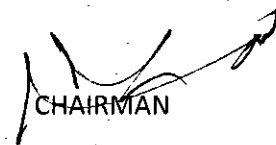


12/9/2017

Counsel for the appellant and Muhammad Adeel Butt, AAG alongwith Hameed-ur-Rehman, AD for the respondents present. The learned counsel for the appellant argued the case at some length, but when this Tribunal referred to a recent judgment of the august Supreme of Pakistan 2017 SCMR 890 the learned counsel sought some time. Granted. To come up for further arguments before this DB on 11/10/2017.


MEMBER



CHAIRMAN

11.10.2017

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

This appeal is dismissed as per our detailed judgment of today in connected service appeal No. 984/2015 entitled "Badshah Islam Vs. The Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar and others". Parties are left to bear their own costs. File be consigned to the record room.


Member


Chairman

ANNOUNCED
11.10.2017

31.03.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as DPE (BPS-17). That the post of DPE was up-graded vide notification dated 13.11.2007 and appellant was promoted against the same vide order dated 15.6.2009 with immediate effect though he was entitled to the same retrospective effect. That the appellant preferred departmental appeal on 16.11.2015 which was not answered and hence the instant service appeal on 08.3.2016.

Appellant Deposited
Security & Access Fee

That the appellant is entitled to promotion to the said post with retrospective effect and from the date when he become eligible for promotion.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 24.05.2016 before S.B.

24.05.2016

Agent of counsel for the appellant, M/S. Khursheed Khan, SO and Hameedur Rahman, AD alongwith Addl. AG for the respondents present. Requested for adjournment. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 26.07.2016 before S.B.

Chairman

26.7.2016




Counsel for the appellant and M/S Khursheed Khan, SO and Hameedur Rahman, AD alongwith Addl. AG for the respondents resent. Written reply submitted by respondents No. 1 to 4 submitted. Learned Addl. AG relies on the same on behalf of respondent No. 5. The appeal is assigned to D.B for rejoinder and final hearing for 24.11.2016.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 248/2016

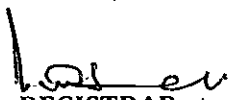
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	16.03.2016	<p>The appeal of Syed Fazal Abbas Zaidi resubmitted today by Syed Younas Jan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	21-03-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>24.3.16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	24.03.2016	<p>Counsel for the appellant present. Learned counsel for the appellant seeks adjournment. Adjourned for preliminary hearing before S.B to 31.3.2016.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Fazal Abbas DPE GHSS Chaah D.I.Khan received to-day i.e. on 08.03.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Approved file cover is not used.
- 2- Annexures of the appeal may be flagged.


No. 396 /S.T,

Dt. 08/03 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Younas Jan Adv. Peshawar.

*Need full as above done and re-submitted Sir,
today on 16.3.2016*


SYED YOUNUS JAN
B.A., B.L.S. & Ed. Certificate Sharia Law
Advocate High Court Peshawar
Federal Shariat Court.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 248 / 2016

Syed Fazal Abbas Zaidi.....APPELLANT

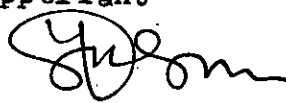
VERSUS

Government of KPK and othersRESPONDENTS.

I N D E X

S.No.	Description of documents	Annexures	Pages
1.	Grounds of appeal with affidavit		1 - 4
2.	Addresses of parties		0 - 5
3.	Application for condonation of delay with affidavit		6 - 8
4.	Copy of departmental appeal with Post office receipt	'A'	9-10
5.	Copy of impugned Notification dated 13 ¹⁰ / ₂₀₁₀	'B'	11-12
6.	Copy of Notification dated 13-11-07	'C'	13-14
7.	Copy of certificate	'D'	15
8.	Copy of appointment/promotion order	'E'	16-17
9.	Vakalat Nama		18

Dated -03-2016

Appellant
through 
(Syed Younus Jan)
Advocate, High Court,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 2148 / 2015

N.W.F. Province
Service Tribunal
Diary No. 188
Dated 08-3-2016

Syed Fazal Abbas Zaidi,
Director Physical Education (D.P.E)
Government Higher Secondary School, Chaah
Syed Munawar Shah, Dera Ismail Khan APPELLANT

VERSUS

1. Govt. of K.P.K. through its Chief Secretary, Civil Secretariat, Peshawar.
 2. Secretary Elementary & Secondary Education, K.P.K. Civil Secretariat, Peshawar.
 3. The Director, Elementary & Secondary Education, K.P.K. near Govt. Higher Secondary School No.1, G.T.Road, Peshawar City.
 4. The Secretary Establishment Deptt: K.P.K. Civil Secretariat, Peshawar.
 5. The Secretary to Govt. of K.P.K. Finance Department, Civil Secretariat, Peshawar
- RESPONDENTS.

APPEAL UNDER SECTION 4 OF K.P.K. SERVICE TRIBUNAL ACT, 1974.
TO THE EFFECT THAT THE ORDER/NOTIFICATION DATED ~~13-10-2010~~
MAY KINDLY BE VARIED/MODIFIED AND AS SUCH THE SAME MAY
KINDLY BE MADE EFFECTIVE FROM 13-11-2007 INSTEAD OF
IMMEDIATE EFFECT. (COPY OF DEPARTMENTAL APPEAL IS ANNEX: 'A')

Prayer-in-appeal

That on acceptance of this appeal, the order/Notification
dated ~~13-10-2010~~ may kindly be varied/modified ^{to} the extent
that the same may kindly be made effective from 13-11-2007
instead of immediate effect and as such the Department may
kindly be directed to consider the promotion of the
appellant to BS-17 (regular) from 13-11-2007 instead of
immediate effect with all other service benefits.

(Copy of the impugned order/Notification dated ~~13-10-2010~~ 13-10-2010
is attached as Annexure 'B' and dated 13-11-07 is Annex: 'C').

Filed to the
Registrar
8/3/16

Re-submitted to the
and filed.

0000

Registrar 16/3/16

Respectfully submitted:

Brief facts of the appeal are as under :-

1. That the qualification of the appellant is M.A/M.Sc. in Health and Physical Education whose ~~Result~~ was declared passed in Aug 1940 exam (Copy of certificate is attached as Annex: 'D').
~~Result recommendation of K.P.K. P.E.~~
2. That the appellant was regularly appointed/promoted to the post of Director Physical Education (DPE) vide order dated 18-02-2003. (Copy of the same is Annexure 'E').
3. That the Government of K.P.K. on 13-11-2007 issued a letter/Notification vide which the posts of D.P.Es. and Librarians were upgraded from BS-16 to BS-17 (regular) for the existing incumbents who hold the Master Degrees in the relevant subjects i.e. M.A/M.Sc. in Health and Physical Education in case of the appellant. (Copy of the said Notification is Annexure 'C' above).
4. That the appellant is/was highly qualified, fit and thus was fully eligible for award of BPS-17 regular in light of the above referred Notification of the Government of K.P.K. but he was illegally/un-constitutionally, mala fide and intentionally was ignored for the same relief so he agitated the matter with the authority but of no use so he filed a departmental appeal before respondent No.1 which is still pending before him and after lapse of statutory period no order/communication has been made on the same so far, hence this appeal on the following amongst other grounds :-

G R O U N D S

- A) That the act and omissions of the respondents is illegal, un-constitutional against facts and material on record, therefore, is not tenable and need the interference of this Hon'ble Tribunal.

- B) That the act and omissions of the respondents is not only factually incorrect and legally untenable but also is based on their malafide intention and is also against the well established principles of natural justice and is discriminatory in nature.
- C) That the act and omissions of the respondents is also against the laws/rules/policies and Notifications of the Provincial Government especially against the Notification dated 13-11-07.
- D) That the case of the appellant is very much similar and identical with those numerous cases in which the higher/superior courts and Tribunals as well as this Hon'ble Tribunal is given a similar relief to other colleagues of the appellant and the appellant is also entitled to the same relief/treatment.
- E) That the Department has also given a similar relief to other colleagues of the appellant including his junior so on this score also the appellant is entitled to the same relief.
- F) That the appellant was highly qualified, fit and thus was quite eligible for the award of BPS-17 (regular) at the time of and in light of the letter/Notification dated 13-11-07 so the impugned Notification dated 13-10-2010 vide which the promotion of the appellant to BS-17(regular) has been made with immediate effect is neither legal nor justified.
- G) That the appellant is/was a Government/Civil Servant and legal and constitutional guarantee is/was available to him to be treated equally and in accordance with law. He however, has not been treated as such.

It is, therefore, humbly prayed that on acceptance of this appeal, the impugned order/Notification dated ~~13-10-2010~~ 13 ¹⁰/₂₀₁₀

may kindly be varied/modified to the extent that the same may kindly be made effective from 13-11-2007 instead of immediate effect and as such the Department may kindly be directed to consider the promotion of the appellant to BS-17 (regular) from 13-11-07 instead of immediate effect with all other service benefits. Any other remedy/relief available in the circumstances of the case may also kindly be granted to the appellant.

SF Abbas

Appellant

through

Younus Jan

Dated -03-2016

(Syed Younus Jan)
Advocate, High Court,
Peshawar

AFFI DAVIT

I, Syed Fazal Abbas Zaidi, B.P.E. GHSS Chaah Syed Munawar Shah Dera Ismail Khan, do hereby solemnly affirm and declare on oath that the contents of the above appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.



SF Abbas
Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. _____ / 2016

Syed Fazal Abbas Zaidi APPELLANT

VERSUS

Government of K.P.K. and others RESPONDENTS.

ADDRESSES OF THE PARTIES.

Appellant.

Syed Fazal Abbas Zaidi,
Director Physical Education (D.P.E)
Government Higher Secondary School. Chaah Syed Munawar Shah, DIKhan

Respondents.

1. The Govt: of Khyber Pakhtoonkhwa through its Chief Secretary Civil Seretriate Peshawar.
2. Secretary ^{Education} Elementary and Secondary 'Khyber Pakhtoonkhwa Civil Secretriate Peshawar.
3. The Director Elementary and Scondary Education Khyber Pakhtoonkhwa near Govt: Higher Secondary School Peshawar City GT Road Peshawar.
4. The ~~Secretary~~ Establishment, Department Khyber Pakhtoonkhwa Civil Secretriate Peshawar.
5. The Secretary Finance Department Khyber Pakhtoonkhwa Civil Secretriate Peshawar.

Dated:

103/2016

Appellant _____

Through:

(SYED YOUNUS JAN)
Advocate Peshawar High Cout
Peshawar.

6

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Service Appeal No. _____ / 2016

[Handwritten signature]

Syed Fazal Abbas Zaidi.....APPELLANT/APPLICANT

VERSUS

Government of K.P.K. and othersRESPONDENTS.

APPLICATION FOR CONDONATION OF DELAY (IF ANY).

Respectfully submitted:

The applicant/appellant submits as under:-

That firstly the act and omission of the respondents /department is illegal, unconstitutional and void and secondly as financial matter is involved in the matter and the cause of action is the running cause of action, therefore, no limitation runs against the appellant/applicant, but even if this Honourable Tribunal considers the departmental appeal time barred then this application for condonation of delay if any on the following amongst other grounds:-

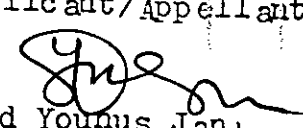
GROUNDS:

1. That in the matter in hand the cause of action is continuous cause of action and the impugned act and omission of the respondents comes in the purview of the definition of continuous wrong, therefore, in the matter the cause of action starts on first date and ends on the last date of every months/every year, therefore, no question of delay arises in the matter.
2. That the law requires that the matters should/must be decided on merits rather than on technical grounds including the limitation.

3. That the appellant/applicant has got a very good case in his favour therefore, technicalities including the point of limitation (The delay if any) are ignorable.
4. That the appeal of the appellant before this Honourable Tribunal is well within time and strictly in accordance with law contained in Section 4 of the ~~WPP~~ now Khyber Pakhtunkhwa Service Tribunal Act 1974,
5. That if the delay if any is not condoned the applicant/appellant will suffer an irreparable loss to his seniority, promotion and all other service benefits.
6. That the delay if any has been caused by the delaying tactics of respondents/department and the appellant cannot be held responsible for the same. especially in presence of the principles of legitimate expectancy.
7. That in so many similar and identical cases this Honourable Tribunal has ignored the point of limitation and in so many cases has condoned the delay, therefore, in this case also the same point is ignorable/condonable.

It is, therefore, respectfully prayed that on acceptance of this application in the best interest of justice the delay if any in filing departmental appeal may kindly be condoned/ignored and the appeal of the appellant/applicant may kindly be decided on merits. Any other remedy/relief available in the circumstances of the case may also kindly be granted to the applicant/appellant.

Dated ~~10/03/2016~~
10/03/2016

Applicant/Appellant SF Abbas
Through 
(Syed Younus Jan)
Advocate Peshawar High Court
Peshawar.

2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. _____ / 2016

Syed Fazal Abbas ZaidiAPPELLANT/APPLICANT

VERSUS

Government of K.P.K. and othersRESPONDENTS.

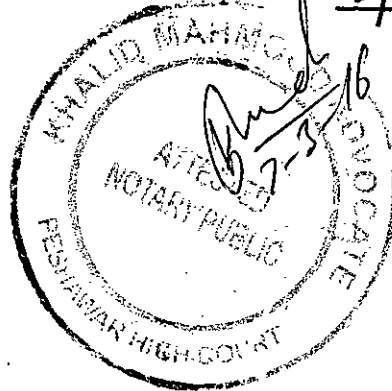
AFFIDAVIT

Zaidi, DPE

I, Syed Fazal Abbas/ (appellant) to hereby solemnly affirm and declare on Oath that the contents of the attach application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal

Dated / 03 / 2016

Deponent Sy Fazal Abbas



318

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

Rs. Ps.

Insured a registered
addressed to

Write here "letter", "postcard", "packet" or "parcel"
with the word "insured" when necessary.
Insured for Rs. (in figures) (in words)

Insurance fee Rs. Ps. (in words) Grams

Name and
address
of sender

Attested
Syed Younus for
Advocate

9
Annex "A"

To

The Worthy Chief Secretary,
Government of K.P.K. Peshawar.

Subject:- DEPARTMENTAL APPEAL/REPRESENTATION

Through: PROPER CHANNEL

Sir,

1. That the applicant/appellant is M.A/M.Sc. in Health and Physical Education who passed the prescribed examination in August, 1991 and was regularly promoted against the post of Director, Physical Education (BPS-16) vide order dated 18-02-2003.
2. That on 13-11-07 the Government of K.P.K. issued a letter/Notification vide which the posts of D.P.Es. and Librarians were upgraded from BS-16 to BS-17 (regular) for the existing incumbents who hold Master Degrees in relevant subjects i.e. M.A/M.Sc. in Health and Physical Education in case of the appellant and vide para-2 of the said letter a condition was given for those Librarians and D.P.Es. who hold the Diploma in the relevant subjects that they will stay in BS-16 till such time they acquired Master Degree in the respective subject. On acquiring Master Degree in the relevant subject their posts will be upgraded on case to case basis from BS-16 to BS-17 (regular).....
3. That in light of the above referred matter of the Provincial Government the appellant was highly qualified, fit and as such was eligible for the award of BS-17 (regular) from 13-11-2007 but has illegally, un-constitutionally and malafidely been ignored for the same relief.
4. That vide order dated 13-10-2010 the appellant has been promoted to regular BS-17 but with immediate effect instead of 13-11-2007.
5. That the appellant agitated the matter with the authority time and again but of no use, hence this appeal/representation, for grant of BS-17 (regular) from 13-11-2007 instead of immediate effect.

Attested
[Signature]

SYED YOUNUS JAN
B.A., B.L.S., B.Ed. Certificate Sharif Koo
Advocate High Court Peshawar
Federal Shariat Court.

10

6. That as the appellant has acquired the requisite qualification for BS-17 (regular) in August, 1991 therefore, is entitled for the same relief from 13-11-2007 instead of immediate effect especially in the circumstances when the Department has awarded the same scale to other colleagues of the appellant not only on the basis of Court/Tribunal judgment but on its own motion also and the appellant is also entitled for the similar treatment.

Your goodself is therefore, requested sir, that the letter/order dated 13-10-2010 may kindly be made effective from 13-11-2007 and as such the regular promotion of the appellant to BS-17 (regular) may kindly be considered from 13-11-2007 instead of immediate effect with all other service benefits.

PESHAWAR

XXXXXXXXXXXXXX
XXXXXXXXXXXXXX

18-11-2015

Appellant/Applicant

Syed Abbas

(Syed Fazal Abbas Zaidi)
Director, Physical Education (DPE)
Government Higher Secondary
School, Chah Syed Munawar Shah
Dera Ismail Khan.

Syed Younus Jan

SYED YUNUS JAN
B.A., L.L.B., B.Ed., Certificate Sharia Law
Advocate High Court Peshawar
Federal Shariat Court.

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the 13-10-2010

NOTIFICATION

NO.SO(PE)2-6/E&SE/DPCMEETING/10: Consequent upon the recommendations of the Departmental Promotion Committee, the competent authority is pleased to promote the following nine (9) Male & four (4) Female DPEs (BS-16) to the upgraded post of DPE (BS-17) on regular basis with immediate effect:

MALE DPEs

S.No.	Name & Designation of Officers	Proposed Place of Posting	Remarks
1.	Akbar Ali Khan DPE/ADO (Sports) in Office of EDO (E&SE) Kohat	GHSS, Panian Haripur	Against vacant post of DPE.
2.	Abdul Ghaffar DPE GHSS Akbarpura Nowshera	GHSS, Akbarpura Nowshera.	Against DPE post already occupied by him
3.	Fozal Abbas DPE GHSS Garhi Habibullah Mansehra	GHSS Garhi Habibullah Mansehra.	do
4.	Mubhammad Rasool DPE GHSS Shahbaz Khel Lakki Marwat.	GHSS, Shahbaz, Khel Lakki	do
5.	Qadar Khan DPE GHSS Chaghar Matti, Peshawar.	GHSS, Chaghar Matti Peshawar.	-do-
6.	Fida Muhammad DPE GHSS Manga Mardan	GHSS, Manga Mardan.	-do-
7.	Mamrez Khan DPE ADO (Sports) in the Office of E.D.O(E&SE) Karak	GHSS, Nahaqi Peshawar	Against vacant post of DPE.
8.	Raesullah DPE GHSS Hakim Haraki Bannu.	GHSS Hakim Haraki Bannu.	Against DPE post already occupied by him.
9.	Zamarud Shah DPE GHSS Chorlaki Kohat.	GHSS, Chorlaki Kohat.	-do-

FEMALE DPEs

S.No.	Name & Designation of Officers	Proposed Place of Posting	Remarks
1.	Mst Misbah Seema DPE GGHSS Parova DIKhan.	GGHSS, Parova DIKhan	Against DPE post already occupied by her.
2.	Mst. Ghazala Naem DPE GGHSS Lachi Kohat	GGHSS, Lachi Kohat.	-do-
3.	Mst. Easerat Atzai DPE GGHSS Harichand Charsadda	GGHSS, Harichand Charsadda	-do-
4.	Mst. Raicela Bano DPE GGHSS No.5 Qasaban DIKhan.	GGHSS, No.5 Qasaban DIKhan	do

2. On their promotion the officers will be on probation for a period of one (1) year in terms of section 6(2) of NWFP Civil Servant Act 1973 read with Rule 15(1) of the NWFP Civil Servant (Appointment, Promotion and Transfer) Rules

MUHAMMAD YAQUB
M.Sc (E&S) M.Ed B.P.S-10
G.H.S. Kachi Palind Khan
D.I.Khan.

Attested
BYED YOUNG
B.B. B Ed. Certificate
Advocate High Court Peshawar
Federal Shariq Court.

10



RECEIVED
10/10/1914

12

SECRETARY TO GOVT OF KHYBER
PAKHTUNKHWA
ELEMENTARY & SECONDARY
EDUCATION DEPARTMENT

Endst; of even no. & date:

Copy is forwarded to:-

- 1) Secretary to Govt of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
- 2) Special Secretary (Regulation), Establishment Department, Govt of Khyber Pakhtunkhwa Peshawar.
- 3) Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department, Peshawar.
- 4) Secretary to Chief Minister Khyber Pakhtunkhwa.
- 5) PS to Chief Secretary Khyber Pakhtunkhwa.
- 6) All Directors in Elementary & Secondary Education Department Khyber Pakhtunkhwa.
- 7) Executive District Officers Elementary & Secondary Education concerned.
- 8) The Accountant General Khyber Pakhtunkhwa.
- 9) All District Accounts Officers / Agency Accounts Officers concerned
- 10) PS to Minister for Elementary & Secondary Education Department Khyber Pakhtunkhwa.
- 11) PS to Secretary / Special Secretary / Additional Secretary E&S Edu: Deptt Govt of Khyber Pakhtunkhwa.
- 12) PA to Deputy Secretary (Admn) Elementary & Secondary Edu: Department Govt of Khyber Pakhtunkhwa.
- 13) Officers concerned.
- 14) Master file

(ARIF JAMIL)

SECTION OFFICER (PRIMARY)

MUHAMMAD YAQUB
M.Sc (Eco) M.Ed B.P.S-17
G.H.S. Kachi Palwal Khan
D.I.Khan.

SYED YOUNUS JAF
B.A.B.L.B. B Ed. Certificate Sharia Law
Advocate High Court Peshawar
Federal Shariat Court.

GOVERNMENT OF N.W.F.P.
SCHOOLS & LITERACY DEPARTMENT
Dated, Peshawar the 13/11/2007.

13

Annex "C"

NOTIFICATION.

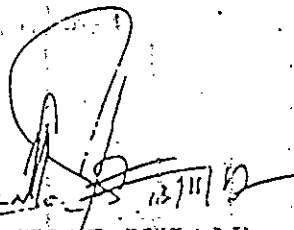
No. SOG/S&L/1-69/06/Vol-1/DPR/LIB: Sanction of the competent authority is hereby accorded to the upgradation of the posts of Librarians and Directors Physical Education (D.P.Es) from BS-16 to BS-17 (Regular) for the existing incumbents who hold Master Degree in the relevant subject in the Schools & Literacy Department NWFP with immediate effect as per following details:-

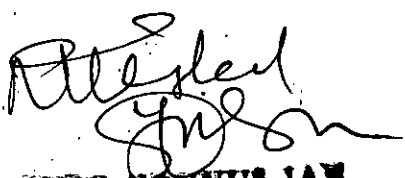
- 1) Promotion against the upgraded posts (from BS-16 to BS-17) shall be made in the prescribed manner and in accordance with the service rules to be framed as per relevant provisions of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules 1989 read with the NWFP Civil Servants Act, 1973.
- 2) The Librarians and D.P.Es who hold the diploma in the relevant subject will stay in BS-16 till such time, they acquire Master degree in the respective subject. On acquiring Master Degree in the relevant subject, their posts will be upgraded on case to case basis from BS-16 to BS-17 (Regular) and promotion (from BS-16 to BS-17) would be given as per laid down procedure and in accordance with the service rules to be framed. However their existing seniority will remain intact.
- 3) All the vacant posts of Librarians and D.P.Es in Schools & literacy department in BS-16 are hereby upgraded to BS-17, appointments against which would be made from amongst the persons who hold Master degree in the relevant subject, in the prescribed manner.
- 4) In future Librarians and D.P.Es will initially be recruited on the basis of Master degree in the relevant subject in BS-17 (Regular).
- 5) Henceforth no appointment of Librarians and D.P.Es in BS-16 shall be made on the basis of diploma, being declared as "Dying Cadre".

Sd/-
SECRETARY TO GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPARTMENT.

Endst: No. FD (SOSR-II) 10-7 / 03 / VOL - 41 Dated, Peshawar the, 13/11/2007
Copy is forwarded for information and necessary action to:-

- 1) The Accountant General NWFP, Peshawar.
- 2) All District Accounts Officers in NWFP.
- 3) All Agency Accounts Officers in NWFP.


(MUNAWAR KHAN)
SECTION OFFICER (SR-11)
FINANCE DEPARTMENT
GOVERNMENT OF NWFP.


SYED YOUNUS JAN
B.A.L.L.B. B.E.J. Certificate Barista 1st
Advocate High Court Peshawar
Federal Shariat Court.


(P.T.O.)

14

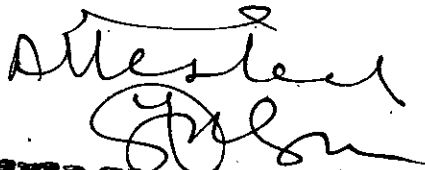
Endst:No. & Date Even.

Copy is forwarded to:-

- 1) Secretary to Government of NWFP, Establishment Department.
- 2) Secretary to Government of NWFP, Finance Department.
- 3) P.S to Chief Minister NWFP, Peshawar.
- 4) P.S to Chief Secretary NWFP, Peshawar.
- 5) Director Schools & Literacy, NWFP, Peshawar.
- 6) Director, Curr; & Teachers Edu; NWFP, Mandian Abbottabad.
- 7) Director of Education FATA NWFP, Peshawar.
- 8) P.S to Minister of Education, NWFP, Peshawar.
- 9) P.S to Secretary Schools & Literacy NWFP, Peshawar.
- 10) Office File.



(FARID AHMAD KHATTAK)
SECTION OFFICER (GENERAL)
SCHOOLS & LITERACY DEPARTMENT
GOVERNMENT OF NWFP.



SYED YOUNUS JAN
B.A.L.L.B. & Ed. Certificate Khazm Lod
Advocate High Court Peshawar
Federal Shariat Court.

RECEIVED
SECTION OFFICER (GENERAL)
SCHOOLS & LITERACY DEPARTMENT
GOVERNMENT OF NWFP

Serial No. GU 04170

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

GOMAL UNIVERSITY

DERA ISMAIL KHAN
(N.W.F.P) PAKISTAN

(15)

Annex "D"



VERIFIED

Controller of Examinations
Gomal University,
Dera Ismail Khan
10/9/09

(Session 1989-90)

S. FAZAL ABBAS ZAIDI. SON of S. GHULAM ABBAS SHAH. and

a student of DEPARTMENT OF HEALTH & PHYSICAL EDUCATION

having passed the prescribed examination in AUGUST 20 1991

is this day admitted by the GOMAL UNIVERSITY to the DEGREE of

MASTER OF SCIENCE

in the SECOND Class

The subject of examination being HEALTH & PHYSICAL EDUCATION

The Examination was taken as a whole/in parts

Registered No. 309-PEDU-88

Roll No. 3636

RESULT DECL. ON: MARCH 15, 20 1992

Countersigned

Controller of Examinations

Vice-Chancellor

Attested

[Signature]

Subject Specialist
B-17 GHS S
Kachi Pand Khan

[Signature]
SYED YOUSUF JAN
B.A.L.L.S. B Ed. Certificate Exam Law
Advocate High Court Peshawar
Federal Shariat Court.


DIRECTORATE OF SCHOOLS AND LITERACY N.W.F.P. PESHAWAR.

OFFICE ORDER.

(16) Annex "E"

Consequent upon the approval by the Departmental Selection Committee Schools & Literacy NWFP in its meeting held on 26-12-2002. The following CT/PET/PTC, etc are hereby promoted to the posts of DPE/ADO (Physical) B-16 on regular basis in the interest of public service with immediate effect.

S.#	Name & Designation	Promoted as	Place of posting	Remarks
1	Mr. Sher Azam Khan PET	DPE	GEC, Ghori Wala Bannu	Against the post already occupied by him
2	Mr. Siraj-ud-Din PET	DPE	GHSS, Khowaza Khela Swat	Against the post already occupied by him
3	Muht Ibrahim-ud- Din PET	DPE	GHSS, Lachi Kohat	Against the post already occupied by him
4	Mr. Bahadar Nawaz PET	DPE	GHSS No.2 Pesh:Cannt:	Against the post already occupied by him
5	Mr. Falak Naz PET	DPE	GHSS Manga Dargai Charsadda	Against the post already occupied by him
6	Mr. Deedar Khan PET	DPE	GHSS Chamkani Peshawar	Against the post already occupied by him
7	Mr. Muhammad Jalal PET	DPE	GHSS Kakki Bannu	Against the post already occupied by him
8	Mr. Abdus Sattar PET	DPE	GHSS Gul Inam Tank	Against the post already occupied by him
9	Mr. Jamal Abdul Nasir PET	DPE	GHSS Totakan Mkd Agy:	Against the post already occupied by him
10	Muht Faisal Phy: Supervisor	DPE	GHSS Daag Peshawar	Against the post already occupied by him
11	Mr. Muhammad Naeem PET	DPE	GHSS Ghahri Kapura MDN	Against the post already occupied by him
12	Mr. Saukat Hayat PET	DPE	GHSS Kot Malakand Agy:	Against the post already occupied by him
13	Mr. Bashir Ahmad PET	DPE	GHSS Dosehra Char: da	Against the post already occupied by him
14	Mr. Shamal Khan PET	DPE	GHSS Dara Pezu Lak:	Against the post already occupied by him
15	Mr. Aqal Daraz PET	DPE	GHSS Tough Bala Kohat	Against the post already occupied by him
16	Mr. Azizullah Khan PET	DPE	GHSS Kotgarh D I Khan	Against the post already occupied by him
17	Abdul Majeed Phy: Supervisor	DPE	GEC (M) Peshawar	Against the post already occupied by him
18	Mr. Muhibullah PET	DPE	GHSS Nizampur NSR	Against the post already occupied by him
19	Mr. M. Saeed Shah PET	DPE	GHSS Kawai Mansehra	Against the post already occupied by him
20	Mr. S. Bakht Shah PET	DPE	GHSS Zaida Sawabi	Against the post already occupied by him
21	Mr. Hameedullah Khan PET	DPE	GHSS Dakki D, I, Khan	Against the post already occupied by him
22	Mr. Muhammad Israr PET	DPE	GHSS Bughdad Mardan	Against the post already occupied by him
23	Mr. Naeem Khan PET	DPE	Phy: Edu: Collage Karak	Against the post already occupied by him
24	Mr. Shah Mehmood PET	DPE	GHSS Umar Payan Pesh:	Against the post already occupied by him
25	Mr. Tali Zar Khan PET	DPE	GHSS Katlang Mardan	Against the post already occupied by him
26	Mr. Rais Khan PET	DPE	GHSS Kheshgai NSR	Against the post already occupied by him
27	Mr. Inayat Khan PET	DPE	GHSS Umar Zai Chd:	Against the post already occupied by him
28	Mr. Sardar Khan PET	DPE	GHSS Mayar Mardan	Against the post already occupied by him
29	Mr. Ihtishamud Din PET	DPE	GHSS Bilitang Kohat	Against the post already occupied by him
30	Mr. Abdullah Shah PET	DPE	ADO (Phy:) at EDO (S&L) Tank	Against the post already occupied by him
31	Mr. Rukh Niaz PET	DPE	GHSS Khanis Pur Abbottabad	Against the post already occupied by him
32	Mr. Abdul Ghaffar PET	DPE	GHSS Lal Qilla Dir	Against the post already occupied by him
33	Mr. Gul Badshah PET	DPE	GHSS Hazar Khwani Pesh:	Against the post already occupied by him
34	Mr. Muhammad Safdar PET	DPE	GHSS Deaba Kohat	Against the post already occupied by him
35	Mr. Safdar Jan PET	DPE	GHSS No.1 Peshawar city	Against the post already occupied by him
36	Mr. Fazli Rabbi PET	DPE	GHSS Totalai Buner	Against the post already occupied by him
37	Mr. Khaki Rehman PET	DPE	GEC (M) Mir Ali NWA	Against the post already occupied by him
38	Mr. Roshan Akber PET	DPE	GHSS Gandaf Swabi	Against the post already occupied by him
39	Mr. Habibullah PET	DPE	ADO(Phy) at EDO(S&L) Charsadda	Against the post already occupied by him
40	Mr. Lal Marjan PET	DPE	GHSS Shabqadar For: hd:	Against the post already occupied by him
41	Mr. Ahmad Nawaz PET	DPE	ADO(Phy:) at EDO(S&L) Battagram	Against the post already occupied by him
42	Mr. Zar Bahisht Khan PET	DPE	ADO (Phy:) at EDO(S&L) Buner	Against the post already occupied by him
43	Mr. Kiramatullah PET	DPE	GHSS Bogara Karak	Against the post already occupied by him
44	Mr. Salar Khan PET	DPE	GHSS Baghicha Dhari Mardan	Against the post already occupied by him
45	Mr. Rashi Din PET	DPE	GHSS Warana Karak	Against the post already occupied by him
46	S. Fazal Abbas Zaidi PET	DPE	GHSS Utmanzai Charsadda	Against the post already occupied by him
47	Mr. Falak Naz PET	DPE	GHSS Adezai Peshawar	Against the post already occupied by him
48	Mr. Fazli Wahid PET	DPE	GHSS Khanpur Dir	Against the post already occupied by him
49	Mr. Mushtaq Khan PET	DPE	GHSS Wazir Bagh Peshawar	Against the post already occupied by him
50	Mr. Arbab Fawad Khalil PET	DPE	ADO (Phy) at EDO(S&L) NSR	Against the post already occupied by him


ADVOCATE HIGH COURT PESHAWAR
 Federal District Court

17

51	Mr. Habibullah PET	DPE	GEC (M) Dir	Against the post already occupied by him
52	Mr. Mujeebur Rehman PET	DPE	GHSS Shakar Dara Kohat	Against the post already occupied by him
53	Mr. Jehan Alam PET	DPE	ADO (Phy:) at EDO(S&L) Shangla	Against the post already occupied by him
54	Mr. Abdul Qadeer Khan PET	DPE	GHSS, Parova D.I.Khan	Against the post already occupied by him
55	Mr. Chamni Khan PET	DPE	GHSS, Takkar GHSS Mardan	Against the post already occupied by him
56	Mr. Anjad Khan PET	DPE	GHSS Sherpao Charsadda	Against the post already occupied by him
57	Mr. Nikhat ullah PET	DPE	GEC (M) Kotka Habibullah FK Banna	Against the post already occupied by him
58	Mr. Farid Zaman C.T.	DPE	Phy:Edu:Collage Karak	Against the post already occupied by him
59	Mr. Ikramullah PET	DPE	GHSS Sirkot Haripur	Against the post already occupied by him
60	Mr. Muhammad Usman PET	DPE	GHSS Muryali D.I.Khan	Against the post already occupied by him
61	Mr. Waris Khan P.T.C.	DPE	GHSS Munda Dir Lower	Against the post already occupied by him
62	Mr. Muhammad Nawaz PET	DPE	GHSS Shabaz Ghari Mardan	Against the post already occupied by him
63	Mr. Ihsan Ullah PET	DPE	GHSS Patehpur Swat	Against the post already occupied by him
64	Mr. Ashraf Ali Khan PET	DPE	GHSS Dsturzai Kohat	Against the post already occupied by him
65	Mr. Zahoor Zaman P.T.C.	DPE	GHSS Kalam Swat	Against the post already occupied by him
66	Mr. Fateh Sher PET	DPE	GHSS Kabal Swat	Against the post already occupied by him
67	Mr. Muhammad Sharif PET	DPE	GHSS Kot Najibullah H/Pur	Against the post already occupied by him
68	Mr. Said Khan PET	DPE	GHSS Lora Abbottabad	Against the post already occupied by him
69	Mr. Ghulam Hussain PET	DPE	GEC(M) Mardan	Against the post already occupied by him
70	Mr. Ghulam Nabi PET	DPE	GHSS Takh Bhai Mardan	Against the post already occupied by him
71	Mr. Muhammad Gul PET	DPE	GHSS No.2 D.I.Khan	Against the post already occupied by him
72	Mr. Raeesullah P.T.C.	DPE	GHSS Charbagh Swat	Against the post already occupied by him
73	Mr. Nasir Khan PET	DPE	ADO (Phy:) at EDO (S&L) Hangu	Against the post already occupied by him
74	Mr. Zahoor Ahmad PET	DPE	GHSS Jalozai Nowshera	Against the post already occupied by him
75	Mr. Muhammad Haroon PET	DPE	GHSS Ismaili Swabi	Against the post already occupied by him
76	Mr. Muhammad Iqbal PET	DPE	GHSS Furbeta T.Ship H/Pur	Against the post already occupied by him
77	Mr. Farmanullah PET	DPE	GHSS Pir Pai Nowshera	Against the post already occupied by him

- Note: -
1. Charge report should be submitted to all concerned.
 2. No TA/DA etc: are allowed.

(HAFIZ BAHADAR KHAN)
Director Schools & Literacy
NWFP Peshawar

Endst No. 3542-3628 1A-14/Promo:/DPE B-16.

Dated Peshawar the 18/2 /2003

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

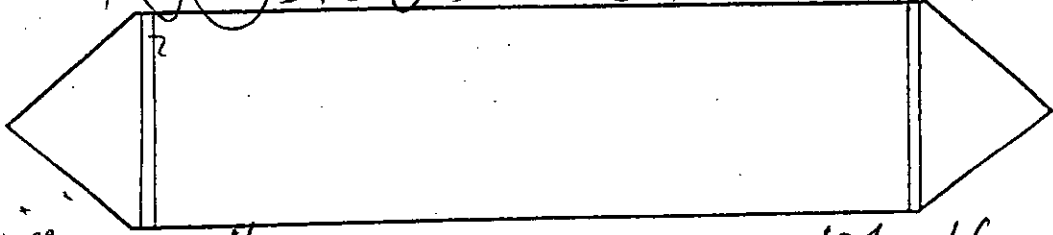
1. Director of Education (FATA) NWFP Peshawar.
2. Director Bureau and Teacher Education NWFP Abbottabad.
3. Accountant General NWFP Peshawar.
4. Executive District Officers (Schools & Literacy) in NWFP.
5. District/Agency Accounts Officers in NWFP.
6. Principal GEC (M) concerned.
7. Principal Govt: College of Physical Education Karak.
8. Principal GHSS concerned.
9. PS to Minister for Education NWFP Peshawar.
10. PS to Secretary Schools & Literacy Department Govt: of NWFP Peshawar.
11. DPE/ADO Physical concerned.
12. PA to Director Schools & Literacy NWFP Peshawar.

Attested
[Signature]

SYED YOUNUS JAN
B.A., B.L.S., B.E.S., Certificate Sharia Law
Advocate High Court Peshawar
Federal Shariat Court.

[Signature]
17/02/03
Deputy Director Establishment
Directorate Schools & Literacy
NWFP Peshawar

بعدالت خبر کونو اسروس کرسول



2016ء منجانب سید فضل عباس ایبٹو
بنام حکومت خبر کونو اسروس اول
رہنما

سید فضل عباس ایبٹو

موزخہ 07/3/2016

مقدمہ

دعویٰ صول اسروس

جزم سال 2016

باعث تحریر آنک

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

المرقوم 07 ماہ مارچ 2016

واہ العی

SF Abbas
سید فضل عباس ایبٹو

بمقام خبر کونو اسروس کرسول کے لئے منظور ہے۔
Attested & Accepted
Syed Younus for
Advocate Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In re:- Service Appeal No. 248 / 2016

Syed Fazal Abbas ZaidiAppellant

Versus

The Government of K.P.K. and othersRespondents.

REPLICATION ON BEHALF OF APPELLANT TO THE JOINT
PARA-WISE COMMENTS OF RESPONDENTS NO.1 - 5

Respectfully submitted:

Replication to the preliminary objections:

1-12)

The preliminary objections raised by the respondents in these paras are incorrect, false, misconceived and are based on no evidence, hence denied. Moreover, it is submitted that the appellant has got a valid cause of action/locus standi to challenge the illegal acts and omissions of the respondents. The appeal is well within time, no facts have been concealed from this Hon'ble Tribunal and no dirty hands have been shown or proved each and every facts has been narrated by the appellant in his appeal and all the necessary parties have been arrayed by him in his appeal, no misjoinder or non-joinder has been shown or proved by the respondents. No malafide on the part of the appellant has been shown or proved while the same is proved on the part of the respondents. The appeal is maintainable in its present form and in the present circumstances and there could be no other form but in which it has been submitted and the same is not barred by any law but has been submitted strictly in accordance with laws/Rules. Moreover, being a matter of terms and conditions of service this Hon'ble Tribunal has got a valid jurisdiction.

— 2

Replication to the facts.

1) Needs no replication.

3&4) In these paras the contents of the appeal have been admitted as correct, therefore, need no replication.

2&5) The contents of these paras of the reply are incorrect, false and misconceived, hence denied while the contents of these paras of the appeal are correct, true and clear crystal. Moreover, it is submitted that as the matter of non-filing of a departmental appeal is concerned in this regard, it is submitted that firstly this Hon'ble Tribunal may kindly see that whether in light of the law laid down by the august Supreme Court in cases of Hameed Akhtar Niazi Versus The Secretary Establishment Division, Govt. of Pakistan and others reported in 1996 SCMR page 1185 and Tara Chand and others Versus Karachi Water & Sewerage Board Karachi & others in light of the law laid down in these judgments the respondents were legally bound/required to grant the relief to the appellant being a similarly placed person but by not doing so the respondents have not only committed the contempt of court but have also disregard the judgments passed by this Hon'ble Tribunal and therefore have rendered themselves to bear its consequences, secondly as compelled by the Department, the appellant has properly filed a departmental appeal and then this appeal., and even the fact of filing departmental appeal has been stated by the appellant on affidavit and the strong legal presumption would be that the copy of the departmental appeal attached to the instant appeal is sent to the respondents (competent authority) very before and after lapse of a considerable period what action has been taken on the same.

Replication to the grounds

A-G) The contents of these paras of the reply are incorrect, false, misconceived and without proof, hence denied, moreover, it is submitted that as the appellant was highly qualified, fit and thus was fully eligible for award of BPS-17 as ^{regular} ~~personal~~ grade at the

time and in light of para-1 of the letter/Notification dated 13-11-2007, so the impugned act and omissions of the department/respondents is not only factually incorrect and legally untenable but also is based on the malafide intention of the respondents and is against the principles of natural justice and is neither in accordance with law nor is based on facts or law. The stand of the appellant is neither baseless nor is against the factual position but the act and omission of the respondents is not in legal sphere and even the appellant has not been treated in accordance with laws/Rules and the appellant has got cogent proof/evidence in his favour which he will produce before the Hon'ble Tribunal at the time of arguments.

It is, therefore, prayed that on acceptance of the above and facts narrated and grounds mentioned in the appeal, the appeal of the appellant may kindly be accepted and the relief claimed in the appeal may kindly be granted to the appellant.

Syed Fazal Abbas

Appellant

through

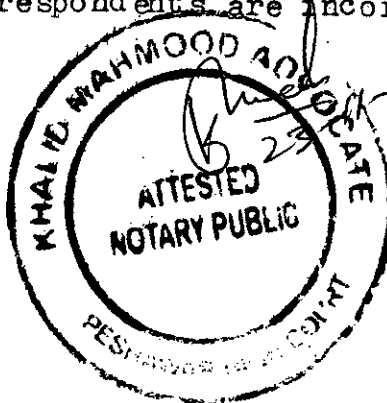
PESHAWAR

23-11-2016

(Syed Younas Jan)
Advocate, Peshawar

AFFIDAVIT/COUNTER AFFIDAVIT

I, Syed Fazal Abbas Zaidi, D.P.E. (the appellant) do hereby solemnly affirm and declare on oath that the contents of this replication are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal, while the contents of the reply of the respondents are incorrect, false and misconceived.



Syed Fazal Abbas
Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In re:- Service Appeal No. 248 / 2016

Syed Fazal Abbas ZaidiAppellant

Versus

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S F Abbas

Appellant

through

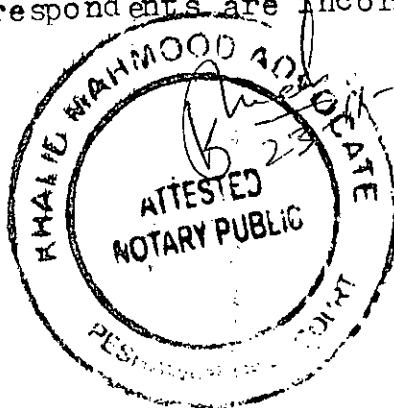
PESHAWAR

23-11-2016

(Syed Younas Jan)
Advocate, Peshawar

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S F Abbas
Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In re:- Service Appeal No. 248 / 2016

Syed Fazal Abbas ZaidiAppellant

Versus

The Government of K.P.K. and othersRespondents.

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Replication to the grounds

A-G) The contents of these paras of the reply are incorrect, false, misconceived and without proof, hence denied, moreover, it is submitted that as the appellant was highly qualified, fit and thus was fully eligible for award of BPS-17 as ^{regular} personal grade at the

time and in light of para-1 of the letter/Notification dated 13-11-2007, so the impugned act and omissions of the department/respondents is not only factually incorrect and legally untenable but also is based on the malafide intention of the respondents and is against the principles of natural justice and is neither in accordance with law nor is based on facts or law. The stand of the appellant is neither baseless nor is against the factual position but the act and omission of the respondents is not in legal sphere and even the appellant has not been treated in accordance with laws/Rules and the appellant has got cogent proof/evidence in his favour which he will produce before the Hon'ble Tribunal at the time of arguments.

It is, therefore, prayed that on acceptance of the above and facts narrated and grounds mentioned in the appeal, the appeal of the appellant may kindly be accepted and the relief claimed in the appeal may kindly be granted to the appellant.

SF Abbas
Appellant

through

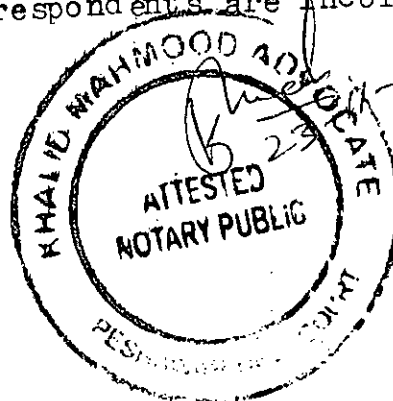
PESHAWAR

23-11-2016

(Syed Younas Jan)
Advocate, Peshawar

AFFIDAVIT/COUNTER AFFIDAVIT

I, Syed Fazal Abbas Zaidi, D.P.E. (the appellant) do hereby solemnly affirm and declare on oath that the contents of this replication are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal, while the contents of the reply of the respondents are incorrect, false and misconceived.



SF Abbas
Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In re:- Service Appeal No. 248 / 2016

Syed Fazal Abbas ZaidiAppellant

Versus

The Government of K.P.K. and othersRespondents.

REPLICATION ON BEHALF OF APPELLANT TO THE JOINT
PARA-WISE COMMENTS OF RESPONDENTS NO.1 - 5

Respectfully submitted:

Replication to the preliminary objections

1-12)

The preliminary objections raised by the respondents in these paras are incorrect, false, misconceived and are based on no evidence, hence denied. Moreover, it is submitted that the appellant has got a valid cause of action/locus standi to challenge the illegal acts and omissions of the respondents. The appeal is well within time, no facts have been concealed from this Hon'ble Tribunal and no dirty hands have been shown or proved each and every fact has been narrated by the appellant in his appeal and all the necessary parties have been arrayed by him in his appeal, no misjoinder or non-joinder has been shown or proved by the respondents. No malafide on the part of the appellant has been shown or proved while the same is proved on the part of the respondents. The appeal is maintainable in its present form and in the present circumstances and there could be no other form but in which it has been submitted and the same is not barred by any law but has been submitted strictly in accordance with laws/Rules. Moreover, being a matter of terms and conditions of service this Hon'ble Tribunal has got a valid jurisdiction.

Replication to the facts.

- 1) Needs no replication.
- 3&4) In these paras the contents of the appeal have been admitted as correct, therefore, need no replication.
- 2&5) The contents of these paras of the reply are incorrect, false and misconceived, hence denied while the contents of these paras of the appeal are correct, true and clear crystal. Moreover, it is submitted that as the matter of non-filing of a departmental appeal is concerned in this regard, it is submitted that firstly this Hon'ble Tribunal may kindly see that whether in light of the law laid down by the august Supreme Court in cases of Hameed Akhtar Niazi Versus The Secretary Establishment Division, Govt. of Pakistan and others reported in 1996 SCMR page 1185 and Tara Chand and others Versus Karachi Water & Sewerage Board Karachi & others in light of the law laid down in these judgments the respondents were legally bound/required to grant the relief to the appellant being a similarly placed person but by not doing so the respondents have not only committed the contempt of court but have also disregard the judgments passed by this Hon'ble Tribunal and therefore have rendered themselves to bear its consequences, secondly as compelled by the Department, the appellant has properly filed a departmental appeal and then this appeal., and even the fact of filing departmental appeal has been stated by the appellant on affidavit and the strong legal presumption would be that the copy of the departmental appeal attached to the instant appeal is sent to the respondents (competent authority) very before and after lapse of a considerable period what action has been taken on the same.

Replication to the grounds

- A-G) The contents of these paras of the reply are incorrect, false, misconceived and without proof, hence denied, moreover, it is submitted that as the appellant was highly qualified, fit and thus was fully eligible for award of BPS-17 as ^{regular} ~~personal~~ grade at the

time and in light of para-1 of the letter/Notification dated 13-11-2007, so the impugned act and omissions of the department/respondents is not only factually incorrect and legally untenable but also is based on the malafide intention of the respondents and is against the principles of natural justice and is neither in accordance with law nor is based on facts or law. The stand of the appellant is neither baseless nor is against the factual position but the act and omission of the respondents is not in legal sphere and even the appellant has not been treated in accordance with laws/Rules and the appellant has got cogent proof/evidence in his favour which he will produce before the Hon'ble Tribunal at the time of arguments.

It is, therefore, prayed that on acceptance of the above and facts narrated and grounds mentioned in the appeal, the appeal of the appellant may kindly be accepted and the relief claimed in the appeal may kindly be granted to the appellant.

Syed Fazal Abbas
Appellant

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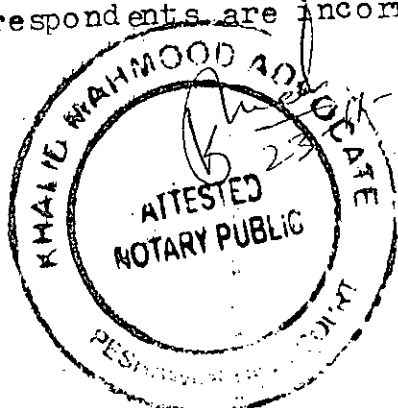
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Application to the Court

Needs no application.

In these cases the contents of the appeal have been admitted as correct, therefore, need no application.

The contents of these parts of the reply are incorrect. Also and misconceived, hence denied while the contents of these parts of the appeal are correct, true and clear crystal. Moreover, it is

submitted that as the matter of non-filing of a departmental appeal is concerned in this regard, it is submitted that finally this Hon'ble Tribunal may kindly see that whether in light of the law laid down by the Hon'ble Supreme Court in cases of Hazare & others

State of Karnataka The Secretary Establishment Division, Govt. of

and others Versus Water & Sewerage Board, Bangalore & others

in light of the law laid down in these judgments the respondents

were legally bound/required to grant the relief to the appellant

being a statutory body but by not doing so the respondents have not only committed the contempt of court but have also

disregard the judgments passed by this Hon'ble Tribunal and

therefore have rendered themselves to bear its consequences.

secondly as compelled by the Department, the appellant has

properly filed a departmental appeal and then this appeal, and

even the fact of filing departmental appeal has been stated by the

appellant on affidavit and the strong legal presumption would be

that the copy of the departmental appeal attached to the instant

appeal is sent to the respondents (competent authority) very

before and after lapse of a considerable period what action has

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Application to the Court

The contents of these parts of the reply are incorrect, false,

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submitted that as the appellant was duly qualified, fit and true

was fully eligible for award of B.P.S. as per the rules and

time and in light of para-1 of the letter/Notification dated 13-11-2007, so the impugned act and omissions of the department/respondents is not only factually incorrect and legally untenable but also is based on the malafide intention of the respondents and is against the principles of natural justice and is neither in accordance with law nor is based on facts or law. The stand of the appellant is neither baseless nor is against the factual position but the act and omission of the respondents is not in legal sphere and even the appellant has not been treated in accordance with laws/Rules and the appellant has got cogent proof/evidence in his favour which he will produce before the Hon'ble Tribunal at the time of arguments.

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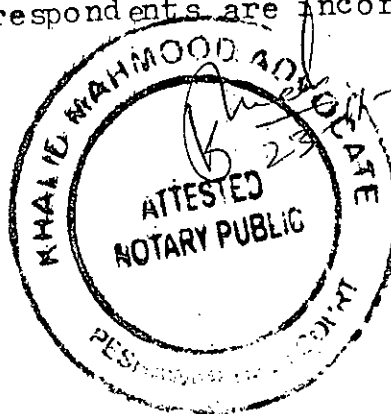
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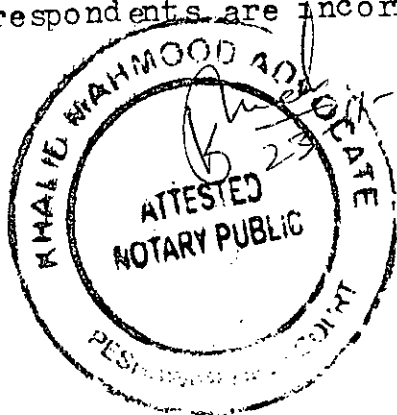
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