65 73 73 Anx "L"

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.

ATTESTED

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 lateron 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[illegible]s 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 [illegible] 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.

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/- Balandar Ali Khan Chairman
Sd/- Abdul Jalil Khan Member

Certified to be true copy
Khyber Pakhtunkhwa Service Tribunal Peshawar

Date of Presentation of Application 3-4-2014
Number of Words 1200
Copying Fee 8
Urgent 2
Total 10
Name of Copyist
Date of Completion of Copy 3-4-2014
Date of Delivery of Copy 3-4-2014

Annex A

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

Sr.No	Seniority As SET	No	Name/Designation and addressed	Date of Birth with Domicil	Date of Entry in Education Agency	date of Appt. against SET Post	Subject in MA-MSc	Remarks
1	1-22		Mr. Iftikhar Qadir GMS Hari Mera Mansehra	1 1 54 Mans	[illegible]	30 9 83	Pak Studies	
2	1853		Mr. Abdullah Shah GHS. Mathra Peshawar	3 2 60 Pesha	[illegible]	12.7 85	Pak Studies	
3	[illegible]		Mr. Abbas Gul GHSS Takta Beg Mardan	12 1 59 Mard	[illegible]	26 10 86	Pak Studies	
4	2220		Mr. Muhammad Zareen Khan GHS. Parian Haripur	12 4 59 Harip	[illegible]	11/11 86	Pak Studies	
5	2457		Mr. Subrab Khan GHSS. Parina Mansehra	1 2 59 Mansehra	[illegible]	20.9.87	Pak Studies	
6	2518		Mr. Muhammad Nawab GHS. No.1. Kohat	15 3 52 Karak	[illegible]	15 10 87	Pak Studies	
7	2555		Mr. Akhtar Hussain GHS. Pir Shaik Jan Kot NWA	2 11 61 FRBnu	[illegible]	12/10.88	Pak Studies	
8	2558		Mr. Abdul Qayum Khan GHS No. 2. Lakki	23 8 62 Lakki	[illegible]	19/10 88	Pak Studies	
9	2925		Mr. Inyat Ullah GHSS Perove D.I.Khan	17/8/66 D.I.Khan	[illegible]	1/12/88	Pak Studies	
10	2944		Mr. Muhammad Sadiq SET. GHS. Mathra Peshawar	6/4/61 Peshawar	[illegible]	8/12/88	Pak Studies	
11	3158		Mr. Muhammad Rafiq GHSS. Dhodialchial	22/10/59 Mana:	[illegible]	19/9.89	Pak Studies	
12	3171		Mr. Muhammad Aslam GHSS Darwesh Haripr	3 9/50 Haripur	[illegible]	20/9/89	Pak Studies	
13	3232		Mr. Abdul Hani SET. GHS Dalazak Charsadda	5/5/62 Chda	[illegible]	7/10/89	Pak Studies	MA Suit Declared on 6-2-2001
14	3347		Mr. Zahid Hussain AEO Orakzai	9/2/65 Orakzai	[illegible]	26/11/89	Pak Studies	
15	3540		Mr. Gul Aslam GHSS. Domal Bannu	15/7/64 Bannu	[illegible]	19/2/90	Pak Studies	
16	3585		Muhammad Shafiq SET. GHS No.1 Kohat	8/2/60 Kohat	[illegible]	26/11/90	Pak Studies	MA Suit Declared on 6-2-2001
17	3739 A		Mr. Iftikhar Ahmad SET. GHS. Kotli Balan Mans	14/4/61 Mansehra	[illegible]	27/11 90	Pak Studies	
18	3791		Mr. Saeed Ahmad GHS Trangri Bala Mansehra	15/4 65 Mans:	[illegible]	27/11 90	Pak Studies	
19	3902		Mr. Sabir Hussain Shah GMS. Ghari Habibullah	5 11/50 Mans:	[illegible]	11/1 91	Pak Studies	
20	3947A		Mr. Khadim Hussain Shah GMS Tori Abad	28 1/43 A-Abad	[illegible]	2/2 91	Pak Studies	
21	3982		Muhammad Aslam SET. GHSS Dhakki Ctd	1/4/66 Chd	[illegible]	10/11/91	Pak Studies	MA Suit Declared on 6-2-2001
22	3989		Mr. Alam Zeb Khan GHS. Sari Bala Dir	17/2.66 Dir	[illegible]	10/11 94	Pak Studies	
23	3997		Mr. S. Muhammad Tariq Shah GHS No.4 Pesh City	15/4/69 Chars:	[illegible]	10/11 94	Pak Studies	
24	4030		Mr. Muhammad Daraz Khan GHS. No.4. Kohat	4 2/68 Karak	[illegible]	10/11 94	Pak Studies	
25	4044		Mr. Chen Zeb GHS. Bagh A-Abad	1 1 64 A-Abad	[illegible]	10/11 94	Pak Studies	
26	4134		Mr. Jamil Ahmad GCMHS D.I.Khan	1 6/69 D.I Khan	[illegible]	10/11 94	Pak Studies	
27	4143		Mr. Muhammad Sadiq GHS. Jalaka Mala ORK	1 3 65 Tr Bannu	[illegible]	10 11 94	Pak Studies	
28	4152		Mr. Munir Hussani GHS. Ghari Habibullah Mansh	20 5 63 Mansh	[illegible]	10 11 94	Pak Studies	
29	4189		Mr. Iqbal Ali Shah GHSS. Bannu	21/10 69 Bannu	[illegible]	10 11 94	Pak Studies	
30	4203		Mr. Akhtar Waheed GHS. No.3. Kohat	10/10/44 Kohat	29 9 92	10/11/94	Pak Studies	
31	4247		Mr. Tayyib Shahzad GHS. No.2. Haripur	[illegible] 63 Haripur	19/9/85	10 [illegible]	Pak Studies	
32	4268		Mr. Isaj Ali GHS Dabkor M Agency	13 2 68 M Agency	[illegible]	10 [illegible]	Pak Studies	
33	4360		Mr. Jehanzeb GMS Manakasai Haripur	31/3/63 Haripur	[illegible]	10 11 94	Pak Studies	
34	4454		Mr. Wali Ullah GMS. Shakar Kail Karak	4 3 60 Karak	[illegible]	23 5 95	Pak Studies	
35	4483		Mr. Muhammad Afzal GHSS Gumbat Kohat	28 8 53 Kohat	[illegible]	23 5 95	Pak Studies	
36	4509		Mr. Muhammad Riaz GCS. Kohat.	7 9 51 Kohat	[illegible]	23 5 95	Pak Studies	

Attested

Assistant Director (Admn)
Directorate of Schools
Literacy, N.W.F.P.

attested and accepted

(77) —77— (69)

37	4652	Mr. Muhammad Younas GHS. Nagri Bala A-Abad	10 11 67 A-Abad	25 11.79	23 5 95	Pak Studies	
38	4700	Mr. Muhammad Mushtaq GHS.Jab Manshera	3 5 52 Mansh	22 4 72	23 5 95	Pak Studies	
39	4741	Mr. Hayat Muhammad GHS. Umerzai Charsadda	20 5 64 Charsadd	12 9.87	23 5 95	Pak Studies	
40	4826	Mr. Gulfam Iqbal GCHS Kohat	25 4 69 Kohat	20 11 86	23 5 95	Pak Studies	
41	4891	Mr. Zard Ali Khan SET GHSS Azakhel (M) Peh	5/8/62 Peh	24/10/81	23/5/95	Pak Studies	MA Result Declared on 6/5/2003
42	4953	Mr. Amin-ul-Haq GHS. Paragai Malakand	5 5 67 MKD	1 10.89	24 5 95	Pak Studies	
43	5011	Mr. Muhammad Aksar ADO Haripur	4/1 55 Haripur	14 12 74	23 5 95	Pak Studies	
44	5114	Mr. Hamid Hussain GHS.Ibhrahim Zai Hangu	15 10.65 Hangu	4 10 87	23 5 95	Pak Studies	
45	5139	Mr. Abdul Hamid GMS. Ghura Banda Dir	19 8 67 Dir	31 3 90	24 5 95	Pak Studies	
46	5167	Mr. Ahmad Saeed GHS. No.1.Kohat	6 1 62 Kohat	28 5 95	24 5 95	Pak Studies	
47	5201	Mr. Alamzeb Khan GHSS. Sherpao Charsadda	6 11 66 Charsadd	10 9 89	24 5 95	Pak Studies	
48	5207	Mr. Muhammad Tahir GHS.Mahabat Abad Mardan	15 4 66 Mardan	1 12.90	24 5 95	Pak Studies	
49	5216	Mr. Safar Islam Tariq CMHS Chokara Karak	15.11.68 Karak	24/5/95	24 5 95	Pak Studies	
50.	5239	Mr. Shaukat Rehman GHSS.Bulitang Kohat	10 3 69 Karak	24/5/95	24 5 95	Pak Studies	
51	5253	Mr. Perviz Khan GHS. Amnawar Bunir	20 6 65 Bunir	24/5/95	24 5 95	Pak Studies	
52	5254	Mr. Muhammad Nabi GHS0 No.2 Parachnair K.Agn.	12 3 65 Kurram	27/10 94	24 5 95	Pak Studies	
53	5271	Mr. Jehangir Khan ADO. Haripur	25 4 62 Haripur	21/10 86	24 5 95	Pak Studies	
54	5312	Mr. Hayat Ullah Jan GMS Toor Kaki Bannu	15 6 62 Bannu	23/11/86	24.5.95	Pak Studies	
55	5476	Mr. Muhammad Anwar Khan GHS: Sangar Mansh	25 1 65 Mansh	1-12 84	25 3 96	Pak Studies	
56	5484	Mr. Manzoor Ahmad GMS. Mujhunan Abad	10 1 56 A-Abad	10/10 84	25 3 96	Pak Studies	
57	5486	Mr. Muhammad Yaqoob GMS. Beri Bala A-Abad	25 7 56 A-Abad	22/10 77	25 3 96	Pak Studies	
58	5491	Mr. Muhammad Zahoor GMS. M.M. Pol . Manshera	1 4 60 Mansh	13 9 70	25 3 96	Pak Studies	
59	5492	Mr. Parvez Ali GHS. Dheri Nagar Chan Haripur	1 1 58 Haripur	3 10 82	25 3 96	Pak Studies	
60	5626	Mr. Irshad GCHS Kohat	13 2 67 Kohat	3 12 88	25 3 96	Pak Studies	
61	5670	Mr. Muhammad Iqbal GHS Kalaq Haripur	15 6 65 Haripur	16 11 84	28 3 96	Pak Studies	
62	5703	Mr. Nabi Ullah GHS. Zarat Shaikh Abad Kohat	19 5 69 Karak	18 5 92	28 3 96	Pak Studies	
63	5731	Mr. Dost Muhammad ADO Peshawar	14 4 [illegible] Peshawar	16 10 88	28 3 96	Pak Studies	
64	5741	Mr. Muhammad Tariq GHSS Chankani Peshawar	11 4 [illegible] Peshawar	11 2 89	28 3 96	Pak Studies	

Assistant Director (A[illegible]
Directorate of Schools
Govt. N.W.F.P. Peshawar

PRINCIPAL
Govt. High Sch[illegible]
Hayatabad P[illegible]

HEAD MASTER
Govt. [illegible] School
[illegible] Peshawar

Subject Specialist
Govt. Higher Secondary
School No.1 Peshawar City

S.MUSHTAQ HUSSAIN SHAH
PRINCIPAL
Govt Centennial Mo[illegible]
School Peshawar Ca[illegible]

HM
GHS Mashr Gaj[illegible]
Pesh[illegible]

SET
GHSS No 3
Peshawar

10

وکالت نامہ

بعدالت خیبر پختونخواہ سروس ٹریبونل پشاور مقام مینگورہ سوات

پرویز خان بنام چیف سیکرٹری خیبر پختونخواہ وغیرہ

منجانب ـــــــــــ دعویٰ ـــــــــــ

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام کے لیے مینگورہ سوات

مشتاق احمد خان ایڈووکیٹ پشاور کو بدیں شرط وکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر من مظہر حاضر نہ ہوا 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 کچہری کے کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام کچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کی ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختانہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب موصوف کو عرضی دعوے و جواب دعویٰ اور درخواست اجرائے ڈگری و نظر 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 کا روپیہ 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 امتناعی یا قرقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختانہ پیروی کا اختیار ہوگا، اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا، یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی 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 ہرجانہ التواء پڑے گا وہ صاحب موصوف کو اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ بھی [illegible] خلاف کے برخلاف نہیں ہوگا۔ لہٰذا [illegible] یا تا کہ سند رہے۔

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

Altested & Accepted

Mushtaq Ahmed Khan Advocate

العبد ـــــــــــ العبد ـــــــــــ

پرویز خان ولد [illegible] ساکن [illegible] GHS ڈیرئی [illegible]

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.

بعدالت جناب خیبر پختونخوا سروس ٹریبونل پشاور کیمپ کورٹ سوات

سروس اپیل نمبر 800/2016 آئندہ تاریخ پیشی

پرویز خان بنام حکومت وغیرہ

مدعا علیہم مندرجہ 4 تا 209 کی تعمیل معمولی اور عام طریقے سے ہونی مشکل ہے لہذا مدعا علیہم کو بذریعہ اشتہار ھذا مطلع کیا جاتا ہے کہ وہ مورخہ 10/2/2017 کو اصالتاً وکالتاً حاضر عدالت ھذا سروس ٹریبونل کیمپ کورٹ سوات ہو کر مقدمہ ھذا کی پیروی کریں غیر حاضری کی صورت میں ان کے خلاف یکطرفہ کارروائی عمل میں لائی جائے گی۔ ثبت و دستخط عدالت آج 19/12/2016 کو جاری کیا گیا۔

(مدعا علیہم مندرجہ 4 تا 209 کی فہرست لف ہے)

19/12/16

رجسٹرار

سروس ٹریبونل پشاور

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PLESHAWAR

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 form 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 THROUI
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

Notices through publication in Daily Newspaper "Aaj" at the expenses of appellant be issued for private respondents for the date fixed. 15.12.16

BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

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 directions 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 antidation 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

Anx "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. 31-08-200 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 09-02-2016 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:-

a. 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 22-12-200
b. Your re-antedation of promotion again to SS (BS-17) is against Law, policy and rules.
c. You were placed in the seniority list of SS/ HM (BS-17) as stood on 13-02-2013 on proper place
d. Alongwith you, promotion of other three Subject Specialists was antedated w.e.f 17-02-2003 vic same notification dated 12-11-2012 but none of them have challenged it in the court.
e. As per present position of seniority list, 206 persons are lying between you and Mr. Jehangir Kha who are senior to you. In these circumstances, re-antedation of your promotion will infringe th legal right of 206 persons.
f. 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:-

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

attested & accepted

SECTION OFFICER (SCHOOLS MALE)

Annex-B

(2)

(3)

(2) Anx "G"

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

EDO Schools & Literacy
Diary No 9/13
Date
District Buner

NOTIFICATION

Dated Peshawar the November 12, 2012

ADO(E) Send to Pst for further proc 17/11/12

NO.SO(S/M)E&SED/1-5/Incharge SS/HM/2012: In pursuance of Court Judgement, the Competent Authority is pleased to promote the following Subject Specialist Head Masters (Male) on regular basis fom 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.	Mr Pervaiz Khan SET GHS Shalbandi Bunir.	Subject Specialist GHSS Battar Bunir.	17.02.2003
2.	Mr Shawkat Rehman SET GHSS Bi[illegible]ng Kohat.	Subject Specialist GHSS Chowrlaki Kohat.	17.02.2003
3.	Mr. Muhammad Nabi SET G[illegible] No.[illegible] Parachinar FATA.	Services placed at the disposal of FATA.	17.02.2003
4.	Ihsan Ullah SET GHSS Gul [illegible] Malakand.	I/C SS GHSS Takar Mardan.	17.02.2003

2. NO TA/DA is allowed.

SECRETARY

12/11/2012

Endst: Endst NO & Date

Copy- Forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Directors, E&SE Khyber Pakhtunkhwa, Peshawar/FATA.
3. [illegible] 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 EMIS E&SE Department.
10. Officer concerned.
11. Office order file.

Attested and accepted

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

BETTER COPY

(3)

GOVERNMENT OF KHYBER PAKHTUN KHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

NOTIFICATION

Dated Peshawar the November 12-2012

NO,SO (S/M.E &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

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

Annex-C

(4)

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 SECTON 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.

ATTESTED
EXAMINER
NWFP Service Tribunal
Peshawar

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.Scs 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

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. 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

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

Sd/- Justice (R) Salim Khan
Chairman

Sd/- Fazli Rahman
Member

[redacted]

Date of presentation of application 1-9-09
Number of words 1200
Copying fee 8
Urgent
Total 10
Name of copyist
Date of completion of copy 15-9-09
Date of delivery of copy 1-9-09

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, ... 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 lateron 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[illegible]s 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.

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/- Balandar Ali Khan
Member

Sd/- Abdul Jalil
Member

Certified to be true copy
Khyber Pakhtunkhwa Service Tribunal Peshawar

Date of Presentation of Application 3-4-2014
Number of Words 1200
Copying Fee 8
Urgent 2
Total 10
Name of Copyist
Date of Completion of Copy 3-4-2014
Date of Delivery of Copy 3-4-2014

Annex-E

(10)

Anx"

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

9/2/16

Service Appeal No. 1460/2013

Pervaiz Khan Versus Government of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar and others.

JUDGMENT

09.02.2016

PIR BAKHSH SHAH, MEMBER: - Counsel for the appellant (Mr. Sajid Amin, Advocate) and Government Pleader (Mr. Muhammad Jan) for respondents present.

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

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

(12)

Strictly 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 Bakhsh Shah,
Member

Sd/- Abdul Latif,
Member

Certified to be ture copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 09-03-2016
Number of Words 1600
Copying Fee 10-0
Urgent 2-0
Total 12-0
Name of Copyist
Date of Completion 09-03-2016
Date of Delivery of Copy 09-03-2016

Seniority list

3273

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

Sr.No.	Seniority No. of SET	Name/Designation and addressed	Date of Birth with Domicil	Date of Appointment in Education Cadre	Date of Appointment against SET Post	Subject in MA/MSc	Remarks
1	1422	Mr. Iftikhar Qadir GMS Hari Mera Mansehra	1 1 54 Mans	[illegible]	30 9 83	Pak Studies	
2	1555	Mr. Abdullah Shah GHS. Mathra Peshawar	3 2 60 Pesha	[illegible]	12.7 85	Pak Studies	
3	[illegible]	Mr. Abbas Gul GHSS Takia Bala Mardan	12 1 59 Mard	[illegible]	26 10 86	Pak Studies	
[illegible]	2220	Mr. Muhammad Zareen Khan GHS. Panian Haripur	12 4 59 Harip	[illegible]	11/11 86	Pak Studies	
5	2457	Mr. Sohrab Khan GHSS. Parina Mansehra	1 2 59 Mansehra	[illegible]	20.9 87	Pak Studies	
6	2518	Mr. Muhammad Nawab GHS. No.1. Kohat	15 3 52 karak	[illegible]	15/10 87	Pak Studies	
7	2555	Mr. Akhtar Hussain GHS. Pir Shaib Jan Kot NWA	2 11 61 FRBnu	[illegible]	12/10.88	Pak Studies	
8	2558	Mr. Abdul Qayum Khan GHS No. 2. Lakki	23 8 62 Lakki	[illegible]	19/10 88	Pak Studies	
9	2825	Mr. Inyat Ullah GHSS Perove D.I.Khan	17/8/66 D.I.Khan	[illegible]	1/12/88	Pak Studies	
10	2844	Mr. Muhammad Sadiq SET. GHS. Mathra Peshawar	6/4/61 Peshawar	[illegible]	8/12/88	Pak Studies	
11	3158	Mr. Muhammad Rafiq GHSS. Dhodialchial	22/10/59 Manse	[illegible]	19/9.89	Pak Studies	
12	3171	Mr. Muhammad Aslam GHSS Darwesh Haripr	3 9/50 Haripur	[illegible]	20.9 89	Pak Studies	
13	[illegible]	Mr. Abdul Hard SET. GHS Dalazak Charsadda	[illegible] Charsada	[illegible]	7/10/88	[illegible]	MA Result Declared on [illegible]
14	3347	Mr. Zahid Hussain AEO Orakzai	9 2 65 Orakzai	[illegible]	26/11 89	Pak Studies	
15	3540	Mr. Gul Aslam GHSS. Domal Bannu	15/7/64 Bannu	[illegible]	19/2/90	Pak Studies	
16	[illegible]	Mohammad Shafiq SET. GHS Kotli Kohat	8/2/60 Kohat	[illegible]	26/11/90	Pak Studies	MA Result Declared on [illegible]
17	3789 A	Mr. Iftikhar Ahmad SET. GHS. Kotli Balan Mans	1/4/61 Mansehra	[illegible]	27/11 90	Pak Studies	
18	3791	Mr. Saeed Ahmad GHS Trangri Bala Mansehra	15 4 65 Mans	[illegible]	27/11 90	Pak Studies	
19	3902	Mr. Sabir Hussain Shah GMS. Ghari Habibullah	5 11/50 Mans	[illegible]	11 1 91	Pak Studies	
20	3947A	Mr. Khadim Hussain Shah GMS Tori Abad	28 1 43 A-Abad	[illegible]	2/2 91	Pak Studies	
21	3982	Muhammad Aslam SET. GHSS Dhakki Cod	11/4/66 Dir	[illegible]	10/11/94	Pak Studies	MA Result Declared on [illegible]
22	3999	Mr. Alam Zeb Khan GHS. Sari Bala Dir	17/2/66 Dir	[illegible]	10/11 94	Pak Studies	
23	3997	Mr. S. Muhammad Tariq Shah GHS No.4 Pesh City	15/4/69 Charsadda	[illegible]	10/11 94	Pak Studies	
24	4030	Mr. Muhammad Daraz Khan GHS. No.4. Kohat	4 2/68 Karak	[illegible]	10/11 94	Pak Studies	
25	4044	Mr. Chen Zeb GHS. Bagh A-Abad	1 1 64 A-Abad	[illegible]	10/11 94	Pak Studies	
26	4134	Mr. Jamil Ahmad GCMHS D.I.Khan	1 6/69 D.I.Khan	[illegible]	10 11 94	Pak Studies	
27	4143	Mr. Muhammad Sadiq GHS. Jalaka Mala ORK	1 3 65 Tr Bannu	[illegible]	10 11 94	Pak Studies	
28	4152	Mr. Munir Hussani GHS. Ghari Habibullah Mansh	20 5 63 Mansehra	[illegible]	10 11 94	Pak Studies	
29	4189	Mr. Iqbal Ali Shah GHSS. Bannu	21/10 69 Bannu	[illegible]	10/11 94	Pak Studies	
30	4203	Mr. Akhtar Waheed GHS. No.3. Kohat	[illegible] Kohat	[illegible]	10 [illegible]	Pak Studies	
31	4247	Mr. Tayyib Shahzad GHS. No.2. Haripur	[illegible] 63 Haripur	[illegible]	10 [illegible]	Pak Studies	
32	4268	Mr. Isaj Ali GHS Dabkor M Agency	13 2 68 M Agency	[illegible]	10 11	Pak Studies	
33	4360	Mr. Jehanzeb GMS Manakasai Haripur	31/3/63 Haripur	[illegible]	10 11 94	Pak Studies	
34	4454	Mr. Wali Ullah GMS. Shakar Kail Karak	4 3 60 Karak	[illegible]	23 5 95	Pak Studies	
35	4483	Mr. Muhammad Afzal GHSS Gumbat Kohat	28 8 53 Kohat	[illegible]	23/5 95	Pak Studies	
36	4509	Mr. Muhammad Riaz GCS. Kohat	7 9 51 Kohat	[illegible]	23 5 95	Pak Studies	

Assistant Director (Admin)
Directorate of Science & Literacy, N.W.F.P.

attested and accepted

37	4652	Mr. Muhammad Younas GHS. Nagri Bala A-Abad	16 11 67 A-Abad	25 11.79	23 5 95	Pak Studies	
38	4700	Mr. Muhammad Mushtaq GHS.Jab Manshera	3 5 52 Mansh	22 4/72	23 5 95	Pak Studies	
39	4741	Mr. Hayat Muhammad GHS. Emerzai Charsadda	20 5 64 Charsadd	12 9.87	23 5 95	Pak Studies	
40	4826	Mr. Gulfam Iqbal GCHS Kohat	25 4 67 Kohat	20 11.86	23 5 95	Pak Studies	M.A Result Declared on 6/5/2000
41	4891	Mr. Zard Nur Khan SET GHSS Azakhel (M) Peh	[illegible]	24/10/81	23/5/95	Pak Studies	
42	4953	Mr. Amin-ul-Haq GHS. Paregai Malakand	5 5 67 MKD	1 10.89	24 5 95	Pak Studies	
43	5011	Mr. Muhammad Aksar ADO Haripur	14 1 55 Haripur	14 12 74	23 5 95	Pak Studies	
44	5114	Mr. Hamid Hussain GHS.Ibhrahim Zai Hangu	13 10.65 Hangu	4 10 87	24 5 95	Pak Studies	
45	5159	Mr. Abdul Hamid GMS. Ghura Banda Dir	19 8 67 Dir	31 3 90	24 5 95	Pak Studies	
46	5167	Mr. Ahmad Saeed GHS. No.1.Kohat	6 1 62 Kohat	28 5 95	24 5 95	Pak Studies	
47	5201	Mr. Alamzeb Khan GHSS. Sherpao Charsadda	6 11 69 Charsadd	10 9 89	24 5 95	Pak Studies	
48	5207	Mr. Muhammad Tahir GHS.Mahabat Abad Mardan	15 4 65 Mardan	1 12.90	24 5 95	Pak Studies	
49	5216	Mr. Safar Islam Tariq CMHS Chokara Karak.	15.11.63 Karak	24/5.95	24 5 95	Pak Studies	
50	5259	Mr. Shaukat Rehman GHSS.Bulitang Kohat	10 3 69 Karak	24/5.95	24 5 95	Pak Studies	
51	5253	Mr. Perviz Khan GHS. Amnawar Bunir	20 6 65 Bunir	24/5 95	24 5 95	Pak Studies	
52	5254	Mr. Muhammad Nabi GHS0 No.2 Parachnair K Agn.	12 3 65 Kurram	27/10 94	24 5 95	Pak Studies	
53	5271	Mr. Jehanzeb Khan ADO. Haripur	25 4 65 Haripur	21/10 88	24 5 95	Pak Studies	
54	5312	Mr. Hayat Ullah Jan GMS Toor Kaki Bannu	15 6 65 Bannu	23/11/84	24 5 95	Pak Studies	
55	5476	Mr. Muhammad Anwar Khan GHS. Sangar Mansh	25 3 63 Mansh	1/12 82	25 3 95	Pak Studies	
56	5484	Mr. Manzoor Ahmad GMS. Mughuan Abad	10 1 56 A-Abad	10/10 74	25 3 95	Pak Studies	
57	5486	Mr. Muhammad Yaqoob GMS. Beri Bala A-Abad	25/7 55 A/Abad	22/10 73	25 3 95	Pak Studies	
58	5491	Mr. Muhammad Zahoor GMS. M.M. Pol . Manshera	1 4 60 Mansh	13 9 70	25 3 95	Pak Studies	
59	5492	Mr. Parvez Ali GHS. Dheri Nagar Chan Haripur	1 1 58 Haripur	3 10 82	25 3 95	Pak Studies	
60	5626	Mr. Irshad GCHS Kohat	13 2 67 Kohat	3 12 88	28 3 95	Pak Studies	
61	5670	Mr. Muhammad Iqbal GHS Kalaq Haripur	15 6 65 Haripur	16 11 82	28 3 95	Pak Studies	
62	5703	Mr. Nabi Ullah GHS. Zarat ShaikhAbad Kohat	19 5 69 Karak	18 5 92	28 3 95	Pak Studies	
63	5731	Mr. Dost Muhammad ADO Peshawar	[illegible] Peshawar	16 10 88	28 3 95	Pak Studies	
64	5741	Mr. Muhammad Tariq GHSS Chankani Peshawar	[illegible] Peshawar	11 2 89	28 3 95	Pak Studies	

Assistant Director (A...)
Directorate of Schools
Govt. N.W.F.P. Pesh...

PRINCIPAL
Govt. High Sch...
Sayyadabad P...

HEAD MASTER
Govt. High School
Gulbahar Abad Pesh...

Subject Specialist
Govt. Higher Secondary
School No.1 Peshawar City

S.MUSHTAQ HUSSAIN SHAH
PRINCIPAL
Govt Centennial Mo...
School Peshawar Ca...

H/M
G.H.S Mashr Gate
Pesh...

SET
G.H.S No. 3
Pesh Cant.

(15)

وکالت نامہ

بعدالت خیبر پختونخواہ سروس ٹریبونل پشاور مقام مینگورہ سوات

پرویز خان بنام چیف سیکرٹری خیبر پختونخواہ وغیرہ

منجانب دعویٰ

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام کے لیے مینگورہ سوات

مشتاق احمد خان ایڈووکیٹ پشاور کو بدیں شرط وکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر من مظہر حاضر نہ ہوا 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 کچہری کے کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام کچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کی ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا محتانہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب موصوف کو عرضی دعوے و جواب دعویٰ اور درخواست اجرائے ڈگری و نظر 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 کا روپیہ 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 امتناعی یا قرقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ محتانہ پیروی کا اختیار ہوگا، اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا، یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی 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 ہرجانہ التواء پڑے گا وہ صاحب موصوف کو اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ بھی [illegible] سلوک کے برخلاف نہیں ہوگا۔ لہٰذا [illegible] یا تا کہ سند رہے۔

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

Attested & Accepted

Mushtaq Ahmed Khan Advocate

العبد

العبد

(121)

ڈاکٹر مکتبہ احمد سکول

(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.

APPELLANT.

Through

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. 1098-99/ST 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.

Father's Name: Prof. Abdul Rehman
Address: Village Binga, P.O. Pakhli Sawal, Tehsil A Dodial Hangu
Office Tel. 0995-616121 Cell: 0334-5152005
Enrolment Date L.C. 03-07-2001
Enrolment Date H.C. 30-08-2005
Place of Practice
Date of Birth
Blood Group
N.I.C. No. 13302-45159773

KHYBER PAKHTUNKHWA BAR COUNCIL
Khyber Road, Peshawar PH: 091-9211173, 9212411 Fax: 091-9211811

وکالت نامہ

از دفتر ساجد الرحمٰن خان ایڈووکیٹ ہائی کورٹ
آفس نمبر 9، شیر پاؤ پلازہ ڈسٹرکٹ کورٹس ہری پور

KHYBER PAKHTUNKHWA BAR COUNCIL

Sajid-ur-Rehman Khan
Advocate
No-10-1501
Date of Issue: 27-12-2013
Valid upto: 27-12-2015

بعدالت جناب خیبر پختونخواہ سروس ٹریبونل پشاور

منجانب رسپانڈنٹ نمبر 5 - جہانگیر خان

بنام پرویز خان گورنمنٹ وغیرہ

نوعیت مقدمہ Service Appeal بمقام سیدو شریف سوات

مندرجہ بالاعنوان میں اپنی طرف سے پیروی مقدمہ کیلئے **ساجد الرحمن خان** ایڈووکیٹ ہائی کورٹ کو بدیں شرط وکیل مقرر کیا جو کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل صاحب کو اطلاع دیکر حاضری کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا 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 مقررہ اوقات سے پہلے یا بروز تعطیل پیروی 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 پرداختہ صاحب ممثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ، جواب دعویٰ اور درخواست اجرائے ڈگری و نظر ثانی و اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرنے کا، ہر قسم کا بیان دینے اور سپرد ثالثی و راضی نامہ و فیصلہ برخلاف کرنے، اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ پیروی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر 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 پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ 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

جہانگیر خان
Respondent No. 5.

32

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 noted 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 respecuvely.
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 ofAntidated 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.

29/8/19

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 5/1999

(24) D

Sub: Specialist

Annex B.

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
EDUCATION DEPARTMENT.

NOTIFICATION.

Peshawar, dated the 15th January, 1999.

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 (Appointments, Promotion and Transfer) Rules, 1989, the Education Department, in consultation with the Services and General Administration Department and the Finance Department, hereby directs that in the Departments Notification No.SO(S)7-34/91 dated 9.5.1994, 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	6
"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-cum-fitness 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.

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

Copy forwarded for information and n/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.

Endst:No. 1035-96 Dated Pesh:the 4-2-/1999.

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

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

ASSTT:DIRECTOR (SCHOOLS)
DIRECTORATE OF SECONDARY
EDUCATION NWFP, PESHAWAR.

Assistant Director (Admn)
Directorate of Schools &
Literacy N.W.F.P, Peshawar

Annex-A

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.

(MUHAMMAD ILYAS)
SECTION OFFICER (SCHOOLS)

M.K.

Attested
Assistant Director (Admn)
Directorate of Schools & Literacy, N.W.F.P. Peshawar

Assistant Director (Estb)
Directorate of Schools & Literacy
N.W.F.P. Peshawar.

P E N D I X.

SR: NO.	NOMENCLATURE OF POST.	MINIMUM QUALIFICATION FOR INITIAL RECRUITMENT OR BY TRANSFER.	MINIMUM QUALIFICATION FOR APPOINTMENT 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 BPS-19) with Seventeen years service in BPS-17 and above or twelve years service in BPS-18 and above.

Director Schools & Literacy
N.W.F.P. Peshawar.

[illegible] 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-cum-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.
2. Subject Specialists Government Higher Secondary 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. Note.- (1) If no suitable candidate possessing the above qualification is available, a candidate possessing Masters' Degree [illegible] in the relevant Sub-ject 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.	-	25-35 years.	(a) Twenty percent by promotion on the basis of seniority-cum-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.

...P/5....

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. 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).

Attested

Additional Director (Admn:)
Directorate of Schools &
Literacy, N.W.F.P. Peshawar

Assistant Director (Estt)
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/Pervaz 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

①

Annex-A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A NO 800 / 2016

Khyber Pakhtukhwa 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 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 Hakim Haved Bannu

to-day

Registrar

itted to -day

Registrar

Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No. 800/2016
Pervaiz Khan vs Govt

04.09.2018

Appellant Pervaiz Khan in person alongwith his counsel Mr. 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 alongwith 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 SETs 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 Jahangir 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 nowhere 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.

Hakim Haved

Khan

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

6 Bannu

Annx-B-C

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 738 /08.

Khan, S.S (Pak: Studies),
Bara Bannar.....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.*

Filed today
23/5/08

ATTESTED

ANN-(F)

Annex-B-C

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 738 /08.

N.W.F.P. Service Tribunal Peshawar
Diary No. 857
Dated 23/5/08

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

Filed today
M. Ali
23/5/08

ATTESTED
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 SECTON 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.

ATTESTED

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.Scs 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

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

ATTESTED
EXAMINER

Annex-C

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

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

Sd/- Justice (R) Sarmad Jalal Osman
Chairman

Sd/- Fazli Rahman
Member

Certified to be true copy
Registrar,
Service Tribunal,
Peshawar

Date of presentation of application 1-2-09
Number of words 1200
Copying fee 8
Urgent 2
Total 10
Name of copyist
Date of completion of copy 1-2-09
Date of delivery of copy 1-2-09

2003 3 | 20 applications 2007

Annex + 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).

M-Tahir / Rafiullah Taj Muhammad.

Annex-(E)

Annex-"E"

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Dated Peshawar the May 20, 2011

In pursuance of Court
...mendations of the Committee, the Competent Authority is pleased to
...charge Subject Specialists/ Headmasters/ Instructors (Male) on regular
...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	8.11.199
13	Mr. Umara Khan ASDEO (M) Mardan	I/C S.S GHSS, Shahbaz Garhi Mardan	8.11.1
14	Mr. Munawar Shah ASDEO (M) Swat	I/C Vice Pri. GHS, Timergara Dir	8.11
15	Mr. Zar Wali Khan SET GHS, Ashkar Kot SWA	Services Placed at the disposla of DE (FATA)	8.1
16	Mr. Shad Mohammad SET GMS Sardargani FR. Pesh	Services Placed at the disposla of DE (FATA)	8
17	Mr. Ghulam Sarwar ASDEO (M) Mardan	I.C S.S GHSS, Palo Dheri Mardan	
18	Mr. Muhammad Rasan SET GHS, Jamal Garhi Mardan	I.C S.S GHSS, Palo Dhri Mardan	

	Name of	esignation	Transfer/Adjusted as	Date of Regularization as Incharge SS/HM/Instructors
		O Shangla	I/C HM GHS Kasa Lilonai Shangla	17.2.2003
		HS Sherhand	I/C HM GHS Dheri Shangla	17.2.2003
			I/C HM GHS Batara Kohistan	17.2.2003
		HS Titar kKhel Karak	I/C HM GHS Dobair Kohistan	17.2.2003
		HS Tangi Killa Karak	I/C HM GHS Ban Kad Kohistan	17.2.2003
		ad 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 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 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 Kohistn	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 Tailoos 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 Seo Kohistan	17.02.2003
1317	Jehangir Khan SET ADO at EDO Haripour		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 Gulmuhan 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

Endst: 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 Pakhtunkha.
7. PS to Secretary, Establishment Department Govt. of Khyber Pakhtunkhwa.
8. PS to Secretary, E&SE Department, Khyber Pakhtunkwa.
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)

Annx-(B)

Annex-"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 Ranwai 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 Prl, GHS, Timergara Dir	8.11.1995
15	Mr. Zar Wali Khan SET GHS, Ashkar Kot SWA	Services Placed at the disposla of DE (FATA)	8.11.1995
16	Mr. Shad Mohammad SET GMS Sardargani FR. Pesh	Services Placed at the disposla 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

Endst: 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 Pakhtunkha.
7. PS to Secretary, Establishment Department Govt. of Khyber Pakhtunkhwa.
8. PS to Secretary, E&SE, Department, Khyber Pakhtunkwa.
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	Bakhwtawr 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 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 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 Kohistn	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 Tailoos 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 Seo Kohistan	17.02.2003
1317	Jehangir Khan SET ADO at EDO Haripour	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 Gulmuhan 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

Annx-F

Annor-F

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 738 /08.

N.W.F.P. Service Tribunal
Diary No. 857
Dated 23/5/08

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

23/5/08

ATTESTED
NWFP Service Tribunal
Peshawar

Ann- (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 SECTON 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.

ATTESTED

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.Scs 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

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

ATTESTED
EXAMINER

[illegible]ating of their promotion, at least, to 17.2.2003, when their colleagues [illegible] 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

Sd/- Justice (R) Salim Akhtar
Chairman

Sd/- Fazle Rahman
Member

Date of presentation	1-4-09
Number of words	1200
Copying fee	8
Urgent	2
Total	10
Date of copy	
Date of completion of copy	1-4-09
Date of delivery of copy	1-4-09

2003 3 appeal 2007

Annex — (H)

Annex-H

N.W.F.P. Service Tribunal Peshawar.

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.

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 lateron 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

[illegible] appellant was promoted as Subject Specialist (BPS-17) [illegible] immediate effect, vide notification dated 01.1.2008 in [illegible] of the Hon'ble Peshawar High Court in the Writ Petition of [illegible] in accordance with the recommendation of the Departmental [illegible]. As such, there was no dispute regarding the eligibility of the [illegible] promotion as Subject Specialist. On the other hand, it was the [illegible] who challenged the eligibility of the other SETs for promotion before the [illegible] 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

Date of presentation of application 15-10-09
Number of words 1200
Copying fee 8
Urgent 2
Total 10
Name of copyist
Date of completion of copy 15-10-09
Date of delivery of copy 15-10-09

Certified to be true copy
[illegible]
Service Tribunal
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

(On appeal from the judgment 8.10.2009 of the NWFP Service Tribunal, , Peshawar passed in Appeal No.251/2009).

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

VERSUS

Mst. Jegangir Khan Subject Specialist, Pak Studies, GHSS Panian, Haripur ...Respondent

For the petitioner: Mr. Naveed Akhtar AAG

For the respondents: N.R.

Date of hearing: 17.3.2010

JUDGMENT

RAJA FAYYAZ AHMED J.- 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 515 (Supreme Court of Pakistan), that a right to promotion is accrued to an eligible civil*

ATTESTED

Chief Clerk
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, vic 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 AAG 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

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 *Muahmmad 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.

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

Certified to be true copy
Supreme Court of Pakistan
Peshawar

Peshawar
17 March, 2010
Not approved for reporting
M. Safdar Mahmood

30/3/10

C.R. No. 880-P/2010
Date of Order
Applicant 1-4-2010
No of Words 9009
No of Folios 9
Fee 5
Copying 5.50
Copying Fee 10.50
Date 5-4-2010
Date 10-4-2010
Copy 6900
Receipt Mian Shakat Hussain Advocate
Total 10.50
Advance 10/-
Balance 50

Annex-J

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

ANN-(J)

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 Panian 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.

DDEC / Samin Jan / Jamal

(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

Farooq

P/Farooq/Notification

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

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

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
Diary No. 774
Dated 29-7-16

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

10-2-2017 Private Respondents ex-parte

Filed today
Registrar
29/7/16

Re-submitted to-day and filed.
Registrar
8/8/16

ATTESTED
Khyber Pakhtunkhwa Service Tribunal, Peshawar

Camp Court, Swat

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 ture copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 10-12-18
Number of Words 800
Copying Fee 6-00
Urgent 2-00
Total 8-00
Name of Copyist
Date of Completion of Copy 10-12-18
Date of Delivery of Copy 10-12-18

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

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

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
Diary No. 774
Dated 29-7-16

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

10-2-2017 Private Respondents ex-parte

Filed today
Registrar
29/7/16

Re-submitted today and filed.
Registrar
8/8/16

ATTESTED
Khyber Pakhtunkhwa Service Tribunal, Peshawar

Camp Court, Swat

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 ture copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 10-12-18
Number of Words 800
Copying Fee 6-00
Urgent 2-00
Total 8-00
Name of Copyist
Date of Completion of Copy 10-12-18
Date of Delivery of Copy 10-12-18

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

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

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
Diary No. 774
Dated 29-7-16

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

10-2-2017 Private Respondents ex-parte

Filed to-day
Registrar
29/7/16

Re-submitted to-day and filed.
Registrar
8/8/16

ATTESTED
Khyber Pakhtunkhwa Service Tribunal, Peshawar

Camp Court, Swat

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 ture copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 10-12-18
Number of Words 800
Copying Fee 6-00
Urgent 2-00
Total 8-00
Name of Copyist
Date of Completion of Copy 10-12-18
Date of Delivery of Copy 10-12-18

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Restoration Application No: 439

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

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
Diary No. 774
Dated 29-7-16

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

10-2-2017 Private Respondents Ex-parte

Filed today
Registrar
29/7/16

Re-submitted to-day and fixed.
Registrar
8/8/16

ATTESTED

Camp Court, Swat

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 ture copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 10-12-18
Number of Words 800
Copying Fee 6-00
Urgent 2-00
Total 8-00
Name of Copyist
Date of Completion of Copy 10-12-18
Date of Delivery of Copy 10-12-18