-2013
Valid upto: 27-12-2015



بہر ختو خواہ سرو سٹریٹیبل لسٹیاور

بعد الت جناب

رسانہ نمبر 5 - جہانگیر خانم

منجانب

گورنمنٹ سروس

بہ مقام


پیرویز خانم

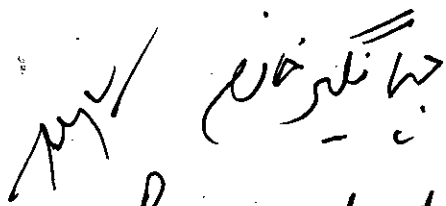
نوعیت مقدمہ Service Appeal بہ مقام سید و سرفیہ سوات

مندرجہ بالا عنوان میں اپنی طرف سے بیرونی مقدمہ کیلئے مساجد الرحمن خان ایڈووکیٹ ہائی کورٹ کو بدیں شرط وکیل مقرر کیا جو کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو بروعدالت حاضر ہونا ہوں گا اور بوقت پکارے جانے وکیل صاحب کو اطلاع دیکر حاضر ہوں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہو اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی اور جگہ یا کچہری کے مقرر اوقات سے پہلے یا بروز تعطیل بیرونی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام کچہری کے کسی اور جگہ سماعت ہونے پر یا بروز کچہری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے، مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ و پرواختہ صاحب مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ، جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی و اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کاروبار و وصول کرنے اور سیدو دینے اور داخل کرنے کا، ہر قسم کا یا یا ن دینے اور سپردتالی و راضی نامہ فیصلہ برخلاف کرنے، اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و ہر آمدگی مقدمہ یا منسوخی ڈگری یا کسرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا ہوگی علیحدہ علیحدہ بیرونی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا ہیر مشرک کو بجائے اپنے یا ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ مکہ دیا ہے تاکہ سند رہے۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

المرقوم - 02.09.2019

Accepted & Attested


ساجد الرحمن خان ایڈووکیٹ ہائی کورٹ


Respondent No. 5

OFFICE OF THE PRINCIPAL GOVT:HIGH SCHOOL DEWANA BABA BUNER

NO 347

Dated 30-07 /2019

To

The Assistant Director (Lit:-II)
(E&SE) Khyber Pakhtunkhwa Peshawar

Subject: - PROVISION OF RECORD

Memo:

Reference is made to your office letter No.3476-78 dated Peshawar the 15-07-2019 on the subject ncted above.

The requisite information on the prescribed format in respect of Mr. Pervez Khan Principal Govt: High School Dewana Baba is hereby submitted as under for further necessary action please.

S.No	Record in R/O Mr Pervez Khan	Remarks
1	Initial Appointment as SET on 24-05-1995	The SET Seniority No. of MR.Pervez Khan and MR.Jehangir Khan were 5253 and 5271 respectively.
2	Promotion as SS (PS) 01-01-2008	
3	Promotion as SS (PS) 17-02-2003	
4	Promotion as Principal 16-04-2015	

(PERVEZ KHAN)
PRINCIPAL GOVT: HIGH SCHOOL
DEWANA BABA BUNER

Endost:NO _____

Dated _____ /2019

- Copy to -
- 1.The Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
 - 2.Section officer (Male) (E&SE) Department Peshawar.

PRINCIPAL GOVT. HIGH SCHOOL
DEWANA BABA BUNER

To

The District Education Officer (M)
Haripur

Subject

PROVISION OF RECORD
REFERENCE YOUR OFFICE LETTER NO. 3476-78 DATED
15.07.2019 (COPY ATTACHED)

Respected Sir,

With due regard, it is submitted that with the letter under reference it was mentioned that information may be provided on the prescribed proforma, but the same was not found available with the letter received, hence request was made to the concerned for provision of requisite proforma which is still awaited. Now litigation telephonically demanded the information which is as under:

S.No.	Record in r/o Jahangir Khan	Date	Remarks
1	Initial appointment as SST	24.05.1995	
2	Date of promotion as SS Pak Studies BS-17	01.01.2008	In response to Peshawar High Court Judgment dated 11.10.2006 (copy attached)
3	Date of Antidated promotion as SS (Pakistan Studies) BS-17	31.08.2000	In response to KPK Service Tribunal Peshawar vide judgment dated 08.10.2009 (copy attached)
4	Date of promotion as SS Pak Studies (BS-18)/ Vice Principal	25.04.2014	

Note: In this regard S.O. has already explained the position in the letter addressed to Mr. Pervez Khan vide No.SO(S/M)E&SED/4-26/Pervez Khan dated Peshawar the July 04, 2016 in detail. Copy is attached

The requisite information is submitted for your kind perusal please.

Dated 28.08.2019


(JAHANGIR KHAN)
Vice Principal (BS-18)

CC to

1. Assistant Director Litigation -II, Directorate of E&SED; KPK Peshawar
2. ADO (Litigation) DEO (M) Office Haripur

Appointment, Promotion and Transfer Rules 1999

(21) 03
ANNEX B

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
EDUCATION DEPARTMENT.

NOTIFICATION.

1999

Peshawar, dated the 15th January, 1999.

In pursuance of the provisions contained in sub-rule (2) of rule 3 of the North-West Frontier Province Civil Servants (Appointments, Promotion and Transfer) Rules, 1982, the Education Department, in consultation with the Services and General Administration Department and the Finance Department, hereby directs that in this Department's Notification No. 30(S)7-34/91 dated 2.5.1994, the following further amendments shall be made, namely:-

AMENDMENT.

In the Appendix:-

(a) for the existing entries in column 5 and 6 against serial No. 5 the following shall respectively be substituted, namely:-

5
"25-40 years

(a) Fifty percent by initial recruitment through the Provincial Public Service Commission; and

(b) Fifty percent by promotion on the basis of Seniority-Juniority from amongst the Senior English Teachers/Assistant District Education Officers/Assistant Sub-Divisional Education Officers possessing qualification prescribed for initial recruitment".

SECRETARY TO GOVT. OF N.W.F.P.
EDUCATION DEPARTMENT.

Dated Peshawar, the 15th Jan. 1999.

Ref: No. 30(S)7-34/91

Copy forwarded for information and u/action to:-
All the Directors of Education in NWFP,
and other concerned.

Section Officer (Schools)

OFFICE OF THE DIRECTOR OF SECONDARY EDUCATION N.W.F.P. PESHAWAR.

Enst: No. 1035-9611-1

Dated Pesh: the 4-2-1999.

Copy of the above is forwarded for information and necessary action to the:-

- 1- Addl: Director (in Local Directorate.
- 2- All Distt: Education Officers (M&F) Socy: in NWFP.
- 3- Registrar Deptt: Exams: Edu: Deptt: NWFP, Peshawar.
- 4- All Asstt: Directors in Local Directorate.
- 5- Section Officer (S) Govt: of NWFP, Edu: Deptt: Peshawar.
- 6- A.O. to DSE NWFP.

[Handwritten Signature]
Assistant Director (Admin)
Directorate of Schools &
Literacy, N.W.F.P., Peshawar

[Handwritten Signature]
ASSTT: DIRECTOR (GENERAL)
DIRECTORATE OF SECONDARY
EDUCATION NWFP, PESHAWAR.

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
EDUCATION DEPARTMENT

NOTIFICATION

Peshawar, dated the 9/5/1994.

No. SO(S)7-34/91

In pursuance of the provisions

contained in sub-rule (2) of rule 3 of the North West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all previous rules made in this behalf, the Education Department, in consultation with the Services and General Administration Department and the Finance Department, hereby lays down the method of recruitment, qualifications and other conditions specified in columns 3 to 5 of the Appendix to this notification which shall be applicable to the posts specified in column 2 of the said Appendix.

SD/-

Secretary to Government of NWFP Education Department.

Endst: No. SO(S)7-34/91

Dated Peshawar the 9-5-1994.

Copy forwarded for information and n/a to the:-

1. All Administrative Secretaries to Govt. of NWFP.
2. Secretary NWFP, Public Service Commission Peshawar.
3. Accountant General NWFP Peshawar.
4. All Directors of Education in NWFP.
5. Manager Govt. Printing Press Peshawar for publication in the next issue of Govt. Gazette.
6. All Divisional Directors of Education (S) in NWFP.

(MUNICIPALITY)
SECTION OFFICER (SCHOOLS)

Assistant Director (Admn)
Directorate of School & Literacy
NWFP Peshawar.

Assistant Director (Admn)
Directorate of Schools & Literacy
NWFP Peshawar

M. K. ...
M. K. ...

Annex-1

P E N D I X .

SR: NO.	NOMENCLATURE OF POST.	MINIMUM QUALIFICATION FOR INITIAL RECRUIT- MENT OR BY TRANSFER.	MINIMUM QUALIFI- CATION FOR APPOINT- MENT BY PROMOTION.	AGE LIMIT.	METHOD OF RECRUITMENT.
1	2	3	4	5	6

1. Director Secondary Education/Primary Education/Bureau of Curriculum Development and Education Extension Services.

COMBINED.

By transfer of a suitable officer with due regard to seniority from amongst the Divisional Directors (Schools)/Additional Director Edu: (Secondary and Primary)/Additional Directress Education (Primary and Secondary)/Registrars Departmental Examination/Chief Instructor Edu: Extension Services/Principals Govt: Elementary Colleges (Male & Female) in B-20.

2. Divisional Director Schools/Additional Director Education (Primary & Secondary)/Registrar Departmental Exams:/Chief Instructor Education Extension Centre/Principal Govt:- Elementary-Colleges.

MEN'S SECTION.

By promotion on the basis of seniority cum fitness from amongst the District Education Officers (Primary & Secondary) Deputy Director (Primary & Secondary) and Bureau of Curriculum Education Extension Centre/Deputy Divl: Director/Principals/Vice Principals/Govt: Elementary College/Principals Govt: Comprehensive High School/Govt: Higher Secondary Schools/Govt: High Schools/Deputy Chief Instructors Education Extension Centre Instructors Education Extension Centre (all in EPS-19) with Seventeen years service in EPS-17 and above or twelve years service in EPS-18 and above.

Alls
Muller
Director of Sch. & Literacy
L.V.P. Pathan.

Atul
...
...

Assessors
Government
High School.

Master's Degree with B.Ed/M.Ed/
M.A (Education) from a recognised
University and five years'
teaching experience in High/Middle
Schools owned or recognised by the
Government.

25-35
years.

(a) Eighty percent by promotion on the basis of seniority and fitness from amongst the Senior English Teachers/Assistant District Education Officers/Assistant Sub-Divisional Education Officers with five years' service as such: and

(b) twenty percent by initial recruitment.

Subject Spe-
cialists
Government
Higher Seco-
ndary School/
Government
Comprehensive
High School.

Master's Degree in the relevant
subject with Bachelor of
Education or M.Ed or Master of
Education (Industrial Arts or
Business Education) or M.A
(Education) from a recognised
University.

25-35
years.

(a) Twenty percent by promotion on the basis of seniority and fitness from amongst the Senior English Teachers/Assistant District Education Officers/Assistant Sub-Divisional Education Officers possessing qualification prescribed for initial recruitment and having five years' service as such: and

(b) eighty percent by initial recruitment.

Note.- (1) If no suitable candidate possessing the above qualification is available, a candidate possessing Masters' Degree in the relevant Subject may be appointed subject to the condition that he shall acquire the addition qualification, as specified above, within three years from the date of his appointment, failing which his services will be terminated irrespective of any other provisions of the rules for the time being in force.

(2) The person appointed as subject Specialist shall not be transferred/posted to any other post except on promotion to a higher post in his cadre.

Handwritten signature and scribbles

Endst:No. SO(S) 7-34/91/ Dated Peshawar the 9-5-1994.

Copy forwarded for information and n/action to:-

1. All Administrative Secretaries to Government of NWFP.
2. Secretary NWFP, Public Service Commission, Peshawar.
3. Accountant General NWFP, Peshawar.
4. All Directors of Education in NWFP.
- 5.0 Manager Government Printing Press Peshawar for Publication in the next issue of Government Gazette.
6. All Divisional Directors of Education (Schools) in NWFP.

(MOHAMMAD ILYAS),
Section Officer (Schools).

Submitted
[Signature]
Assistant Director (Admn.)
Directorate of Schools &
Library, N.W.F.P. Peshawar

[Signature]
Assistant Director (Esstb)
Directorate of Schools & Literacy
N.W.F.P. Peshawar.

Before the Hon'able Service Tribunal Khyber Pakhtunkhwa, Peshawar.

Service Appeal No.800/2016

Pervez Khan SS(Pak Study) BS-17 at GHSS Dewana Baba, District Buner

Appellant

Versus

Government of Khyber Pakhtunkhwa through the Chief Secretary Khyber Pakhtunkhwa & Others.

Respondents

Reply to the order sheet dated 04.09.2018 on behalf of the Respondents.

Respectfully Sheweth

The Respondents No.2 & 3 submit as under:-

1. That the titled Service Appeal is pending for final disposal before this Hon'able Service Tribunal for today 06.05.2019.
2. That on late date of hearing dated 3.4.2019, this Hon'able Bench has directed the Respondents No.2 & 3 to explain as to why the Appellant has deprived from the promotion in the order and why the junior person i.e. Respondent No.5(Jehangir Khan) was given promotion w.e.f. 31.08.2000. (**Copy of the order sheet is attached as Annexure – A**).
3. That the appellant alongwith 02 others has filed Service Appeal No.337, 338, & 762/2008 before this Hon'ble Tribunal on 23.5.2008 under the case titled Shoukat Rehman BS-16 in Pak Studies in GHS Kohat vs Government which was decided vide Judgment dated 22.12.2008 by his Lordship Mr. Justice (R) Salim Khan the then Chairman Khyber Pakhtunkhwa Service Tribunal alongwith 2 connected appeals No.338 & 762/2008 in favour of the appellants and against the Respondent Department(**copies of the Service Appeal and Judgment dated Judgment dated 22.12.2008 are attached as Annexure B & C**).
4. That in compliance of the Judgment dated 22.12.2008, the Respondent No.2 vide his Notification No.SO(S)1-4/2007/Promotion/BS-16 to BS-17/SS on regular basis dated 01-01-2008


has implemented the Judgement dated 22.12.2008 in favour of Jehangir Khan, Pervez Khan and Muhammad Nabi alongwith his adjustment against the SS in Pak Studies BS-17 post at GHSS Batara District Buner (**Copy of the Notification dated 01-01-2008 is attached as Annexure D**).

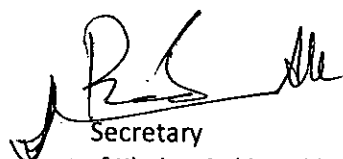
5. That as per Notification No.SOS(M)E&SED/1-5/08/Incharge SS/HMs/Instrs(Male), dated 20.5.2011, the appellant has been shown at seniority No.1318 and the Respondent No.5 namely Jahangir Khan at seniority No.1317. Hence, according to this Notification dated 20.5.2011, the appellant alongwith others, have been promoted against the SS in BPS-17 on regular basis, has been shown junior from the Respondent No.5, Hence the claim of the appellant regarding his senior position from the Respondent No.5 is baseless and liable to be rejected (**Copy of the Notification Dated 20.5.2011 is attached as Annexure E**).
6. That as per contention of the appellant in his S.A. No.738/2008, filed before this Hon'able Service Tribunal on dated 23.5.2008, that **on the acceptance of this appeal, the Respondent may be directed to consider the appellant for promotion from the date of availability of vacancy of SS Pak Studies OR at least from 17.2.2003, the dated with which the promotion and seniority given to the counterparts of the appellant which has been implemented by the Respondent Department vide Notification dated 01.01.2008 (Copy of the S.A. No.738/2008 is attached as Annexure F)**.
7. That the appellant has also filed an appeal against the final seniority of SS/HM(M)B-17 dated 13.2.2013 which was also decided vide letter and order No.SO(S/M)E&SE/4-26/2013/Pervez Khan dated 4.7.2016 vide the promotion against the SS Post in B-17 has been antedated as per prayer w.e.f. 17.2.2003 instead of 1.1.2008 in compliance of the judgment dated 22.12.2008 rendered in S.A.NO.738/2008 Parviz Khan versus Government with further observations vide para -e- that as per present position of seniority list 206 persons are lying between you and Mr. Jahangir Khan who is **senior** to you. In these circumstances, re-ante-dation of your promotion

will infringe the legal rights of 206 persons. (Copy of the Notification / letter is attached as Annexure- G).

8. That the Respondent 5 / Jahangir Khan SS in Pak studies B-17 at GHSS Panian District Haripur has filed a S.A. No.291/09. On 29.8.2008 before this Honorable Tribunal under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974 against the order and Notification dated 9.6.2008, whereby his Departmental Appeal for promotion to BPS-17 w.e.f. 31.8.2000 has been rejected for no good grounds which was decided vide Judgment dated 8.10.2009 in prayer of the appellant where against, the Respondent Department has filed a CPLA in the august Supreme Court of Pakistan is CP No.105-P of 2010, decided vide Judgment dated 17.3.2010 in favour of the Respondent No.5 namely Jahangir Khan and against the Department. Hence, the E&SE Department has implemented the judgments dated 8.10.2009 Service Tribunal, Peshawar and judgment dated 17.3.2010 Supreme Court of Pakistan vide the corrigendum Notification No.SO(S/M)E&SED/1-5/08/Incharge/SS/HMs/Instrs, dated 20.10.2011 to the extent of allowing and grant of promotion to the Respondent No.5 falling at S.NO.1317 w.e.f. 31.8.2000 instead 1.1.2008 issued by the Respondent No.2 upon the Courts' judgments. Copies of both Judgments dated 08.10.2009, 17.3.3010 and Notification dated 20.10.2011 are attached Annexures H, I & J).

Therefore, in view of the above made factual position of the instant case, the appeal in hand may graciously be dismissed in favour of the Respondents No.2 & 3 in the interest of justice.


Director
E&SED Khyber Pakhtunkhwa,
Peshawar


Secretary
Government of Khyber Pakhtunkhwa
Elementary & Secondary Education Deptt

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A NO 800 / 2016

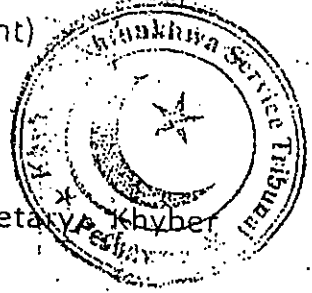
Khyber Pakhtunkhwa
Service Tribunal

Diary No. 774

Dated 29-7-16

Parvaiz Khan S/O Abdur Rehman Subject specialist B.P.S-17 (Pak-Studies)
R/O Village Shaibandi, Tehsil Gagra, District Buner, presently Serving at GHS
Dewana Baba as principle (Appellant)

VERSUS



1. Govt. of Khyber Pakhtunwa through Chief Secretary, Khyber Pakhtunkhwa, at Peshawar.
2. Secretary to Govt of K.P.K, Elementary and Secondary Education Khyber Pakhtunwa, at Peshawar.
3. Director Elementary and Secondary Education Khyber Pakhtunwa, at Peshawar.
4. Muhammad Nabi, Subject Specialist B.P.S-18 (Pak-Studies) presently serving as V.P GHS Karman.
5. Jehangir Khan Subject Specialist B.P.S-17 (Pak-Studies) presently R/O Haripur presently serving as S.S (PS GC MHSS.No. 1 Haripur).
6. Shaukat Rehman R/O Karak, presently serving as S.S, P.S B/18GHSS No.1 Kohat.
7. Changeez Khan R/O Peshawar presently serving as S.S GHSS No. 2 Peshawar Canntt:
8. Mr. Majeebullah M.Sc, B.Ed Peshawar S.S Stat B/18 GHSS No.1 Peshawar City
9. Mr. Khurshid Alam M.Sc, B.Ed Karak S.S Stat B/18 GHSS Zamdara Dir (Lower)
10. Sana Ullah M/A B.Ed Dir Lower S.S Stat B/18 GHSS Bugra Karak
11. Abdul Nawaz M/A , B.Ed Bannu S.S Eng B/18 GHSS Zamdara Dir (Lower)
12. Abdur Rahman M.Sc, B.Ed Bannu S.S Eng B/18 GHSS Hakim Haved Bannu

to-day

Registrar

1/16

itted to -day

Registrar

5/16

Khyber Pakhtunkhwa
Service Tribunal

Appellate No. 800/2016
Pervaz Khan vs Govt

04/09/2018



Appellant Pervaz Khan in person along with his counsel
Mushtaq Ahmad Advocate present Mr. Usman Ghani, District Attorney
present. No authorize representative on behalf of the respondents present.
During the course of arguments and perusal of record, one thing is
clear and admitted that the appellant along with the contested respondent
no 4 and 5 were held entitled to antedated promotion from the time when a
vacancy of S/S was available. In view the orders of this Tribunal, the
appellant and respondent no 4 were granted promotion w.e.f. 17/02/2003
whereas respondent no 5 who was junior in the seniority list of S.E.T.s as
his name appears at Sr. 53, the respondent gave him promotion w.e.f.
31/08/2000 but from the comments, it is not clear as to why and for what
reason, this antedated promotion was not given to the appellant being
senior to respondent no 5 namely Jehangir Khan. No doubt the
respondents made a failed attempt to justify the grant of promotion to the
Jehangir Khan and strange enough, even the judgments of this Tribunal
have been referred to in the impugned letter dated 04/07/2016 but the same
is totally against the record as again it is not where mentioned in the said
letter as to why Jehangir Khan who was/is junior to the appellant was
given promotion w.e.f. 31/08/2000. At this stage, the learned District
Attorney requested that this query be asked from the respondents and
made request for adjournment. Granted. As such respondents no. 2 and 3
are directed to explain as to why the appellant was deprived from the
promotion in the year 2000 and why the junior person i.e. respondent no 5
was given promotion w.e.f. 31/08/2000. This reply/explanation should be
submitted through responsible office not below the rank of BPS-17 on
05/11/2018 before D.B. at camp court Swat.

AAIAI (A)

Hakim Haved

800/2016

04.03.2019

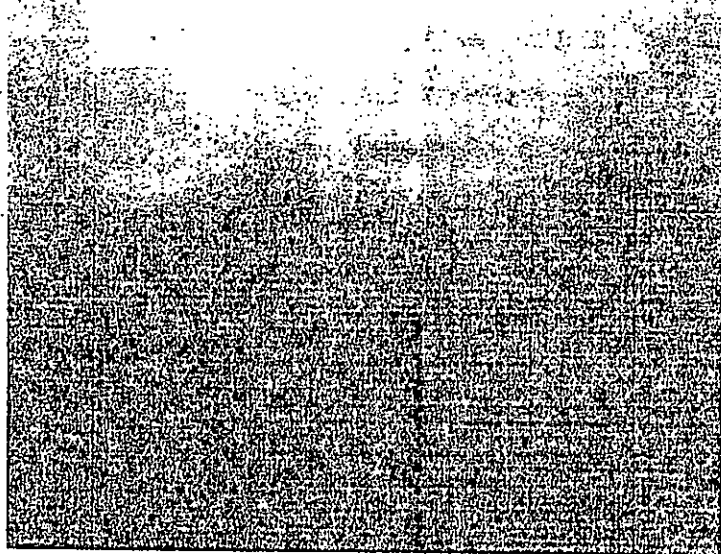
Appellant in person and Mian Amir Qadar for the respondents present.

Learned District Attorney states that in pursuance to order dated 04.09.2018 the instructions from respondents are required while the appellant requests for adjournment due to non-availability of his learned counsel.

Adjourned to 03.04.2019 on which date the matter shall be argued in view of order dated 04.09.2018 at camp court Swat.

Member

Chairman
Camp Court, Swat



16

Bannu

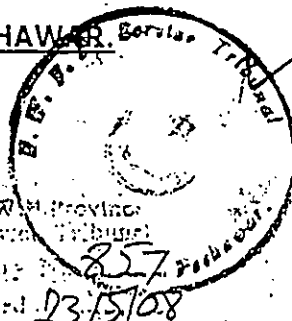

K...
Sec...

ANNEX -> (P)
NWFP SERVICE TRIBUNAL PESHAWAR

Annex-B-C

BEFORE THE

APPEAL NO. 738/08.



Khan, S.S (Pak: Studies),
para Balaucy.....

Appellant.

VERSUS

- 1- The Chief Secretary NWFP, Peshawar.
- 2- The Secretary Education (S&L) NWFP Peshawar.
- 3- The Director Education (S&L) NWFP Peshawar.

..... Respondents.

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNALS ACT 1974 FOR ANTEDATED PROMOTION AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN 90 DAYS.

PRAYER:

That on acceptance of this appeal the respondents may be directed to consider the appellant for promotion from date of availability of vacancy of Subject Specialist Pak: Studies OR at least from 17.2.2003, the date w.e.from which the promotion and seniority given to the counter parts of the appellant. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

M.A.
23/5/08

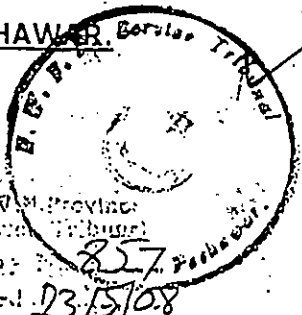
WITNESSED
At Peshawar
NWFP Service Tribunal

Annal → (P)

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR

Annex-B-C

APPEAL NO. 738 /08.



Mr. Pervez Khan, S.S (Pak: Studies),
GHSS, Batarā Buncay.....Appellant.

VERSUS

- 1- The Chief Secretary NWFP, Peshawar.
 - 2- The Secretary Education (S&L) NWFP Peshawar.
 - 3- The Director Education (S&L) NWFP Peshawar.
- Respondents.

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNALS ACT 1974 FOR ANTEDATED PROMOTION AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN 90 DAYS.

PRAYER:

That on acceptance of this appeal the respondents may be directed to consider the appellant for promotion from date of availability of vacancy of Subject Specialist Pak: Studies OR at least from 17.2.2003, the date w.e.from which the promotion and seniority given to the counter parts of the appellant. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

M.A.
23/5/08

WITNESSED:
[Signature]
N.W.F.P. Service Tribunal Peshawar

AWN- (C)
BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 737/2008

Date of Institution 23.05.2008

Date of Decision 22.12.2008



Mr. Shaukat Rahman; Subject Specialist (Pak. Studies)
Government Higher Secondary School, Kohat. (Appellant)

VERSUS

1. The Chief Secretary, NWFP Peshawar.
2. The Secretary Education (S&L) NWFP Peshawar.
3. The Director Education (S&L) NWFP Peshawar. (Respondents)

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974 FOR ANTEDATED PROMOTION AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN NINETY DAYS.

MR. MUHAMMAD ASIF YOUSAFZAI,
Advocate. For appellant

MR. ARSHAD ALAM,
A.G.P. For respondents.

MR. JUSTICE (R) SALIM KHAN, ... CHAIRMAN
MR. FAZLI RAHMANI, ... MEMBER.

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN.-This judgment will dispose of appeals No. 737 of 2008, 738 of 2008 and 762 of 2008 by Shaukat Rahman, Pervez Khan and Muhammad Nabi appellants.

2. Shaukat Rehman contended that, with the qualification of M.A/M.Sc in relevant subject with B.Ed or Med, 50% posts of Subject Specialists were to be filled in by initial recruitment and 50% were to be filled

ATTESTED

by promotion from amongst SETs, ADOs and ASDOs, that in the working paper for the case of Pervez Khan, it was recorded that 21 posts were available. But the appellant was promoted as Subject Specialist on 1.1.2008 with immediate effect. He submitted departmental appeal which was not decided during the prescribed period. Hence the present appeal. Cases of Pervez Khan and Muhammad Nabi were also on the same lines.

3. The respondents contested all the three appeals. They contended that it was mentioned in the case of Pervez Khan that 21 posts were available but it did not mean that those posts were available from a very long time.

4. We heard the arguments and perused the record.

5. All the three appellants have been promoted with immediate effect. It has come on record that posts of Subject Specialists were available from certain time. The official respondents No. 1 to 3 did not clearly mention the dates from which the posts were lying vacant. The appellant contended that ratio of initial recruitment and promotion was 50% each. The copy of the rules dated 9.5.1994 produced by them, however, shows different ratio. This fact has also not been clarified by the respondents through their reply. The Working Paper in the case of Pervez Khan S.E.T shows that the ratio was 50% for initial recruitment and 50% for promotion. The number of promotees (66) and the number of balance share for promotion (21) were shown. It shows that the vacancies were not distributed one and one for each cycle of two vacancies, rather posts (174) were distributed as 87 for promotion and 87 for initial recruited. It has been clarified time and again that, without taking into consideration the number of persons already recruited or promoted, the incoming vacancies have to be distributed one by one, and seniority of the initially recruited and promoted persons is to be fixed in the same ratio. Reply to para (d) of the Grounds of Appeal shows that posts were available, at least, on 18.4.2007. But it is not clarified that when each of those 21 posts became vacant, and from which date each of the appellant was eligible for promotion.

The record shows that the promotion of the appellants had to be antedated to the dates on which vacancies were available to them. The appellants prayed

EXAMINER
TESTER

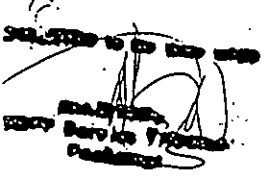
Annex-C

...ating of their promotion, at least, to 17.2.2003, when their colleagues
... promoted.

In above circumstances, we accept the present three appeals,
... costs, and direct the official respondents to antedate the promotions of
... appellants to the dates on which the vacancies were available for them
... when they were eligible for promotion. The respondents are also guided to act
... on the Cycles and Roster system of recruitment and promotion, by dividing
... each set of two vacancies, by reserving one vacancy for initial recruitment and
... the other vacancy for promotion.

ANNOUNCED
22.12.2008

Adv - Justice ^{Shri} Salim Kabeer
Chairman
Adv - Fazli Karimani
Members



Date of presentation	1-4-09
Number of writs	1200
Copy fee	8
Stamp	2
Total	105
Amount of copy	105
Date of completion of copy	1-4-09
Date of delivery of copy	1-4-09

2003 + 2007
2007

ANAL-1 (D)
AMMER + D

**GOVERNMENT OF N.W.F.P.
SCHOOLS & LITERACY DEPARTMENT**

Dated Peshawar the 01-01-2008.

NOTIFICATION.

No. SO(S) 1-4/2007 / Promotion BS-16 to BS-17/SS on Regular Basis. On the recommendation of the Departmental Promotion Committee, the Competent Authority has been pleased to promote the following SETs (BPS-16) to the rank of Subject Specialists (BPS-17) on regular basis with immediate effect and adjusted in the Schools as noted against their names.

S. No.	Name and Address of the Officers.	Place of Posting / Adjustment.	Remarks.
1.	Mr. Jahangir Khan, SET.ADO (BS-16) o/o the EDO (S&L) Haripur	Subject Specialist (BS-17) (P/S) GHSS Panian Haripur.	A.V.P
2.	Mr. Perwaiz Khan, SET (BS-16) GHS Shalbandi, Buner.	Subject Specialist (BS-17) (P/S) GHSS Batara Buner.	--do--
3.	Mr. Shaukat Rehman, SET (BS-16) GHSS Billitang, Kohat.	Subject Specialist (BS-17) (H/C) GHSS Chorlaki Kohat.	--do--
4.	Mr. Muhammad Nabi, SET (BS-16) GHS No.2 Parachinar Kurram Agency	Subject Specialist (BS-17) (P/S) Services placed at the disposal of the Director of Education (FATA) for further adjustment against the vacant post.	--do--

SECRETARY.

Endst. No.SO(S) 1-4/2007/ Promotion BS-16 to BS-17 SS. on Regular Basis.

Copy forwarded for information and necessary action to the:-

1. Accountant General N.W.F.P, Peshawar.
2. Special Secretary (Regulation), Establishment Deptt; NWFP.
3. Director Schools & Literacy NWFP Peshawar.
4. Director of Education (FATA) NWFP Peshawar.
5. Executive District Officer's (S&L) Concerned.
6. District / Agency Account's Officer Concerned.
7. Officers concerned.
8. Deputy Database Administrator (EMIS), S&L Department.
9. PS to Secretary to Govt. of NWFP Schools & Literacy Peshawar.
10. PA to Additional Secretary, Schools & Literacy Deptt; NWFP.
11. Office order file.


 NASRULLAH KHAN
 SECTION OFFICER (SCHOOLS)

Annex- (B)

Annex- (B)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Dated Peshawar the May 20, 2011

In pursuance of Court
recommendations of the Committee, the Competent Authority is pleased to
incharge Subject Specialists/ Headmasters/ Instructors (Male) on regular
their incharge posting noted against each:-

S #	Name of Officers with Designation (2)	Transfer/Adjusted as (3)	Date of Regularization as Incharge SSI/HM/Instructors (4)
1	Mr. Khwaja Mohammad SET GHSS No.4 DI Khan	I/C HM, GHS, Tajori Tank	8.11.1995
2	Mr. Dilawar Khan SET GHS, Gomal Bazar Tank	I/C HM, GHS, Masha Mansoor Lakki	8.11.1995
3	Mr. Abdul Hamid ASDEO (M) Kulachi Tank	I/C HM, GHS, Tannau Tank	8.11.1995
4	Mr. Yousaf Khan SET GHS, Jamal Garhi Mardan	I/C S.S GHSS Palo Dheri Mardan	8.11.1995
5	Mr. Ahmad Khan ASDEO (M) Tank	I/C HM, GHS Ranwal Tank	8.11.1995
6	Mr. Mohammad Ishtaq Jan SET GHS, Topi Kohat	I/C HM GHS, Lodhi Khel Kohat	8.11.1995
7	Mr. Mohammad Qureshi SET GHS, Topi Swabi	I/C SS GHSS, Kabgani Swabi	8.11.1995
8	Mr. Mohammad Afzal SET GHSS, Paroa DI Khan	I/C HM GHS, Pai Tank	8.11.1995
9	Mr. Ihsanullah SET GHS, Kunda Swabi	I/C SS GHSS, Gandaf Swabi Mardan	8.11.1995
10	Mr. Khadim Shah SET GHS, Lund Khawar Mardan	I/C S.S GHSS, Palo Dheri Mardan	8.11.1995
11	Mr. Zamrud Khan ASDEO (M) Mardan	I/C HM GHS, Aza Khel Payan A.S.R	8.11.1995
12	Mr. Sharifzada SET GHS, No. 2 Z.K.K. Sahib (NSR)	I/C S.S GHSS, Shahbaz Garhi Mardan	8.11.1995
13	Mr. Umara Khan ASDEO (M) Mardan	I/C Vice Pri, GHS, Timergara Dir	8.11.1995
14	Mr. Munawar Shah ASDEO (M) Swat	Services Placed at the disposal of DE (FATA)	8.11.1995
15	Mr. Zar Wali Khan SET GHS, Ashkar Kot SWA	Services Placed at the disposal of DE (FATA)	8.11.1995
16	Mr. Shad Mohammad SET GMS Sardargani FR, Pesh	I/C S.S GHSS, Palo Dheri Mardan	8.11.1995
17	Mr. Ghulam Sarwar ASDEO (M) Mardan	I/C S.S GHSS, Palo Dheri Mardan	8.11.1995
18	Mr. Muhammad Rasan SET GHS, Jamal Garhi Mardan	I/C S.S GHSS, Palo Dheri Mardan	8.11.1995

	Designation	Transfer/Adjusted as	Date of Regularization as Incharge SS/HM/Instructors
	O Shangla	I/C HM GHS Kasa Lilonai Shangla	17.2.2003
	GHS Sherhand	I/C HM GHS Dheri Shangla	17.2.2003
		I/C HM GHS Batara Kohistan	17.2.2003
	GHS Titar kKhel Karak	I/C HM GHS Dobair Kohistan	17.2.2003
	GHS Tangi Killa Karak	I/C HM GHS Ban Kad Kohistan	17.2.2003
	Mad Naeem ADO Timergara	I/C HM GHS Thal Dir Upper	17.2.2003
1304	Ghulam Raziq SET GHS Gagra Bunair	I/C HM GHS Jag Kohista	17.2.2003
1305	Muhammad Nasim SET GHS Dheri Allahdand Malakand	I/C HM GHS Keyal Kohistan	17.2.2003
1306	Muhammad Zamin SET GHS No.2 Batkhela	I/C HM GHS Saharkot Kohistan	17.2.2003
1307	Inyatullah SET GMS Hayat Khel Lakki	I/C HM GHS Ronolia Kohistan	17.2.2003
1308	Awal Khan ADEO O/O EDO Charsadda	I/C HM GHS Biari Ballagram	17.2.2003
1309	Ibadullah SET GMS Zahid Abad Charsadda	I/C HM GHS Shatyal Kohistan	17.2.2003
1310	Muhammad Hayat SET GHS Surgot Kohat	I/C HM GHS Dassu Kohistan	17.2.2003
1311	Faizu Rehman SDO O/O EDO Peshawar	I/C HM GHS Shagor Chitral	17.2.2003
1312	Abdul Jabbar SET GHS Kaga Wala Peshawar	I/C HM GHS susum Chitral	17.2.2003
1313	Muhammad Idrees SET GHS No.1 Dargai	I/CHM GHS Ujho Chitral	17.2.2003
1314	Fazli Ahmad SET GHS Spin Khak NSR	I/C HM GHS Tailoos Balgram	17.02.2003
1315	Nishat Gul SET GHS Ballagram Charsadda	I/C HM GHS Joz Balgram	17.02.2003
1316	Munibat Khan SET GHS Jehangari Karak	I/C HM GHS Seo Kohistan	17.02.2003
1317	Jehangir Khan SET ADO at EDO Haripur	I/C SS GHSS Pania Haripur	01.01.2008
1318	Parvaiz Khan SET GHS Shalbandi Buner	I/C SS GHSS Battar Buner	01.01.2008
1319	Shaukat Rehman SET GHSS SS Bilitang Kohat	I/C SS GHSS Chowlaki Kohat	01.01.2008
1320	Muhammad Nabi SET GHS No.2 Parachinar FATA	Services placed at the disposal of DE FATA	01.01.2008
1321	Ihsanullah SET GHS Gulmuhun Malakand	I/C SS GHSS Takkar Mardan	12.02.2004
1322	Ahmad Seed SET / ADO at EDO(E&SE) Karak	I/C SS GHSS Warana DIK	05.11.2003

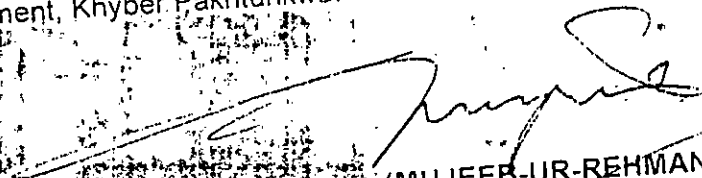
Secretary to Government of Khyber Pakhtunkhwa
Elementary & Secondary Education Department
Peshawar

Inst: of even No. & Date:

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. All Directors in E&SE, Khyber Pakhtunkhwa.
3. All EDOs E&SE, Khyber Pakhtunkhwa.
4. All District Accounts Officer/ Agency-Accounts Officer, Khyber Pakhtunkhwa.
5. PS to Minister E&SE, Khyber Pakhtunkhwa.
6. PS to Chief Secretary, Khyber Pakhtunkhwa.
7. PS to Secretary, Establishment Department Govt. of Khyber Pakhtunkhwa.
8. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
9. Officers concerned.
10. Office order file.

Director E&SE is requested to circulate the above Notification/List to all concerned as well as provide two sets of the same to this office immediately.


(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Amir (P)

Amir - E

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the May 20, 2011

NOTIFICATION

NO.SO(S/M)E&SED/1-5/08/Incharge SS/HMs/Instrs. (Male): In pursuance of Court judgements and recommendations of the Committee, the Competent Authority is pleased to promote the following incharge Subject Specialists/ Headmasters/ Instructors (Male) on regular basis from the date of their incharge posting noted against each:-

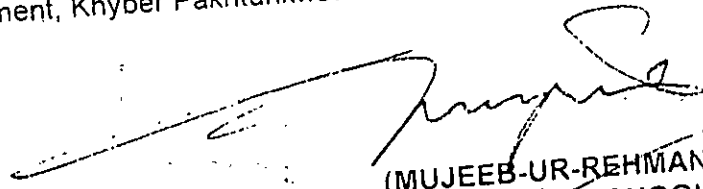
S #	Name of Officers with Designation	Transfer/Adjusted as	Date of Regularization as Incharge SS/HM/Instructors
(1)	(2)	(3)	(4)
1	Mr. Khwaja Mohammad SET GHSS No.4 DI Khan	I/C HM, GHS, Tajori Tank	8.11.1995
2	Mr. Dilawar Khan SET GHS, Gomal Bazar Tank	I/C HM, GHS, Masha Mansoor Lakki	8.11.1995
3	Mr. Abdul Hamid ASDEO (M) Kulachi Tank	I/C HM, GHS, Tannau Tank	8.11.1995
4	Mr. Yousaf Khan SET GHS, Jamal Garhi Mardan	I/ C S.S GHSS Palo Dheri Mardan	8.11.1995
5	Mr. Ahmad Khan ASDEO (M) Tank	I/C HM, GHS Ranwal Tank	8.11.1995
6	Mr. Mohammad Ishfaq Jan SET GHS, No. 2 Kohat	I/C HM GHS, Lodhi Khel Kohat	8.11.1995
7	Mr. Mohammad Qureshi SET GHS, Topi Swabi	I/C SS GHSS, Kabgani Swabi	8.11.1995
8	Mr. Mohammad Afzal SET GHSS, Paroa DI Khan	I/C HM GHS, Pai Tank	8.11.1995
9	Mr. Ihsanullah SET GHS, Kunda Swabi	I/C SS GHSS, Gandaf Swabi	8.11.1995
10	Mr. Khadim Shah SET GHS, Lund Khawar Mardan	I/C S.S GHSS, Palo Dheri Mardan	8.11.1995
11	Mr. Zamrud Khan ASDEO (M) Mardan	I/C S.S GHSS. Shahbaz Garhi Mardan	8.11.1995
12	Mr. Sharifzada SET GHS, No. 2 Z.K.K. Sahib (NSR)	I/C HM GHS, Aza Khel Payan A.S.R	8.11.1995
13	Mr. Umara Khan ASDEO (M) Mardan	I/C S.S GHSS, Shahbaz Garhi Mardan	8.11.1995
14	Mr. Munawar Shah ASDEO (M) Swat	I/C Vice Prt, GHS, Timergara Dir	8.11.1995
15	Mr. Zar Wali Khan SET GHS, Ashkar Kot SWA	Services Placed at the disposa of DE (FATA)	8.11.1995
16	Mr. Shad Mohammad SET GMS Sardargani FR. Pesh	Services Placed at the disposa of DE (FATA)	8.11.1995
17	Mr. Ghulam Sarwar ASDEO (M) Mardan	I.C S.S GHSS, Palo Dheri Mardan	8.11.1995
18	Mr. Muhammad Rasan SET GHS, Jamal Garhi Mardan	I.C S.S GHSS, Palo Dhri Mardan	8.11.1995

Enst: of even No. & Date:

Copy forwarded to the:-

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2. All Directors in E&SE, Khyber Pakhtunkhwa.
3. All EDOs E&SE, Khyber Pakhtunkhwa.
4. All District Accounts Officer/ Agency-Accounts Officer, Khyber Pakhtunkhwa.
5. PS to Minister E&SE, Khyber Pakhtunkhwa.
6. PS to Chief Secretary, Khyber Pakhtunkhwa.
7. PS to Secretary, Establishment Department Govt. of Khyber Pakhtunkhwa.
8. PS to Secretary, E&SE, Department, Khyber Pakhtunkhwa.
9. Officers concerned.
10. Office order file.

Director E&SE is requested to circulate the above Notification/List to all concerned as well as provide two sets of the same to this office immediately.



(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

S#	Name of Officers with Designation	Transfer/Adjusted as	Date of Regularization as Incharge SS/HM/Instructors
1298	Muhammad Wali SET ADO Shangla	I/C HM GHS Kasa Lilonai Shangla	17.2.2003
1299	Bakhtawr Khan SET GHS Sherhand	I/C HM GHS Dheri Shangla	17.2.2003
1300	Adul Aziz ADO Swat	I/C HM GHS Batara Kohistan	17.2.2003
1301	Musam Khan SET GHS Titar kKhel Karak	I/C HM GHS Dobair Kohistan	17.2.2003
1302	Sharif Khan SET GHS Tangi Killa Karak	I/C HM GHS Ban Kad Kohistan	17.2.2003
1303	Muhammad Naeem ADO Timergara	I/C HM GHS Thall Dir Upper	17.2.2003
1304	Ghulam Raziq SET GHS Gagra Bunair	I/C HM GHS Jag Kohista	17.2.2003
1305	Muhammad Nasim SET GHS Dheri Allahdand Malakand	I/C HM GHS Keyal Kohistan	17.2.2003
1306	Muhammad Zamin SET GHS No.2 Balkhela	I/C HM GHS Saharkot Kohistan	17.2.2003
1307	Inyatullah SET GMS Hayat Khel Lakki	I/C HM GHS Ronolia Kohistan	17.2.2003
1308	Awal Khan ADEO O/O EDO Charsadda	I/C HM GHS Biari Battagram	17.2.2003
1309	Ibadullah SET GMS Zahid Abad Charsadda	I/C HM GHS Shatyal Kohistan	17.2.2003
1310	Muhammad Hayat SET GHS Surgot Kohat	I/C HM GHS Dassu Kohistan	17.2.2003
1311	Faizu Rehman SDO O/O EDO Peshawar	I/C HM GHS Shagor Chitral	17.2.2003
1312	Abdul Jabbar SET GHS Kaga Wala Peshawar	I/C HM GHS susum Chitral	17.2.2003
1313	Muhammad Idrees SET GHS No.1 Dargai	I/ CHM GHS Ujno Chitral	17.2.2003
1314	Fazli Ahmad SET GHS Spin Khak NSR	I/C HM GHS Tailnos Batgram.	17.02.2003
1315	Nishat Gul SET GHS Battagram Charsadda	I/C HM GHS Joz Batgram.	17.02.2003
1316	Munibat Khan SET GHS Jehangari Karak	I/C HM GHS Soo Kohistan	17.02.2003
1317	Jehangir Khan SET ADO at EDO Haripur	I/C SS GHSS Pania Haripur	01.01.2008
1318	Parvaiz Khan SET GHS Shalbandi Buner	I/C SS GHSS Battar Buner	01.01.2008
1319	Shaukat Rehman SET GHSS SS Bilitang Kohat	I/C SS GHSS Chowlaki Kohat	01.01.2008
1320	Muhammad Nabi SET GHS No.2 Parachinar FATA	Services placed at the disposal of DE FATA	01.01.2008
1321	Ihsanullah SET GHS Gulmuan Malakand	I/C SS GHSS Takkar Mardan	12.02.2004
1322	Ahmad Seed SET / ADO at EDO(E&SE) Karak	I/C SS GHSS Warana DIK	05.11.2003

Secretary to Government of Khyber Pakhtunkhwa
Elementary & Secondary Education Department
Peshawar

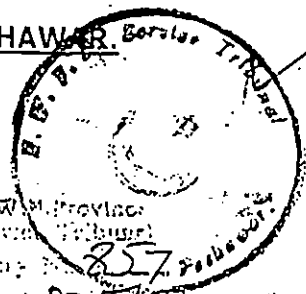
Annex ->

(P)

Annex-F

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 728 /08.



Mr. Pervez Khan, S.S (Pak: Studies),
GHSS, Batara Bannay.....

Appellant.

VERSUS

- 1- The Chief Secretary NWFP, Peshawar.
- 2- The Secretary Education (S&L) NWFP Peshawar.
- 3- The Director Education (S&L) NWFP Peshawar.

..... Respondents.

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNALS ACT 1974 FOR ANTEDATED PROMOTION AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN 90 DAYS.

PRAYER:

That on acceptance of this appeal the respondents may be directed to consider the appellant for promotion from date of availability of vacancy of Subject Specialist Pak: Studies OR at least from 17.2.2003, the date w.e.from which the promotion and seniority given to the counter parts of the appellant. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

M.A.K.
23/5/08

ATTESTED
NWFP Service Tribunal Peshawar

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 737/2008

Date of Institution 23.05.2008

Date of Decision 22.12.2008



Mr. Shaukat Rahman, Subject Specialist (Pak. Studies)
Government Higher Secondary School, Kohat. (Appellant)

VERSUS

1. The Chief Secretary, NWFP Peshawar.
2. The Secretary Education (S&L) NWFP Peshawar.
3. The Director Education (S&L), NWFP Peshawar. (Respondents)

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974 FOR ANTEDATED PROMOTION AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN NINETY DAYS.

MR. MUHAMMAD ASIF YOUSAFZAI,
Advocate. For appellant

MR. ARSHAD ALAM,
A.G.P. For respondents.

MR. JUSTICE (R) SALIM KHAN,
MR. FAZLI RAHMANI, CHAIRMAN
MEMBER.

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN.-This judgment will dispose of appeals No. 737 of 2008, 738 of 2008 and 762 of 2008 by Shaukat Rahman, Pervez Khan and Muhammad Nabi appellants.

2. Shaukat Rehman contended that, with the qualification of M.A/M.Sc. in relevant subject with B.Ed or Med, 50% posts of Subject Specialists were to be filled in by initial recruitment and 50% were to be filled

ATTESTED
M

by promotion from amongst SETs, ADOs and ASDOs, that in the working paper for the case of Pervez Khan, it was recorded that 21 posts were available. But the appellant was promoted as Subject Specialist on 1.1.2008 with immediate effect. He submitted departmental appeal which was not decided during the prescribed period. Hence the present appeal. Cases of Pervez Khan and Muhammad Nabi were also on the same lines.

3. The respondents contested all the three appeals. They contended that it was mentioned in the case of Pervez Khan that 21 posts were available but it did not mean that those posts were available from a very long time.

4. We heard the arguments and perused the record.

5. All the three appellants have been promoted with immediate effect. It has come on record that posts of Subject Specialists were available from certain time. The official respondents No. 1 to 3 did not clearly mention the dates from which the posts were lying vacant. The appellant contended that ratio of initial recruitment and promotion was 50% each. The copy of the rules dated 9.5.1994 produced by them, however, shows different ratio. This fact has also not been clarified by the respondents through their reply. The Working Paper in the case of Pervez Khan S.E.T shows that the ratio was 50% for initial recruitment and 50% for promotion. The number of promotees (66) and the number of balance share for promotion (21) were shown. It shows that the vacancies were not distributed one and one for each cycle of two vacancies, rather posts (174) were distributed as 87 for promotion and 87 for initial recruited. It has been clarified time and again that, without taking into consideration the number of persons already recruited or promoted, the incoming vacancies have to be distributed one by one, and seniority of the initially recruited and promoted persons is to be fixed in the same ratio. Reply to para (d) of the Grounds of Appeal shows that posts were available, at least, on 18.4.2007. But it is not clarified that when each of those 21 posts became vacant, and from which date each of the appellant was eligible for promotion. The record shows that the promotion of the appellants had to be antedated to the dates on which vacancies were available to them. The appellants prayed

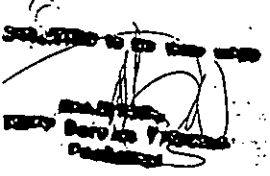
EXAMINERS
ATTESIED

...ating of their promotion, at least, to 17.2.2003, when their colleagues
... promoted.

7. In above circumstances, we accept the present three appeals,
with costs, and direct the official respondents to antedate the promotions of
the appellants to the dates on which the vacancies were available for them
when they were eligible for promotion. The respondents are also guided to act
on the Cycles and Roster system of recruitment and promotion, by dividing
each set of two vacancies, by reserving one vacancy for initial recruitment and
the other vacancy for promotion.

ANNOUNCED
22.12.2008

Adv - Justice (C) Salim Usman
Chairman
Adv - Fazli Karimani
Members



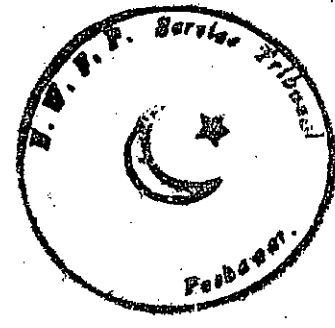
Date of presentation	1-4-09
Number of marks	1200
Examiners fee	8
Grades	2
Total	105
Sum of marks	1500
Date of completion of exam	1-12-09
Date of delivery of marks	1-4-09

2003 / 2007
amount 2007

Amma - H (H)

Amma - H

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.



Appeal No. 291/2009

Date of Institution. ... 29.08.2008
Date of Decision ... 08.10.2009

Mr. Jehangir Khan, Subject Specialist Pak Studies,
CHSS Panian, Haripur. ... (Appellant)

VERSUS

1. The Chief Secretary, NWFP Peshawar.
2. The Secretary Education (E&S), NWFP Peshawar.
3. The Director Education (E&S), NWFP Peshawar. ... (Respondents)

APPEAL U/S 4 OF THE SERVICE TRIBUNALS ACT 1974 AGAINST THE ORDER DATED 09.6.2008 RECEIVED BY THE APPELLANT ON 30.7.2008 WHEREBY HIS DEPARTMENTAL APPEAL FOR PROMOTION TO BPS-17 W.E.F. 31.8.2000 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

MR. MUHAMMAD ASIF YOUSAFZAI,
Advocate. ... For appellant.

MR. ZAHID KARIM KHALIL,
Addl. Government Pleader, ... For respondents.

MR. QALANDAR ALI KHAN, ... CHAIRMAN
MR. ABDUL JALIL KHAN, ... MEMBER.

ATTESTED
EXAMINER
NWFP Service Tribunal
Peshawar

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN.- Mr. Jehangir Khan, appellant, having the qualification of Master in Pak-Studies, was working as SET in the Education Department. In the year 1999, the department considered cases of SETs for promotion to Subject Specialists posts (BPS-17) and on 31.8.2000 adjusted other SETs as Subject Specialists on acting charge basis in their own pay and scale while ignoring the appellant from such adjustment. The rules for promotion of Subject Specialists were initially notified on 09.5.1994 whereby 80% quota was reserved for initial recruitment while remaining 20% by promotion which was later on amended on 15.1.1999 by distributing 50% by promotion and 50% by initial recruitment. The SETs earlier adjusted as Subject Specialists were regularly promoted vide notification dated 27.5.2003. The appellant claimed his eligibility for promotion on the ground of being more qualified than those who were promoted as Subject Specialists and that vacancies existed at that time but his case was not

considered for promotion against the existing vacancy. He, therefore, filed Writ Petition before the Hon'ble Peshawar High Court which was decided on 11.10.2006 with direction to the department to consider the appellant for promotion as Subject Specialist in Pak-Studies (BPS-17). In the meantime, the other SETs, promoted as Subject Specialists, also filed appeals before the N.W.F.P Service Tribunal which were decided in their favour and they were held entitled to promotion with effect from 31.8.2000 instead of 27.5.2003. Appeal was also filed in the August Supreme Court of Pakistan which held the appellant in the appeal entitled to regular promotion w.e.f. 31.8.2000 with all seniority and service benefits. In his instant appeal, the appellant has alleged that he was promoted as Subject Specialist (BPS-17) on 01.1.2008 with immediate effect, against which he filed departmental appeal claiming therein promotion w.e.f. 31.8.2000, but the same was rejected on 09.6.2008, copy whereof was received by him on 30.7.2008, hence this appeal, on the grounds, inter-alia, that the appellant was ignored from the promotion for no fault on his part when he was eligible for promotion and vacancies were available against which he could be promoted.

2. The respondents No. 1 to 3 appeared in response to notices issued for their appearance and furnished written reply/comments, wherein, they resisted the appeal on the ground that the department promoted SETs on the basis of seniority-cum-fitness against 50% existing vacancies. The respondents further contended that the appellant lodged Writ Petition in the Peshawar High Court challenging the promotion of the Subject Specialists (Pak-Studies) on the ground of their eligibility and after court decision on 11.10.2006 he was accordingly promoted. The respondents alleged that the appellant was not considered for promotion as Subject Specialist (Pak-Studies) due to non-availability of vacancies.

3. We have heard arguments of the learned counsel for the appellant and learned A.G.P and have gone through the record with their assistance.

4. It is now well settled, as laid down in cases reported as 1985 SCMR 1158 and 1997 SCMR 515 (Supreme Court of Pakistan), that a right to promotion is accrued to an eligible civil servant when a vacancy for promotion becomes available. In this case, though the respondents have denied existence of vacancies after promotion of other SETs, the appellant has produced a statement showing availability of 39 vacancies of Subject Specialists in Pak-Studies in May, 2003, which has not been seriously disputed by the respondents.

ATTESTED

EXAMINER
NWFP Service Tribunal
Peshawar

The appellant was promoted as Subject Specialist (BPS-17) in immediate effect, vide notification dated 01.1.2008 in accordance with the recommendation of the Departmental [redacted]. As such, there was no dispute regarding the eligibility of the [redacted] promotion as Subject Specialist. On the other hand, it was the [redacted] who challenged the eligibility of the other SETs for promotion before the [redacted] Court and then in the august Supreme Court of Pakistan, but could not succeed in securing a favourable order from the Hon'ble High Court, and his petition for leave to appeal was also dismissed by the august Supreme Court of Pakistan on 04.5.2009.


6. In any case, if vacancies were available and the appellant was eligible for promotion, then he had a right to be considered for promotion against the available vacancy, the denial whereof certainly accrued cause of action in favour of the appellant against the department which was rather to blame for causing delay in the promotion case of the appellant.

7. Consequently, the appeal is accepted with direction to the respondents to antedate the promotion of the appellant to the date on which the vacancy was available for him on the basis of his eligibility for promotion, leaving the parties to bear their own costs.

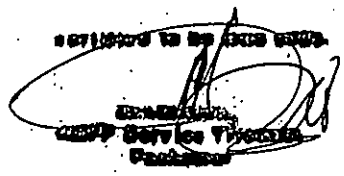
ANNOUNCED

08.10.2009


(ABDUL JALIL KHAN)
MEMBER.


(QALANDAR ALI KHAN)
CHAIRMAN

Number of pages of application 15/10/09
 Number of words 1200
 Copying fee 8
 Total 10
 Date of completion of copy 15/10/09
 Date of delivery of copy 15/10/09


 COMMISSIONER
 PESHAWAR

ANN — (I)
Annex - 'I'

IN THE SUPREME COURT OF PAKISTAN

Appellate Jurisdiction

PRESENT:

MR. JUSTICE RAJA FAYYAZ AHMED
MR. JUSTICE JAWWAD S. KHAWAJA

CIVIL PETITION NO. 106-P OF 2010.

As appealed from the judgment 8.10.2009 of the NWFP Service Tribunal, Peshawar passed in Appeal No. 251/2009.

Government of NWFP through Chief Secretary, ...Petitioner
Peshawar and others

VERSUS

Mst. Jeyangir Khan Subject Specialist, Pak Studies, ...Respondent
GHSS Panian, Baripur

For the petitioner: Mr. Naveed Akhtar AAC

For the respondent(s): N.R.

Date of hearing: 17.3.2010

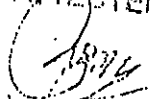
JUDGMENT

RAJA FAYYAZ AHMED I:- This petition is barred by 77 days and CMA has been filed seeking for condonation of the delay on the ground that the impugned judgment is void *abinitio* and limitation does not run against such order, which is a nullity in the eye of law. The learned AAG reiterated the grounds urged in the Misc. Application for condonation of the delay. He submitted that since the impugned judgment is a nullity in the eye of law and being a void order, the same can be challenged at any stage of time.

2. The relevant paras from the impugned judgment for brevity and reference, read as under:-

"4. It is now well settled, as laid down in cases reported as 1985 SCMR 1158 and 1997 SCMR 511 (Supreme Court of Pakistan), that a right to promotion is accrued to an eligible civil

AFFIXED


Chief Justice
Supreme Court of Pakistan

servant when a vacancy for promotion becomes available. In this case, though the respondents have denied existence of vacancies after promotion of other SETs, the appellant has produced a statement showing availability of 39 vacancies of Subject Specialists in Pak-Studies in May, 2003, which has not been seriously disputed by the respondents.

5. Admittedly the appellant was promoted as Subject Specialist (BPS-17) on regular basis, but with immediate effect, via notification dated 1.1.2008 in the pursuance of the decision of the Hon'ble Peshawar High Court in the Writ Petition of the appellant and in accordance with the recommendation of the Departmental Promotion Committee. As such, there was no dispute regarding the eligibility of the appellant to promotion as Subject Specialist. On the other hand, it was the appellant who challenged the eligibility of the other SETs for promotion before the High Court and then in the august Supreme Court of Pakistan, but could not succeed for leave to appeal was also dismissed by the august Supreme Court of Pakistan on 4.5.2009.

6. In any case, if vacancies were available and the appellant was eligible for promotion, then a he had a right to be considered for promotion against the available vacancy, the denial whereof certainly accrued cause of action in favour of the appellant against the department which was rather to blame for causing delay in the promotion case of the appellant."

3. Vide impugned judgment the appeal of the respondent was accepted by the learned NWFP Service Tribunal with the direction to the petitioner Department to antedate the promotion of the respondent to the date on which the vacancy was available for him on the basis of his eligibility for promotion.

4. The learned JAG has not been able during the course of arguments to substantiate that the impugned order was a nullity in the eye of law in view of the undisputed given facts of the case and; if it be for the sake of arguments presumed that the order under challenge passed by the Service Tribunal was a void order, still the

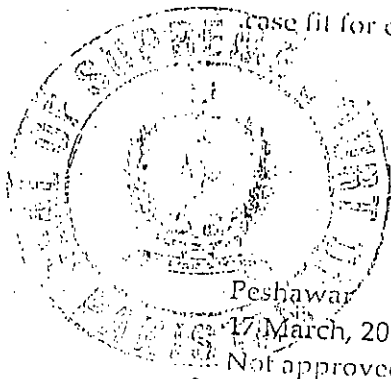
ACCEPTED



10/10/09

petitioners were under legal duty to challenge the same within the prescribed period of limitation. The delay of each day was required to be satisfactorily explained which prevented the petitioners in not coming to this Court within the prescribed period of limitation. For reference the judgments of this Court in the case of Muhammad Ismail v. Abdul Rasheed and 2 others (1983 SCMR 168) and Muhammad Raz Khan v. Government of NWFP and another (PLD 1997 SC 397) can be quoted.

5. Thus for the foregoing reasons, this Civil Petition being barred by time is dismissed, as the petitioners have failed to make out a case fit for condonation of the delay.



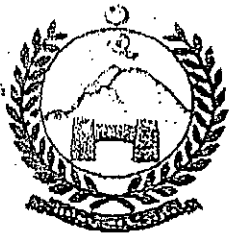
Peshawar
17 March, 2010
Not approved for reporting
Al-Saghar Muhammadi

[Handwritten signature]

Sd/- Raja Fayyaz Ahmad, J
Sd/- Jawwad S. Khawaja, J

[Handwritten signature]
Chief Justice
Supreme Court of Pakistan
Peshawar

SR. No. 880-P/2010
Date 1-4-2010
Applicant 1-4-2010
No of Pages 900
No. of Exhibits 9
Fees 5
Court Charges 5581
Court Expenses 1058
Date 5-4-2010
Page 10-4-2010
Copy 6700
Recd. M. A. Khan, Hussain Awan
Total 1058
Adv. 10/-
Initial 58



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Annex-J

ANNEX - (D)

Dated Peshawar the 20th October, 2011

CORRIGENDUM

No. SO(S/M)E&SED/1-5/08/Incharge/SSs/HMs/Instrs/Male In partial modification of this Department Notification of even number dated 20/05/2011, the date of regularization as Incharge SSs/HMs/Instrs as per column-4 appearing at S.No.1317 may be read as 31/08/2000 instead of 01/01/2008 in respect of Mr. Jehangir Khan Subject Specialist (BS-17) GHSS Panlan District Haripur.

2. No TA/DA is allowed.

SECRETARY

Endst No. & Date Even

Copy forwarded to the :-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. ✓ Directress, E&SE Khyber Pakhtunkhwa Peshawar.
3. Executive District Officer, E&SE, Haripur
4. District Accounts Officer Haripur
5. PS to the Secretary to Govt: of Khyber Pakhtunkhwa E&SE Deptt.
6. In-charge EMISE E&SE Department Khyber Pakhtunkhwa.
7. Officer concerned.
8. Office order File.

DD E&SE / Seminar Jan / Jamal ✓
17/10/2011
25/10/2011

(MUJEEB-UR-RAHMAN)
SECTION OFFICER (SCHOOLS/MALE)

P. A. to Director E & S E
Khyber Pakhtunkhwa Peshawar
D. No. 2669
Dated 26-10-11

1328

26/10/11

Restoration Application No: 434
Pervez Khan

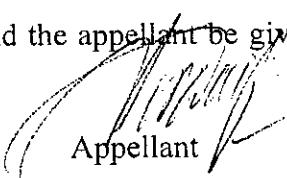
versus

Through Chief Secretary KPK, Peshawar and others.


APPLICATION FOR RESTORATION OF THE APPEAL NO. 800 OF 2016

1. That the captioned appeal had been preferred before the worthy tribunal and was at the stage of final arguments.
2. That the titled appeal was fixed for 05-11-2018, but due to retirement of the chairman of this worthy tribunal, the tribunal was non functional. Hence the appeal couldn't be heard.
3. That the appellant have now came to know that the appeal of the appellant have been dismissed due to non appearance of the appellant or his counsel despite the fact that no notice or summon have been issued to the appellant.
4. That due to non communication of any notice or summon it was not possible for the appellant to have appeared before this worthy tribunal.

It is therefore, kindly prayed that on acceptance of this application the captioned appeal may kindly be restored on its original number and the appellant be given opportunity to appear and argue his appeal.


Appellant

Through



Mushtaq Ahmad Khan,
Advocate

Dated: 10-12-18

Affidavit: I solemnly affirm and declare on oath that the contents of the instant application is true and correct to the best of my knowledge.


Appellant

Through


Mushtaq Ahmad Khan,
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A NO 800 / 2016

Khyber Pakhtunkhwa
Service Tribunal

Parvaiz Khan S/O Abdur Rehman Subject specialist B.P.S-17 (Pak-Studies)

No. 774
Dated 29-7-16

R/O Village Shalbandi, Tehsil Gagra, District Buner, presently Serving at GHS
Dewana Baba as principle (Appellant)

VERSUS



1. Govt of Khyber Pakhtunwa through Chief Secretary Khyber Pakhtunkhwa, at Peshawar.
2. Secretary to Govt of K.P.K, Elementary and Secondary Education Khyber Pakhtunwa, at Peshawar.
3. Director Elementary and Secondary Education Khyber Pakhtunwa, at Peshawar.
4. Muhammad Nabi, Subject Specialist B.P.S-18 (Pak-Studies) presently serving as V.P GHS Karman.
5. Jehangir Khan Subject Specialist B.P.S-17 (Pak-Studies) presently R/O Haripur presently serving as S.S (PS GC MHSS No. 1 Haripur).
6. Shaukat Rehman R/O Karak, presently serving as S.S, P.S B/18GHSS No.1 Kohat.
7. Changeez Khan R/O Peshawar presently serving as S.S GHSS No. 2 Peshawar Canntt:
8. Mr. Majeebullah M.Sc, B.Ed Peshawar S.S Stat B/18 GHSS No.1 Peshawar City.
9. Mr. Khurshid Alam M.Sc, B.Ed Karak S.S Stat B/18 GHSS Zamdara Dir (Lower)
10. Sana Ullah M/A B.Ed Dir Lower S.S Stat B/18 GHSS Bugra Karak
11. Abdul Nawaz M/A, B.Ed Bannu S.S Eng B/18 GHSS Zamdara Dir (Lower)
12. Abdur Rahman M.Sc, B.Ed Bannu S.S Eng B/18 GHSS Hakimiyah Bannu

10-2-2017
Private
Respondents
EX-PARTE

Filed on day

29/7/16
Registrar

Re-submitted to day
and filed.

8/8/16
Registrar

ACCEPTED

[Signature]
Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Camp Court, Swat



Appellant absent. Learned counsel for the appellant appeared on behalf of the appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.

Member
Camp Court Swat

[Signature]

Member
[Signature]

*Appel No. 800/2016
Parvaz Khan vs Govt*

06.12.2018

ANNOUNCED
06.12.2018

Certified to be true copy
[Signature]
District & Sessions Judge
Swat
District & Sessions Judge
Swat

Date of Presentation of Appeal: 10-12-78
Number of Words: 800
Copying Fee: 6.00
Amount: 2.00
Total: 8.00
Name of Counsel: *[Signature]*
Date of Completion of Copy: 10-12-78
Date of Receipt of Copy: 10-12-78

Restoration Application No: 434
Pervez Khan

versus

Through Chief Secretary KPK, Peshawar and others.

APPLICATION FOR RESTORATION OF THE APPEAL NO. 800 OF 2016


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Appellant

Through


Dated: 10-12-18


Mushfaq Ahmad Khan,
Advocate

Affidavit: I solemnly affirm and declare on oath that the contents of the instant application is true and correct to the best of my knowledge.


Appellant

Through


Mushtaq Ahmad Khan,
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A NO 800 / 2016

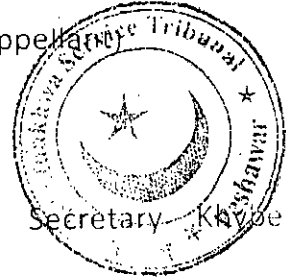
Khyber Pakhtunkhwa
Service Tribunal

Parvaiz Khan S/O Abdur Rehman Subject specialist B.P.S-17 (Pak-Studies)

Dist. 774
Date 29-7-16

R/O Village Shalbandi, Tehsil Gagra, District Buner, presently Serving at GHS
Dewana Baba as principle (Appellant)

VERSUS



1. Govt of Khyber Pakhtunwa through Chief Secretary Khyber Pakhtunkhwa, at Peshawar.
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11. Abdul Nawaz M/A, B.Ed Bannu S.S Eng B/18 GHSS Zamdara Dir (Lower)
12. Abdur Rahman M.Sc, B.Ed Bannu S.S Eng B/18 GHSS Hakimiyaved Bannu

10-2-2017
Private
Respondents
Ex-parte

Filed on day
29/7/16

Re-submitted to day
and filed.

8/8/16

ACCEPTED

(Signature)
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Appeal No. 800/2016
Pasvaiz Khan vs Govt



06.12.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Usman Ghani learned District Attorney for the respondents present. Case called for several times but no one appeared on behalf of the appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.

[Signature]
Member

[Signature]
Member
Camp Court Swat

ANNOUNCED
06.12.2018

Certified to be true copy
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Urgent	2-00
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Restoration application no: 434

Pervez Khan

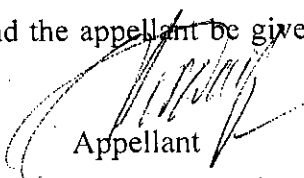
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Appellant

Through

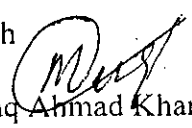
Dated: 10-12-18


Mushtaq Ahmad Khan,
Advocate

Affidavit: I solemnly affirm and declare on oath that the contents of the instant application is true and correct to the best of my knowledge.


Appellant

Through


Mushtaq Ahmad Khan,
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

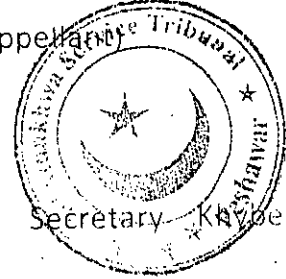
S.A NO 800 / 2016

Khyber Pakhtunkhwa
Service Tribunal

Parvaiz Khan S/O Abdur Rehman Subject specialist B.P.S-17 (Pak-Studies)

Page 774
Date 29-7-16

R/O Village Shalbandi, Tehsil Gagra, District Buner, presently Serving at GHS
Dewana Baba as principle (Appellant)



VERSUS

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12. Abdur Rahman M.Sc, B.Ed Bannu S.S Eng B/18 GHSS Hakim Havel Bannu

10-2-2017
Private
Respondents
Ex-parte

Filed on day
29/7/16

Re-submitted to day
and filed.

Registrar
8/8/16

APPEALED

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

*Appeal No. 800/2016
Parvaiz Khan vs Govt*



06.12.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Usman Ghani learned District Attorney for the respondents present. Case called for several times but no one appeared on behalf of the appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.

[Signature]
Member

[Signature]
Member
Camp Court Swat

ANNOUNCED
06.12.2018

Certified to be true copy
[Signature]
EXCHANGER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application	<u>10-12-78</u>
Number of Words	<u>800</u>
Copying Fee	<u>6.00</u>
Urgent	<u>2.00</u>
Total	<u>8.00</u>
Name of Copyist	<u>[Signature]</u>
Date of Completion of Copy	<u>10-12-78</u>
Date of Delivery of Copy	<u>10-12-78</u>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
Restoration Application No. 434
Pervez Khan

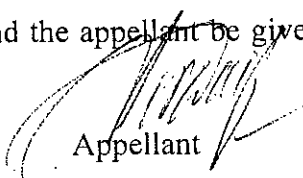
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Through


Dated = 10-12-18


Mushtaq Ahmad Khan,
Advocate

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Appellant

Through


Mushtaq Ahmad Khan,
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A NO 800 / 2016

Khyber Pakhtunkhwa
Service Tribunal

Parvaiz Khan S/O Abdur Rehman Subject specialist B.P.S-17 (Pak-Studies)

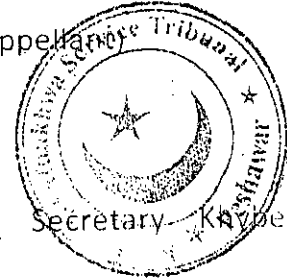
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Date 29-7-16

R/O Village Shalbandi, Tehsil Gagra, District Buner, presently Serving at GHS

Dewana Baba as principle

(Appellant)

VERSUS



1. Govt of Khyber Pakhtunwa through Chief Secretary Khyber Pakhtunkhwa, at Peshawar.
2. Secretary to Govt of K.P.K, Elementary and Secondary Education Khyber Pakhtunwa, at Peshawar.
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10-2-2017
Private
Respondents
EX-PARTE

Filed to day

Registrar

29/7/16

Re-submitted to day
and filed.

Registrar

8/8/16

ACCEPTED

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

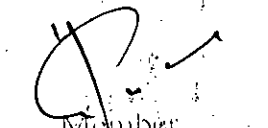
Appeal No. 800/2016
Parvaiz Khan vs Govt



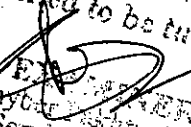
06.12.2018

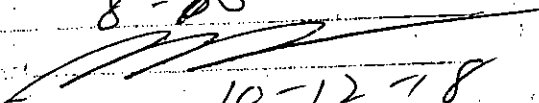
Appellant absent. Learned counsel for the appellant absent. Mr. Usman Ghani learned District Attorney for the respondents present. Case called for several times but no one appeared on behalf of the appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.


Member


Member
Camp Court Swat

ANNOUNCED
06.12.2018

Certified to be true copy

EXCISE OFFICER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Applicant	10-12-78
Number of Words	800
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